



Risk Management Solutions



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Social Media Policies

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Almost every public employee has access to the world and all their “friends” through the use of PCs, tablets, and SmartPhones. These devices provide them with instant access to platforms such as Facebook, Twitter, Instagram, LinkedIn, YouTube and Pinterest. Employees can project themselves, through words and pictures, across town, across the country and across the globe in a matter of seconds – without ever having to leave their desk.

So what is a city or town to do when social media impacts many aspects of the average municipal employee’s daily life, including his or her work life? This article provides suggestions about the options available to cities and towns when it comes to developing social media policies. For a complete discussion of the legal issues which can arise when regulating social media use in the workplace, please see “Social Media and Public Employees: *Tweet them Right*” in the August 2013 issue of the *Alabama Municipal Journal*.

Completely banning social media in the workplace isn’t realistic in this day and age. First, many would argue that it is a complete morale killer and second, it’s impossible to enforce given the fact that most employees who have been banned simply resort to using their mobile devices to access social networks. Short of a complete ban, however, there are some ways to regulate and limit employee use of social media. Municipalities should start the process of developing a policy by giving consideration to how social media will be used:

- Official Use, for the express purpose of communicating the municipality’s interests;
- Professional Use, for the purpose of furthering specific job responsibilities or professional duties; and
- Personal Use, for the personal interests unrelated to job duties for the municipality.

First and foremost, a social media policy must make it clear to employees that they have no expectation of privacy or confidentiality when they use any public equipment, including computers and cellphones. A policy should include language that the employer has the right to access and monitor its computers, equipment and systems without warning or any specific notice to the employee. Employees must understand that what they say and do on public equipment may be subject to disclosure and that the employer has the right to back up anything, even if deleted by the employee. Employees need to understand that this can include any personal emails sent using public equipment, even if they are encrypted.

As with any employee policy, a social media policy should be clear and understandable. It should include definitions which are broad enough to cover future expansion and include specific examples of devices covered by the policy (cell phones, computers, tablets, pagers, etc.) while making it clear that any device provided by the employer to the employee is intended to be covered by the policy. Along these same lines, a policy should include specific examples of social media outlets and activities that are covered but, again, it should be worded to allow for other social media outlets which may come on the scene after adoption of your policy. Some other important considerations include:

- Encourage the use of good judgement;
- Make it clear that other employment policies apply in the context of social media use (such as policies against discrimination and harassment);
- Consider requiring a request for access to social media from employees who have official or professional need to utilize social media on behalf of the public employer.

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Social Media Policies continued from cover

As with any employee policy, public employers should provide training on any policy and the training should be mandatory. And perhaps most importantly, any policy should exercise the appropriate amount of control without appearing, in words or in practice, to go beyond the public employer's legitimate interest. Last, but not least, a policy should have a savings clause relating to the protected activity of the NLRA such as "nothing in this policy will be interpreted or applied in a manner that interferes with employee rights to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing to the extent allowed by law, or to engage in other concerted activities for the purpose of addressing the terms and conditions of employment." While it might not completely save your policy should it be challenged, it is important to make the effort to alert employees that the social media policy is not attempting to restrict their rights.

The bottom line is that social media policies are loaded with danger for employers and should be approached with extreme caution and care and certainly shouldn't be established without the advice and assistance of the city attorney. After adoption, it is also vital that the city attorney be consulted and involved in any enforcement of a social media policy. The totality of the circumstances surrounding the social media communication must be carefully evaluated before deciding on any action under the policy. The city attorney will be able to advise whether or not an employee has engaged in protected conduct or speech. And lastly, it will be vital to enforce any policy in a consistent manner from one incident to the next. ■

Defining Moment

How much will I be paid for a property loss?

In property and auto physical damage insurance, there are several possible methods of establishing the value of insured property to calculate the premium and determine the amount the insurer will pay in the event of a loss. The two most commonly used methods are Actual Cash Value (ACV) and Replacement Cost (RC). It is very important to determine which method is used in your policy as the pay-out amounts can be considerably different. Actual Cash Value (ACV) is defined as the cost to repair or replace the damaged property with materials of like kind and quality, less depreciation of the damaged property. Replacement Cost (RC) is defined as the cost to replace it today with property of like kind and quality without any deduction for depreciation.

