

Legal Considerations in the Use of Social Media by Public Employees

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Personal Use of Social Media by Employees



Does the City's policy allow
personal use while on the clock?

Should it?

First Amendment (Freedom of Speech)

- Employee speaking as a citizen or as an employee?
[If employee, then no free speech rights]
- If speaking as a citizen, is the speech on a matter of public concern?
[If not, then no free speech rights]
- If a matter of public concern, does the City's interest in promoting the efficiency of public services outweigh employee's interest?
[If so, the employee can be disciplined]

Fourth Amendment (Privacy/Search and Seizure)

- Does the employee have an expectation of privacy?
- Is the City's search reasonable?

Discrimination

- Hiring – checking an applicant's social media
- Harassment – through social media



Record Retention

- Social media records must be maintained like all other records
- Review Records Retention Policy
- Social media may be a public record that has to be produced in response to request

Wage and Hour Laws

- City's social media is accessible 24/7
- Is after hours work on social media reported?
- Overtime?

123 - John R. Doe Pay Period 06/02/06 to 06/16/06				Required Deductions		
Earnings				Federal Income Tax	00.00	00.00
Hours	Rate	This Period	YTD	FICA - Medicare	06.08	12.16
50	9.00	450.00	900.00	WI State Income Tax	00.00	00.00
Gross Pay		450.00	900.00	FICA - Social Security	25.92	51.84
				Other Deductions		
				Health Insurance	00.00	00.00
				401k	00.00	00.00
				Parking	00.00	00.00
				NET PAY	\$418.00	\$836.00
Your Employer 1234 Some Street Milwaukee, WI ZIPCODE				Check Number: XXXXXX Pay Date: 06/19/06		
PAY ***Four hundred eighteen dollars and 00 cents*****\$418.00						
To the Order of John R. Doe 555 Some Street Milwaukee, WI ZIP CODE						

Helpful Resources

<http://socialmediagovernance.com/policies>

https://www.ctg.albany.edu/publications/guides/social_media_policy



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