**University Social Media Pages – Internal Guidance on Monitoring Public Postings and Replies[[1]](#endnote-1)**

Most expression is protected by the First Amendment except for narrowly defined exceptions.

The university, as a public institution, may not limit or censor protected expression based on the particular viewpoints expressed by the speaker (so called, viewpoint-neutrality).  In other words, the university may not remove or prohibit posts simply because the opinion, perspective, or viewpoint of the speaker is controversial, unpopular or critical of the university.

The university ***may*** be able to apply content-based (i.e., subject-based) restrictions in appropriate contexts if done in a consistent and fair manner.  Whether or not content-based restrictions are allowed depends on the type of forum/social media page that is at issue:

Open/public University Social Media Page:  If no procedure or effort by the university is made to set aside the social media page for discussion by particular people (e.g., alums or students only) and/or about particular subjects (e.g., athletics or student org. activities only), the page is likely to be treated as an “open public” forum. That is, it is open to all. For open public social media pages, restrictions must be both content-neutral and viewpoint-neutral.  In other words, on open public social media pages, the only posts that should be removed or prohibited are those that are categorized as unprotected expression, e.g., posts that qualify as incitement to imminent lawlessness, obscenity, harassment, or true threats (or commercial solicitation under regent rules).

"Harassment" means intentional conduct, including speech, directed toward an identifiable person or persons that:

1. Threatens serious harm and is directed or likely directed to provoke imminent unlawful actions; or
2. Is sufficiently severe, pervasive, and subjectively and objectively offensive that it unreasonably interferes with work or educational opportunities or benefits, including on-campus living or participation in a University activity on or off campus.

Limited University Social Media Page:  If a procedure is established ***and consistently enforced*** to limit use of the social media page for particular people (e.g., faculty or students or alums) or discussion of certain subjects (e.g., only topics related to athletics, or a particular sport, or the music department, etc.), the page is more likely to be treated as a limited public forum, in which the university has greater leeway to regulate the comments and posts. In such cases, restrictions / removals may be based on the content of the message (but not the viewpoints).  That is to say, messages and comments may be removed because the content of the message does not align with the consistently enforced policy of restricting the social media page to a discussion of certain particular subjects.  It is critical that this procedure be consistently enforced and ***all*** posts/comments that are off-subject be removed.   If a post/comment is on-subject, then the university can***not*** delete or remove the post/comment based on the viewpoint expressed within.  For example, if the social media page is devoted to Iowa Athletics and the questioned comment is about Iowa Athletics, the university cannot remove the comment because the viewpoint expressed within is negative or critical of Iowa Athletics, including its programs, athletes, coaches, staff, facilities, etc.  However, if all comments that are clearly off-topic are consistently removed, then this action is permissible.  If the page were devoted to Iowa Football and a comment posted about Iowa Wrestling, it could—and should – be removed.

Closed University Social Media Page:  If a procedure is established and consistently enforced to allow no comments and no members of the public or university community to exchange views on the page, the page is more likely to be treated as a closed or non-public forum, in which the university may post information but is not required to permit others to post, comment, or reply.  Such a policy is permitted as long as it is uniformly and consistently followed.

It is also helpful to state restrictions on the page, for example: We reserve the right to delete profane, harassing, abusive, commercial, and spam comments and to block repeat offenders.

Blocking users: The general guidelines above also apply to the university blocking specific users from posting.  The university cannot block a user because of the viewpoint of the user.  A user could be blocked for repeatedly posting clearly off-subject content to a limited university social media page or by posting unprotected speech or commercial solicitations on a university social media page.

If you have any questions or concerns about this topic, please contact the Office of the General Counsel at 319-335-3696.

1. Thank you to the Iowa State University Office of the General Counsel for much of the material included here. [↑](#endnote-ref-1)