



Social Media and Public Records

PURPOSE

This guidance highlights common concerns that arise with agency use of social media and suggests methods for reaching agency compliance with Oregon Public Records Law. If your agency needs guidance regarding best practice for developing a social media plan, please see [DAS Social Media Best Practices: Guidelines for Oregon state government.](#)

FREQUENTLY ASKED QUESTIONS

Are social media posts public records?

Social media posts are considered public records if the following conditions are met:

1. Posts are made on an official public agency account or on a private account that is used to distribute information from that agency to the public. If a private account is used to conduct government business, then it is subject to Oregon Public Records Law.
2. The content posted by the agency contains evidence of agency policies, business transactions, services, or official activities. This could include but is not limited to public service announcements, job announcements, event publicity, press releases, public surveys, and currently elected officials speaking in their official capacity on subjects which may not relate directly to their office, but are tied to their elected position.
3. The content that's posted is unique and doesn't exist elsewhere. Agencies do not need to preserve redundant content; duplicate information has no retention requirement. For example, if the same event announcement is

released via a press release and a social media post, only one copy must be kept. However, if the content of the two versions differs significantly, they should be considered unique records, and both should be retained.

Agencies should evaluate their use of social media platforms to define the types of social media content that must be classified as public records. They can then offer specific examples to staff. For example, a county parks department uses its official social media account to ask residents which amenities they would like to see in a new public park. In this case, the post originates on the social media platform, does not exist elsewhere, and either reflects an official function of the county parks or may trigger county action. Such posts, in addition to comments from participants, are considered public record and must be maintained as such.

What is the retention period for social media post records?

Records retention value is based upon function and content of the record, not its format. Therefore, the retention period for social media posts varies depending on the post. Social media is often used by agencies to disseminate information to the public, so it is generally considered to be in the same category as press or news releases and is subject to the same retention requirements, though this is not always the case. Agencies should always consult their records retention schedule to locate the most appropriate records series for each post to determine retention requirements.

What about comments on an agency's page/posts?

Comments posted on an agency's account are not automatically considered records unless those comments trigger action by the agency. For example, if a member of the public comments on the City Public Works' page that a pothole needs fixing and the city then corresponds with the resident or takes action to fix the pothole, that comment is a public record.

Can agencies moderate their social media pages?

Yes, agencies are permitted to moderate their social media pages. “Establishing and following a social media comment policy will reduce some of the legal risks and help maintain the forum as a safe place for discussion and education.

Comment policies that restrict content must be reasonable and cannot discriminate based on viewpoint. ([*DAS Social Media Best Practices Manual*](#))” It is strongly advisable that agencies work with their legal team to create a social media moderation/comment policy and publicly post the finalized version on all social media accounts.

How does an agency capture record content from its social media accounts?

Social media outlets may or may not allow users to download their content depending on platform. Agencies must consider how to preserve their posts, and whether built-in functions will be sufficient. This can be achieved by retaining messages in local software and noting the time and date posted, or by capturing screenshots of posts once they have been published to the account. There is also third- party software that can capture social media content from multiple agency social media accounts. The mechanism is less important than ensuring that the critical record information is captured and maintained appropriately.

Agencies are strongly discouraged from using social media private messaging services for correspondence and instead should route such communications through agency-managed email, telephone, or paper correspondence. Examples of what this might look like include: responding to a comment or message from a member of the public via email (reiterating the original

message content to ensure completeness) or requesting that they send their inquiry via email to ensure it is addressed properly.

If agencies communicate with outside parties via social media messaging, they must ensure that all communication is captured and transferred to an agency-controlled medium and ensure proper retention periods are applied.

DECISION TREE

See the following Decision Tree, guiding the reader through whether a social media post must be captured:

