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DISCUSSION DRAFT FOR COMMENT

KBOR Policy

Chapter II: Governance – State Universities

F. Other

7. Social Media Policy

SOCIAL MEDIA

In keeping with the Kansas Board of Regents' commitment to the principles of academic freedom, the Board supports the responsible use of existing and emerging communications technologies, including social media, to serve the teaching, research, and public service missions of Kansas universities. Each university shall adopt guidelines to advise all university employees on use of social media. The guidelines shall encourage the responsible use of social media by all employees.

Social media means any facility for online publication and commentary.

The guidelines shall suggest ways in which social media technologies may be used to serve the university's mission and shall encourage these uses. In doing so, the guidelines shall strive to assure all employees that improper use of social media shall not be interpreted to include any of the following:

- i the content of any academic research and other scholarly activities;
- ii the content of any academic instruction;
- iii the content of any statements, debate, or expressions made as part of shared governance at a university whether made by a group or employee; or,
- iv in general, any communication via social media that is consistent with First Amendment protections and that is otherwise permissible under the law.

The guidelines shall remind employees that their authorship of content on social media may violate existing law or policy and may be addressed through university disciplinary processes if it:

- i is intentionally directed to inciting or producing imminent violence or other breach of the peace and is likely to incite or produce such action;
- ii violates existing employee policies addressing professional misconduct;
- iii discloses without lawful authority any confidential student information, protected health care information, personnel records, personal financial information, or confidential research data.

The guidelines also shall advise employees that when using social media to speak as a citizen they should be mindful of the balance struck by the 1940 Statement of Principles of the American Association of University Professors:

College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

These guidelines shall recognize the rights and responsibilities of all employees, including faculty and staff, to speak on matters of public concern as private citizens, if they choose to do so.

This policy on use of social media shall apply prospectively from its date of adoption by the Kansas Board of Regents.

**Members of the
Workgroup Named to Create Recommendations
Regarding Board Policy on Improper Use of Social Media**

From Emporia State University –

Kevin Johnson (co-chair), General Counsel

Max McCoy, Associate Professor in Department of English, Modern Languages, and Journalism

From Fort Hays State University –

Kristin Rupp, Web Content Manager

Melissa J. Hunsicker Walburn, Assistant Professor in Department of Informatics

From Kansas State University –

Julia Keen, Associate Professor in Department of Architectural Engineering and Construction Science and President of the Faculty Senate

Jeff Morris, Vice President for Communications and Marketing

From Pittsburg State University –

Browyn Conrad, Professor in the Department of History, Philosophy, and Social Sciences and President of PSU-KNEA

Dacia Clark, Senior Administrative Specialist in Alumni and Constituent Relations and President of the Classified Senate

From University of Kansas –

Charles Epp (co-chair), Professor in the School of Public Affairs and Administration

Easan Selvan, Associate Director in Information Technology Services

From University of Kansas Medical Center –

Mark Fisher, Professor in the Department of Biochemistry and Molecular Biology

From Wichita State University –

Victoria Mosack, Professor in the School of Nursing and President of the Faculty Senate

Richard Muma, Associate Vice President for Academic Affairs



KANSAS BOARD OF REGENTS

Charge to Workgroup Reviewing Board of Regents' Improper Use of Social Media Policy

The development of social media is changing communication. In higher education these technologies are widely used in teaching, research, and service to the public, as well as by individual employees in their personal communications. Use of social media also poses risks, as highlighted by a recent incident at one of the six state universities.

Consequently, the Board Chair directed the staff to craft a policy on the use of social media that recognizes the value of these media to the special mission of public universities, that respects the First Amendment and Procedural Due Process rights of individuals as employees and as citizens, while at the same time respecting the rights of the universities as employers. After careful consultation with legal counsel and the Attorney General's office about the requirements of law, a policy on social media was developed and adopted.

As you know, faculty across the system and groups representing faculty from across the country have expressed concern about the policy. In response, the Board of Regents Chair asked the President and CEO of the Board to work with the University Presidents and Chancellor to form a workgroup of representatives from each state university campus to review the policy and provide recommendations as to how it might be improved. The following is the charge to the workgroup:

1. Review the Board's policy on improper use of social media.
2. As part of the review, honor the Board's goal in creating the policy while considering ways to address the concerns that have been expressed.
3. Present to the Board Governance Committee any recommended amendments to the policy by April 16, 2014.

Current KBOR Policy on Social Media
[Chapter II, Section 6, Paragraph b]

Faculty and staff may also be suspended, dismissed or terminated from employment for reasons of significant reduction in or elimination of the funding source supporting the position, program discontinuance, financial exigency, or for just cause related to the performance of or failure to perform the individual's duties or for violation of the reasonable directives, rules and regulations, and laws of the institution, the Board and the State of Kansas or the United States.

The chief executive officer of a state university has the authority to suspend, dismiss or terminate from employment any faculty or staff member who makes improper use of social media. "Social media" means any facility for online publication and commentary, including but not limited to blogs, wikis, and social networking sites such as Facebook, LinkedIn, Twitter, Flickr, and YouTube. "Improper use of social media" means making a communication through social media that:

- i.** directly incites violence or other immediate breach of the peace;
- ii.** when made pursuant to (i.e. in furtherance of) the employee's official duties, is contrary to the best interest of the university;
- iii.** discloses without authority any confidential student information, protected health care information, personnel records, personal financial information, or confidential research data; or
- iv.** subject to the balancing analysis required by the following paragraph, impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker's official duties, interferes with the regular operation of the university, or otherwise adversely affects the university's ability to efficiently provide services.

In determining whether the employee's communication constitutes an improper use of social media under paragraph (iv), the chief executive officer shall balance the interest of the university in promoting the efficiency of the public services it performs through its employees against the employee's right as a citizen to speak on matters of public concern, and may consider the employee's position within the university and whether the employee used or publicized the university name, brands, website, official title or school/department/college or otherwise created the appearance of the communication being endorsed, approved or connected to the university in a manner that discredits the university. The chief executive officer may also consider whether the communication was made during the employee's working hours or the communication was transmitted utilizing university systems or equipment. This policy on improper use of social media shall apply prospectively from its date of adoption by the Kansas Board of Regents.