



BOARD OF REGENTS
SUMMARY OF ITEM FOR ACTION,
INFORMATION, OR DISCUSSION

TOPIC: Amendments: Board of Regents Student Social Media Privacy Policy (V-1.20)

COMMITTEE: Education Policy and Student Life

DATE OF COMMITTEE MEETING: September 22, 2015

SUMMARY: In November 2013, the Board of Regents approved a policy on Student Social Media Privacy. Shortly after the policy was passed, members of the Academic Transformation Advisory Council (ATAC) and other stakeholders noted issues with the policy; primarily, the language was so restrictive that it effectively prevented even legitimate academic uses of social media both inside and outside the classroom. In an effort to accommodate all the uses for social media within the academic context—while also preserving the privacy of students—the original policy was amended by the Board on September 19, 2014.

Since then, the Maryland General Assembly passed House Bill 934 (SB 210) titled “Educational Institutions – Personal Electronic Account – Privacy Protection” during the 2015 legislative session. Like the Board policy, the intent behind this legislation was to protect the privacy of students’ non-institutional online accounts (email, social media, and the like) and to prohibit the institution from compelling a student to allow employees access to their personal electronic accounts for the purpose observing or monitoring the student’s activity. The USM supported this bill with the amendments that also passed, which were aimed at assuring both that the bill did not preclude the use of social media for academic/mentoring purposes and that it did not prevent the institution’s ability to investigate serious health and/or safety threats.

While the bill that passed the General Assembly is very similar to the USM’s policy, some of the language of that bill has necessitated further amendment to assure compliance with the new law, such as adding “prospective students” and “applicants” to the protected class. The proposed revisions have been recommended by counsel in the Office of the Attorney General and are tracked in the attached draft for the committee’s review.

ALTERNATIVE(S): The Committee could choose not to recommend approval of these amendments or could recommend changes.

FISCAL IMPACT: There is no fiscal impact associated with this item.

CHANCELLOR’S RECOMMENDATION: That the Committee on Education Policy and Student Life recommend that the Board of Regents approve amendments to the Board of Regents’ Student Social Media Privacy Policy (V-1.20).

COMMITTEE RECOMMENDATION: _____ **DATE:** September 22, 2015

BOARD ACTION: _____ **DATE:** _____

SUBMITTED BY: Joann A. Boughman 301-445-1992 jboughman@usmd.edu

V-1.20 POLICY ON STUDENT SOCIAL MEDIA PRIVACY

I. PURPOSE

This policy recognizes the importance of privacy in a student’s personal activities involving the use of social media. It also recognizes that the use of Social Media by University employees plays a valuable and appropriate role in academic and career-based activities to the benefit of students. The purpose of this policy is to set forth appropriate rules to protect student privacy interests while permitting the use of Social Media for academic and career-based activities.

II. DEFINITIONS

A. “Non-Public Access Information” refers to the security information required to access a Social Media account. Examples include: passwords, log-in information or other private and confidential information required to gain access to a Social Media account.

B. “Personal Social Media Account” refers to a Social Media account that allows social interaction and dissemination of information to others, created and maintained by a student, prospective student, or applicant *in whole or in part* for private use. It does not include:

1. an account on a social media platform owned or provided by an educational institution; or
2. an account on a social media platform created by a student, prospective student, or applicant specifically for academic or University-assisted career-based activities.

C. “Social Media” are internet-based applications that enable users to participate in social networking by exchanging content with other users. Examples of Social Media include but are not limited to LinkedIn, Facebook, Twitter, YouTube, Flickr, Instagram, Tumblr, and Vine.

III. INSTITUTIONAL SOCIAL MEDIA PRIVACY POLICIES

Each institution shall adopt and publish Social Media privacy policies that comply with the Family Educational Rights and Privacy Act (FERPA) and include the following provisions:

- A. University employees shall not require, request, suggest, or cause a student, prospective student, or applicant to disclose, grant access to, or allow observation of Non-Public Access Information pertaining to any Social Media account.
- B. University employees shall not require that a student, prospective student, or applicant change the privacy settings on a Personal Social Media Account.

MJ Bishop 8/6/2015 4:51 PM
Comment [1]: B.3., which was deleted, read:
an account that would otherwise qualify as a Personal Social Media Account under this definition but that the student uses, at his or her own election, for academic or career-based activities.

Combe, Holly 4/29/2015 2:11 PM
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Combe, Holly 4/29/2015 2:12 PM
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Vallejo, Guillermo 4/24/2015 10:13 AM
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Vallejo, Guillermo 4/24/2015 10:14 AM
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Combe, Holly 5/4/2015 4:25 PM
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- C. University employees shall not require a student, prospective student, or applicant to designate a University employee or agent of the University as a “friend” a “follower” or any other designation that would afford the employee or agent access to a Personal Social Media Account.
- D. University employees shall not require a student, prospective student, or applicant to log onto any Social Media account in the presence of a University employee or agent of the institution.
- E. University employees shall not require that a student, prospective student, or applicant provide names of the Social Media platforms that he/she employs.

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IV. DISCIPLINE

University employees shall not suspend, expel, discipline, penalize, or threaten to take any of the aforementioned actions against any student, prospective student, or applicant for refusing to provide information in response to a request that is prohibited under Section III of this Policy.

Vallejo, Guillermo 4/24/2015 10:15 AM
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Combe, Holly 5/4/2015 4:32 PM
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V. LIMITATIONS

This Policy does not prohibit the following activities:

- A. University employees may require a student to provide access to a Social Media account provided that:
 1. The student has the option, at his or her own election, to complete the assignment or activity by using an existing Personal Social Media Account or by creating a generic Social Media account;
 2. access is limited to the academic or career-based activity;
 3. the student is not required to provide Non-Public Access Information;
 4. the academic or career-based activity is designed and administered in a manner that is consistent with the institution's FERPA obligations.

MJ Bishop 8/6/2015 5:08 PM
Comment [2]: Following text was missing from the version dated 5/10 that IS in the last approved policy:

MJ Bishop 8/6/2015 5:07 PM
Deleted: , share information from a social media account, or create a (generic) social media account as part of a required or optional academic assignment or career-based activity

University employees are encouraged to obtain unit-level approval before instituting academic or career-based activities involving access to such accounts. In addition, University employees are encouraged to provide notice to students, in syllabi or other relevant written publications, when use of such accounts is required.

Vallejo, Guillermo 4/24/2015 10:17 AM
Deleted: University employees may request a student to allow them to see content on the student's Personal Social Media Account for the purpose of fulfilling University obligations under federal or State law, such as when conducting regulatory compliance investigations, e.g., Title IX. Campuses should have documented procedures for this exception to this policy.

- B.
- C. University employees may access Personal Social Media Account information that has been voluntarily provided to them by a student, prospective student, applicant, or third party.
- D. University employees may access publicly accessible information relating to a student, prospective student, or applicant's Personal Social Media Account.

Combe, Holly 4/29/2015 2:12 PM
Deleted: Public Safety personnel or university police may access publicly accessible information from a student, applicant, or prospective student's Personal Social Media Account if such information is necessary to investigate suspected criminal activity.

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Deleted: E. University employees may access "publicly accessible" information from a Personal Social Media Account to investigate significant health and safety threat