

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS
EMPLOYEE SOCIAL MEDIA & SOCIAL NETWORKING POLICY

1. Purpose

Recent and rapidly evolving technological trends have led to the birth and advance of a second generation of web design and software development, which places heavy emphasis on communication, collaboration, and sharing among Internet users. These technologies involve social media applications such as Facebook, Twitter, and weblogs (“blogs”), and have the potential to revolutionize how individuals, corporations, government agencies, and non-profit organizations interact and communicate with one another. Unlike the first generation of Internet, this change is not grounded in major technical transformations; instead, this change is centered, chiefly, on the ways individuals use the Internet. For many, these applications and the interactive expressions by multiple users which they facilitate are a regular part of their daily lives.

Instantaneous communication and broad information sharing allowed by these applications has some downsides. Many users of social media seem less aware or concerned of privacy and confidentiality concerns. The challenges and risks of such social media are particularly acute for government employees who work in positions where discretion and confidentiality are imperative. Court employees work in such an environment. Court personnel are expected to keep sensitive information confidential, exercise discretion to avoid embarrassment to the Court, and take precautions to avoid unnecessary security risks for court personnel, especially the judges they serve. It is imperative, therefore, that the Court set down a series of broad guidelines for employees to follow as they navigate these new, and ever-changing, technologies and applications.

2. Principles

The United States Courts’ reputation for impartiality and objectivity is among its most valuable assets, and must be vigorously protected. The Courts’ authority comes not from the power of the sword or the purse, but from the respect traditionally afforded its decisions by the other branches of government and by the public. It is therefore critical that confidence in the Courts’ impartiality and objectivity not be undermined, whether intentionally or inadvertently, by activities of Court employees.

3. Scope

This Social Media and Social Networking Policy applies to all employees of the United States District Court for the District of Kansas, whether they work in chambers, in the Clerk’s Office or the Probation Office, or in any other support role. It applies to full and part time employees, to permanent and temporary employees, to employees of other organizations who are performing contract services for the Court, and it includes unpaid interns. This Policy should be read in conjunction with the Code of Conduct for Judicial Employees. It applies to all online activities,

including social media, of all such employees, regardless of whether or not such activities occur during work time or on a Court computer or internet or email account.

4. Monitoring

The Administrative Office of the United States Courts (“A.O.”), and the United States District Court for the District of Kansas (“Court”), may monitor use of court-provided computers, networks, telephones, telephone services, Internet services, and other property and resources of the United States Courts as deemed appropriate by the Clerk of the Court, the Chief Judge of the Court, and/or the A.O. Employees have no expectation of privacy in any such property or resources.

5. Policies

- Think before you post. Internet postings, whether they be by text, photos, videos, or audio, remain accessible long after they are forgotten by the user. Assume that nothing is “private” on the Internet despite people’s best efforts to keep things private. Do not post anything on the Internet that you would not want to read on the front page of the newspaper, or see on the evening news.
- Use of the court email address for social networking (for example, blogs, Facebook, Twitter) is not permitted other than as directly related to the performance of the employee’s job. An employee clearly identifies association with the Court by using the employee’s court email address to engage in social media or professional social networking activity. Further, use of an employee’s court email address is subject to the same appropriate use policies pertaining to the use of the telephone, namely, limited personal use not interfering with the performance of work responsibilities. Email addresses should not be used for "chain" correspondence, solicitation of donations, transmittal of large audio, video or other large files, or any business enterprise.
- Many users of social media identify their employer or occupation. Be cautious about identifying yourself as a United States District Court for the District of Kansas employee in social media. Law clerks particularly should not identify themselves as an employee of their judge by name (i.e., “Law Clerk to Judge Mary Smith”). Instead, a more generalized employment reference, such as “United States Federal Courts” may be preferable. Be aware that by identifying yourself as an employee of the Court, you become to some extent a representative of the Court, and everything you post or is posted for you has the potential to reflect upon the Court and to affect its image. While you can control what you post, you cannot predict nor control what others, even family members or friends, might post on your page or in a blog. Their actions, while harmless in intent, could end up embarrassing you, the Court, or worse yet, put you in some danger. Even without directly identifying yourself as a Court employee, you may intentionally or unintentionally reveal information permitting the inference of Court employment. Be cautious about this, because you will be held responsible for representing the Court in a professional, impartial, and above reproach

manner. Also, do not reference other Court employees without their permission, and even then do not identify specifics of their employment. (The broad admonitions in this provision do not fully apply to Court Reporters, who have an authorized business reason to establish and maintain websites that identify the Court as their place of employment).

- Maintain professionalism, honesty, and respect. Use good judgment and careful discretion about the material or information posted online. Consider your online dialogue as subject to the same bounds of civility required at work. Any material, including photographs, posted online on a Court employee's website, social media site, blog, or in an email, that pertains to the Court, is the responsibility of the Court employee, even if the item was posted by a non-employee, and even if Court employment is only inferred or deduced rather than affirmatively stated. Employees must also comply with laws covering libel and defamation of character. Even non-Court specific behavior could have ramifications on your employment status (e.g. photographs in compromising or illegal situations).
- Be extremely cautious and prudent in discussing your job responsibilities for the Court on the Internet. Absolutely be careful to avoid leaking confidential information. Any discussion which reveals, directly or inferentially, information regarding likely final outcomes of orders or opinions you are working on which have not been approved and released, or which indicates your impressions or opinions regarding attorneys, issues, cases, litigants, or juries or jury deliberations before the Court, should be strictly avoided. Also avoid negative commentary regarding the Court. Any commentary you post that could reveal an association with the Court must contain an explicit disclaimer that states: "These are my personal views and not those of my employer." That is why employees may prefer not posting any commentary which could reveal their association with the Court. Again, remember that even harmless remarks could be misconstrued by litigants unfamiliar with court processes (such as pro se litigants).
- Observe security protocol. Employees must take care to avoid doing things that would compromise the security of the courthouse and personnel. To maintain security, unless directly related to your job duties or specifically authorized by a judicial officer or a Court Unit Executive, do not post pictures of the courthouse, inside or outside; do not post pictures of court events; and do not post pictures of the Court's judicial officers. Also, do not discuss or reference matters related to courthouse security (i.e., schedules of CSOs or the U.S. Marshals, identification of non-public entrances to the courthouse, working hours or travel plans of judges or court personnel, or security precautions for hearings or trials).
- Be cautious about using the "like" function on Facebook, or similar indications, to affiliate yourself with lawyers, law firms, litigants, political parties or ideological groups, in ways which might call into question the impartiality of the Court.

- Regularly screen the social media or websites that you participate in to ensure nothing is posted which is contrary to the best interests of the Court. Should such items appear, it is your responsibility to contact your supervisor and then immediately delete the communication or information, even closing down your Facebook page, etc., as necessary.
- Further, if any employee becomes aware of social networking activity of other staff that would be deemed distasteful or fail the good judgment test, please contact your supervisor.

6. Off Limits Material

Even if Internet activities would otherwise comport with the foregoing policy guidelines and rules, the following items are deemed off-limits, whether or not used on Court or personal computers, whether or not done during work hours or off-hours, and whether or not you identify yourself as a Court employee:

Seal and Logos

The United States District Court seal and logos may not be used in any manner.

Politically Sensitive Areas

Employees should not use social media applications in a manner which may be seen to support any political party or partisan cause. Employees should never indicate a political allegiance on social networking sites, either through profile information or through joining political groups. Employees should not express views for or against any policy which is a matter of current political debate. Employees should not advocate any particular position on an issue of current public controversy or debate. Employees should not speak favorably or unfavorably of a political candidate or office-holder. If an employee is in doubt, they should refer to their supervisor.

The Hatch Act, 5 U.S.C. § 7324 et seq., regulates the participation of government employees, as defined in 5 U.S.C. § 7322(1), in certain types of partisan political activities. Although the Hatch Act is not applicable to the Judicial Branch, the Judicial Conference has adopted similar restrictions. Canon 5 of the Code of Conduct for Judicial Employees prohibits all active engagement in partisan political activities, including, but not limited to, public endorsement of a candidate or contribution to a political campaign. The Code of Conduct should be consulted for a thorough understanding of the specific prohibitions on political activity contained in Canon 5. In addition, Advisory Opinion No. 92 provides guidelines for political activities.

Confidential Information

One of the most important obligations of employees is to ensure that non-public information learned in the course of employment is kept confidential. Confidential

information is strictly forbidden from any discourse outside of the appropriate employees of the Court. Information published on blogs or other social media must comply with the Court's confidentiality policies. This also applies to comments posted on other blogs, forums, and social networking sites. Confidential information is not to be discussed or referred to on such sites, even in private messages between site members who have authorized access to the information. Court employees should also refrain from discussing any of the Court's internal processes and procedures, whether they are of a non-confidential or confidential nature.

Online Recommendations

Some sites allow members to "recommend" current or former co-workers. If an employee does this as a representative of the Court, it may give the appearance that the Court endorses the individual being recommended. Accordingly, the Court strongly suggests employees be cautious about participating in employee recommendations for reasons of liability. All communication of this type should be referred to Human Resources for verification.

7. Productivity

The use of Court assets (computers, Internet access, email, etc.) is intended for purposes relevant to the responsibilities assigned to each employee. Social media activities should not interfere with work commitments. Unless otherwise authorized by the Judge, employees who work in the courtroom are prohibited from using computers, handheld wireless devices, blue-tooth enabled earpieces and headsets, and other hands-free wireless devices, for non-work related reasons when court is in session or the courtroom is otherwise occupied.

8. Disciplinary Actions

Employees who participate in online communication deemed not to be in the best interest of the Court may be subject to disciplinary action. Disciplinary action can include termination or other intervention deemed appropriate by appropriate Court personnel. Please refer to the Employee Manual for information on the appeal procedures for disciplinary actions.

9. Stricter Disclosure Standards

Judges, court unit executives and/or other appointing authorities may institute stricter standards than those outlined herein. They may also limit who is authorized to speak for the court or agency and the topics that specific judicial employees are allowed to address. The policies described in this document do not supersede or in any way override any stricter disclosure standards that a judge, court unit executive or other appointing authority may institute.