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Social Media Pointers and Pitfalls for Elected Officials

2022 Annual Meeting

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First Amendment

- Applies only to restrictions on free speech *by the government*; is your personal social media account a public forum?
- If so, can you ban users or delete comments?



First Amendment

Davison v. Randall, 912 F.3d 666, 672 (4th Cir. 2019) (Virginia)

- Has three accounts: personal, campaign, and “Chairman”
- Directs her posts on Chairman page to “Loudoun” and talks about government business
- Page is identified as a “government official” page
- Provides contact information for her county office
- Invites community feedback on school district



First Amendment

Lindke v. Freed, 37 F.4th 1199 (6th Cir. 2022) (Michigan)

- Profile: “Daddy to Lucy, Husband to Jessie and City Manager, Chief Administrative Officer for the citizens of Port Huron, Michigan”
- Shared photos of his daughter’s birthday, his visits to local community events, and his family’s weekend picnics
- Also posted about some of the administrative directives he issued as city manager
- Shared COVID-19 policies for Port Huron and news articles on public-health measures and statistics



Public Forum Factors

- Requirement or expectation to maintain a social-media account
- Use of government resources
- Reliance on staff to support page
- Ownership and name of account (@eshytle or @Mayor_of_Nowhere)
- Overall content of page – not individual posts, but page as a whole



Defamation

Defamation is publication of a false statement that injures or could injure a person’s reputation

- Posting on social media is publication
- Truth is a defense
- Opinions don’t count; only facts
- Different standards for public figures (for example, other elected officials) and non-public figures (most staff and most members of the public)
- Negligence vs. “actual malice”



Charlie's Social Media Must Dos For Elected Officials

- Remember, you are a MUNICIPAL OFFICIAL
- Think before you post, like, and share (read/listen)
 - Phil Eich – burning bridges does not work!
- Be your community's cheerleader (share the story)
 - *People are looking to you for encouragement! - Lehrman*
 - *Particularly rural communities*
- Point links to municipal website and other resources
- If you have a PIO/communication team...trust them!
- If you have a policy/plan, stick to it!



Charlie's Social Media Should NOT Dos For Elected Officials

- Have an account and not keep it updated
- Jabs at your fellow elected officials, municipal staff, appointed officials (Planning Commission, etc.), other agencies make YOU look bad
- Stay away from discussions of items that will be or could be on your governing body's agenda
 - My feeling is...
- Simply focus your follows on what you enjoy...follow diverse accounts of your community to provide a wholistic view