Automobile policies are written and claims settled on an actual cash value basis because vehicles depreciate over time. However, real property, such as a building, is usually insured on a replacement cost basis because it usually increases in value over time.

AMIC will not pay on a replacement cost basis for any loss or damaged property until the lost or damaged property is actually repaired or replaced. In the event of a loss on a building or personal property, payment is made on an actual cash value basis and, once the building is repaired or the personal property is replaced, the replacement cost basis will be paid, bringing our insured back to where they were before the loss.

Self Inspections

Will Strength • Loss Control Rep

The Loss Control Division encourages all municipal entities to perform self-inspections. Inspections are an important part of a comprehensive loss control program and can have a positive impact on an organization. They can:

- Identify loss hazards and assess exposures.
- Ensure safety for your citizens and employees.
- Reduce or minimize liability exposures.
- Encourage employee involvement, build morale, and effectively contribute to the development of a positive safety culture.

Thorough documentation and accurate records are important because they provide evidence that your public entity has implemented and continues to perform self-inspections. It is important that this documentation detail not only who, where, what and when, but also indicate any corrective action needed and show the completion of that action. Checklists help guide the inspection process as well as provide a convenient method of documenting your efforts.

The Loss Control Division strongly encourages you to pay particular attention to safety this holiday season. Christmas lights and decorations, inside and out, are a beautiful part of the holiday season. However, as with all electrical devices, you need to take special precautions. Before you deck the halls, run through this checklist to keep your holidays merry and bright:

- ✓ **Inspect light strings.** Discard any that are damaged. Frayed or cracked electrical cords or broken sockets are fire hazards.
- ✓ **Make sure outdoor lighting is UL-rated for exterior use.** Exterior lights, unlike those used inside buildings, need to be weather-resistant. The same goes for any extension cords used outdoors.
- ✓ **Replace burned-out bulbs promptly.** Empty sockets can cause the entire string to overheat.
- ✓ **Don't use outdoor lights indoors.** They're too hot for interior use. For the coolest bulbs and greatest energy efficiency, consider LED lights.
- ✓ **Don't run extension cords through doorways or under rugs.** Insulation on cords can be damaged and risk of fire is greatly increased.
- ✓ **Electrical outlets for exterior lighting** should accommodate three-prong grounded plugs and should be on an electrical circuit protected by a ground fault circuit interrupter (GFCI).

Download the full holiday
season checklist at
www.losscontrol.org

Many Discounts Available for 2014 Workers Comp Premiums

The Municipal Workers Comp Fund (MWCF) works to keep the premiums for our members as low as possible. In 2013, 59% of MWCF members received a full 10% off their premium by appointing a Safety Coordinator; signing a *Statement of Commitment*, *Post Accident Drug Testing Agreement*; and having an approved Medical Protocol in place. These programs not only helped to reduce claims but also put thousands of dollars back into the budget of those municipalities and municipal entities to be used elsewhere.

2014 Safe Workplace Guidelines

The *Statement of Commitment* has been renamed “*Safe Workplace Guidelines*” for 2014 to better identify the objectives of this document which is comprised of safety guidelines that each member is encouraged to follow. It is updated annually and mailed to every MWCF member during November. **If it is signed and returned by December 1, 2013, a 3% discount will be reflected on the 2014-2015 billing. This two-page document must be renewed each year.**

Post Accident Drug and Alcohol Testing Program

The MWCF provides an additional 3% discount for those members that commit to a *Post Accident Drug and Alcohol Testing* program. In order to

qualify, a member must sign a “Participating Commitment” (which will be enclosed with the above mentioned document) and have such program certified by their attorney that the member’s drug and alcohol policy is Fourth Amendment compliant. Unlike the *Safe Workplace Guidelines*, this document does not have to be renewed each year.

Medical Protocol

Another 3% discount is available to those members who establish and implement a *Medical Protocol*. This program is a great benefit to both the member and the claims management team. A sample protocol will be included in the November mailout for those members that do not yet have one on file. For further information, call MWCF at **1-888-736-0210**.

Bonus Discount!

