

NOTICE OF PROPOSED GUIDANCE DOCUMENT

ETHICS GUIDELINE ETH-1253

Pursuant to s. 227.112, Wis. Stats., the Wisconsin Ethics Commission is hereby seeking comment on ETH-1253, a proposed guidance document. This guideline replaces the earlier guideline of the same number.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Ethics Commission until June 3, 2019, by:

1. Emailing ethics@wi.gov, or
2. Mailing written comments to:
P.O. Box 7125
Madison, WI 53707-7125

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at <https://ethics.wi.gov/Pages/Resources/ResourcesOverview.aspx> to allow for ongoing comment.

AGENCY CONTACT PERSON

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Wisconsin Ethics Commission

For persons elected to state or local office who become a candidate for national, state, or local office

Social Media Use by Officials

GENERAL GUIDANCE

The Code of Ethics for State Public Officials prohibits the use of an official's public position for private benefit. [WIS. STAT. § 19.45\(2\)](#). As such, it is important for an official to be able to distinguish between a public purpose and a private purpose when considering the use of public resources. To avoid the appearance of misuse of public resources a public official should include some indication of whether a social media account is for their official position or is a campaign, business, or personal account in the profile, summary, or other description of the account.

Best Practices for Official Social Media Accounts

Official social media accounts are the most restricted. Officials should limit use of their official social media accounts to information related to an official's position, duties, and issues with a public purpose.

Examples of acceptable communications from an official social media account:

- Posts discussing how the state could address an issue through state laws or actions;
- General legislative activity like information about bills that the official has sponsored or co-sponsored;
- State budget information;
- Sharing newsletters from the official's office;
- Publicizing public events;
- Public service announcements and;
- Endorsements and messages of support when justified by having a state purpose. For example: "I support [candidate or organization] and their work to address [state policy issue] in Wisconsin."

Examples of communications that should NOT come from an official social media account:

- Solicitation of campaign contributions;
- Promotion of campaign-related events;
- Photos of campaign-related branding and events such as T-shirts, signs, or banners; and
- Any content that is strictly personal or commercial such as promoting the official's personally owned business or a business with which the official is associated.

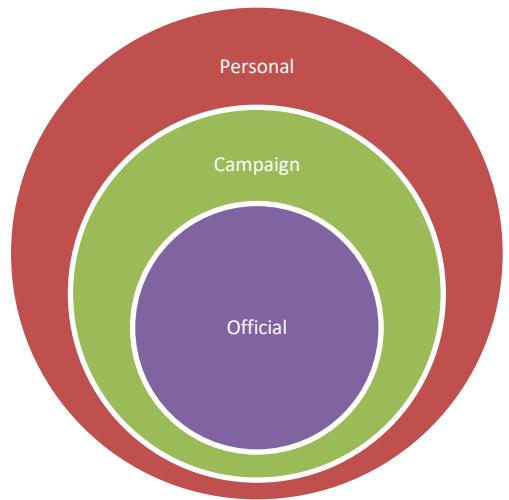
See WIS. STAT. §§ [11.1208\(2\)\(a\)](#), [19.42\(2\)](#), [19.45\(2\)](#).

Best Practices for Campaign and Personal Social Media Accounts

A campaign may use a campaign social media account for all communications allowable for an official account, in addition to campaign-related activities including solicitation of contributions. Campaign social media accounts should not be used for strictly personal or commercial purposes. *See* WIS. STAT. § [11.1208\(2\)\(a\)](#).

A personal account may contain both official and campaign-related information.

Please see the diagram to the right for an illustration of acceptable uses by type of account.



USE OF SOCIAL MEDIA ON “STATE TIME”

Elected officials will often switch between official and campaign activities throughout the day because an elected official is simultaneously an official and a candidate. [WIS. STAT. § 11.0101\(1\)](#). However, to avoid the appearance of misuse of public resources an elected official is advised not to create campaign-related social media communications or content while performing their official duties (i.e., while participating in an event in their official capacity – e.g., an event listed on their official calendar, a floor session, or committee hearing). [WIS. STAT. § 19.45\(2\)](#). Also, no person may enter or remain in any state building, office, or room for the purpose of requesting or collecting a contribution; therefore, elected officials should take special care as to the content of their social media communications while in a state building. [WIS. STAT. § 11.1207\(4\)](#).

An elected official is also advised to not use campaign committee resources for strictly personal benefit, or for commercial purposes. WIS. STAT. §§ [11.1208\(2\)\(a\)](#), [19.45\(2\)](#), [19.42\(2\)](#). For example, the candidate should not use a campaign social media account or campaign website to advertise for a personal business.

50-PIECE RULE APPLICATION TO SOCIAL MEDIA

The “50-Piece Rule” prohibits the use of public funds for the distribution of 50 or more pieces of substantially identical material by a covered person during a specified time period. [WIS. STAT. § 11.1205](#). The language of the “50-Piece Rule” does not distinguish between electronic pieces and printed pieces. Electronic communications almost always result in multiple copies being created even when sent to a single recipient. This is due to the nature of the technical systems that enable electronic communications. When calculating the number of pieces distributed under the “50-Piece Rule” the Commission will only count those instances of electronic communication intended by the sender. *See* [2018 ETH 03](#).

If a message is actively communicated to individually addressed recipients (e.g., via email, instant messages, or direct messages), each individual recipient is considered a single piece under the “50-Piece Rule.” However, a passive message such as a website, Facebook post, or tweet, where the sender has no direct control over the audience of his or her message, is only counted as a single piece under the “50-Piece Rule.”



Wisconsin Ethics Commission

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CERTIFICATION OF AGENCY HEAD

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

A handwritten signature in black ink, appearing to read "D. Carlton, Jr." with a stylized flourish at the end.

Daniel Carlton, Jr.
Commission Administrator
Wisconsin Ethics Commission

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

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