MWCF members who participate in all three programs will receive a bonus 1% discount – earning those members a full 10% discount on their annual premium for 2014! **All members are encouraged to watch for the *Safe Workplace Guidelines* information packet coming to you in November and return it promptly to take advantage of these benefits.** It will also be available for downloading on our website by going to the MWCF page at www.almwcf.org. ■

New Firearms Law: Act 2013-283

For more information, visit www.losscontrol.org

Effective August 1, 2013: Except as provided below or otherwise prohibited by state or federal law, open carry of a firearm is permitted and concealed carry of a firearm is authorized for those with a proper permit. (See Section 7 of Act 2013-283)

- Section 11-45-1.1 of the Code of Alabama is repealed and the regulation of firearms by local governments is further restricted as follows:
 - Except as otherwise provided in Act 2013-283, or as expressly authorized by Alabama statute, the regulation of firearms ammunition and firearms accessories is reserved to the State Legislature. (See Section 7 of Act 2013-283)
 - The authority of a political subdivision to regulate firearms, ammunition, or firearm accessories shall not be inferred from its proprietary authority, home rule status, or any other inherent or general power.
 - Any existing orders, ordinances, or rules promulgated or enforced contrary to the terms of Section 7 of Act 2013-283 are null and void and any future order, ordinance, or rules shall comply with this section.
- Employers may impose policies regulating or prohibiting an employee’s carrying or possession of firearms, firearm accessories, or ammunition during and in the course of the employee’s official duties. (See Section 4 of Act 2013-283)
 - An employer may not generally restrict or prohibit the transportation or storage of a lawfully possessed firearm or ammunition in an employee’s privately owned vehicle while parked in a public or private parking area if the employee satisfies the conditions listed in Section 4(b) of Act 2013-283.
 - If the employer reasonably believes that the employee presents a risk of harm to himself or others the employer may inquire as to whether the employee has a firearm in his vehicle and whether he is in compliance with Act 2013-283.
- If the municipality has not granted express permission for possession of firearms in the following locations a municipality shall post signs (see example below) at the public entrance of the following premises or buildings alerting those entering that firearms are prohibited. (See Section 6 of Act 2013-283)**
 - Inside the building of any police department.
 - Inside the premises of any jail or any correctional or detention facility including a community corrections facility.
 - Inside a courthouse or courthouse annex or any building in which a city council is currently holding a regularly scheduled or specially called meeting.
 - Inside any facility hosting a school or professional sporting event (that doesn’t involve firearms) unless the person has a permit.
 - Inside any municipally-owned building or facility that the municipality wishes to restrict access with a firearm without permission, if access of unauthorized persons and prohibited articles is limited by (1) the continuous posting of guards and (2) the use of security devices such as scanning devices, key cards, turnstiles or other physical barriers to entrance.
 - Except as otherwise provided any firearm on the premises of a facility listed above must be kept from ordinary view and locked within a compartment or inside the interior of the person’s motor vehicle or in a compartment securely affixed to the motor vehicle.



**No Firearms Allowed
on the Premises**

Pursuant to Act 2013-283

2013 SkidCar Schedule

Through an advanced, computer-controlled driver training vehicle known as the Skidcar System, trainees learn how to react quickly and safely to a range of hazardous driving conditions. Training is conducted throughout the state at a minimal cost.

For more information, contact Donna Wagner at 334-262-2566.

Arab	Oct. 1 – 11
Orange Beach	Oct. 28 – Nov. 8
Montgomery	Dec. 3 – 13

Date/location subject to change.



Loss Control Division

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New Safety DVDs

5.014-DVD*	Forklift Safety: Real Accidents, Real Stories
5.023-DVD*	Machines, Operators and Guards: Real Accidents, Real Stories
5.069-DVD*	Defensive Driving: When Good Weather Goes Bad
5.070-DVD*	Driving Distractions of the Everyday Driver
5.071-DVD*	Forklift Safety: The Triangle of Stability
7.132-DVD*	Heat Stress: Real Accidents, Real Stories
7.133-DVD*	The Top Five Things You Need to Know About the Flu

**Video/DVD requests to: Rachel Wagner at: 334-262-2566;
rachelw@alalm.org; or FAX at 334-263-0200.**

Need Help Filing Work Comp Claims?

For step-by-step instructions, visit:

www.almwcf.org

Employment Practices Law Hotline

1-800-864-5324

Through a toll-free Employment Practices Law Hotline, members can be in direct contact with an attorney specializing in employment-related issues. When faced with a potential employment situation, the hotline provides a no-cost, 30-minute consultation.

www.losscontrol.org