

Member Speech, Expression, and Social Networking

1046.1 PURPOSE AND SCOPE

Best Practice

This policy is intended to address issues associated with member use of social networking sites and to provide guidelines for the regulation and balancing of member speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1046.1.1 APPLICABILITY

Best Practice

This policy applies to all forms of communication, including but not limited to film, video, print media, public or private speech, and use of all internet services, including the web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

1046.1.2 DEFINITIONS

Agency Content

- **Blog** - Short for "Web blog," a site that allows an individual or group of individuals to share a running log of events and personal insights with online audiences.
- **Electronic Media** - Non-computing devices, e. g. floppy diskettes, flash memory drives, CD's, DVD's, tapes, hard disks, internal memory, USB's and any other interchangeable, reusable, and/or portable electronic storage media (1) on which electronic information is stored, or (2) which are used to move data among computing systems/device.
- **Toms River Fire Department Information** - Information in any form or media created by or on behalf of the Toms River Fire Department in the course and scope of the Toms River Fire Department business, regardless of whether that information is maintained or stored by the Toms River Fire Department or by others on the Toms River Fire Department's behalf not otherwise deemed publicly available by law.
- **Podcast** - A collection of digital media files distributed over the internet, often using syndicating feeds, for playback on portable media devices and personal computers.

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- **RSS Feeds or Syndication feeds** - A family of different formats used to publish updated content such as blog entries, news headlines or podcasts and "feed" this information to subscribers via e-mail or by an RSS reader, thereby enabling users to keep up with favorite websites in an automated manner that is easier than checking them manually (colloquially known as "really simple syndication").
- **Social Media** - Includes, but is not limited to blogs, microblogs (e.g. X formally Twitter"), podcasts, discussion forums, on-line collaborative information and publishing systems that are accessible to external and internal audiences (e.g. "Wikis"), RSS feeds, video sharing, social networking sites, (e.g. "Facebook" and "My Space"), content-sharing websites (e.g. "Flick", "Tik Tok" and "You Tube"), and any other interactive Web-based communication technology that enables users to interact and post or share content via text, video, images, and audio.
- **Wiki** - An on-line forum that enables users to create, edit, and link Web pages easily, often used to create collaborative Web Sites (Wikis") and to power community Web sites.

1046.2 POLICY

Federal

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the fire profession, it is necessary that members of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Toms River Fire Department will carefully balance the individual member's rights against the department's needs and interests when exercising a reasonable degree of control over its members' speech and expression.

1046.3 SAFETY

Best Practice

Members should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Toms River Fire Department members, such as posting personal information in a public forum, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing the address of a fellow firefighter.
- Otherwise disclosing where another firefighter can be located off-duty.

1046.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

Best Practice MODIFIED

To meet the department's safety, performance, and public-trust needs, the following is prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen,

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including acting as an authorized member of a recognized bargaining unit, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the Toms River Fire Department or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to or related to the Toms River Fire Department and tends to compromise or damage the mission, function, reputation, or professionalism of the Toms River Fire Department or its members. Examples may include:
 - 1. Statements that indicate disregard for the law of the state or U.S. Constitution.
 - 2. Expression that demonstrates support for criminal activity.
 - 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the members of the Department.
- (e) Speech or expression that is contrary to the canons of the Firefighters' Code of Ethics as adopted by the Toms River Fire Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video, or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Administrator or Board designee or the authorized designee.
- (g) Posting, transmitting, or disseminating any photographs, video or audio recordings, likenesses, or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the Toms River Fire Department on any personal or social networking or other website or web page, without the express authorization of the Administrator or Board designee.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device, or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks; however, such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

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Members must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the member (e.g., social or personal website).

Toms River Fire Department hosted sites:

- (a) Content may be posted on Toms River Fire Department hosted sites only by authorized employees.
- (b) No content shall be posted on Toms River Fire Department hosted sites that is obscene, defamatory, profane, libelous, threatening, harassing, abusive, hateful, or embarrassing to another person, entity, or institution.
- (c) Content posted on Toms River Fire Department hosted sites shall observe all applicable state and federal law and regulations, especially those protecting intellectual property (including copyrights and trademarks) and personal privacy.

Non-Toms River Fire Department Hosted Sites:

- (a) On non-Toms River Fire Department hosted sites, employees or volunteers may not disclose any confidential or proprietary information of or about the Toms River Fire Department or any agency or instrumentality thereof, represent that they are communicating the views or communicating or acting on behalf of the Toms River Fire Department.
- (b) On non-Toms River Fire Department hosted sites, employees and volunteers may not use or disclose any content, including personal identifying information (e.g. name, age, sex, location, or medical, physical or mental condition) and photographs, that violates or intrudes upon the reasonable expectations of privacy of any person receiving Toms River Fire Department services or involved in Toms River Fire Department business.
- (c) No Toms River Fire Department employees or volunteers shall post defamatory, libelous, derogatory, profane, obscene, violent or otherwise offensive content on a non Toms River Fire Department hosted site while identifying themselves as an employee or volunteer of the Toms River Fire Department or any agency or instrumentality thereof.
- (d) The use of social media to defame, libel, or slander the Toms River Fire Department or any of its employees or volunteers is strictly prohibited.
- (e) The use of social media to communicate any audio or visual details of a police, fire, medical, or other emergency response is strictly prohibited, unless authorized by the appropriate Toms River Fire Department officials.

1046.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

Federal

Although members are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit, members may not represent the Toms River Fire Department or identify themselves in any way that could be reasonably perceived as representing the Toms River Fire Department in order to do any of the following, unless specifically authorized by the Administrator or Board designee:

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- (a) Endorse, support, oppose, or contradict any political campaign or initiative
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion
- (c) Endorse, support, or oppose any product, service, company, or other commercial entity
- (d) Appear in any commercial, social, or nonprofit publication or any motion picture, film, video, public broadcast, or on any website

Additionally, when it can reasonably be construed that a member, acting in an individual capacity or through an outside group or organization (e.g., bargaining group), is affiliated with this department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Toms River Fire Department.

Members retain their right to vote as they choose, to support candidates of their choice, and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command, or advise another member to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes (5 USC § 1502).

1046.4.2 POLITICAL ACTIVITY

State

No member shall be prohibited from engaging in political activity, unless otherwise prohibited by law, in violation of department policy, or any time a member is on-duty or in uniform.

Members shall not be coerced or required to engage in political activity (N.J.A.C. 5:1-7.1).

1046.5 PRIVACY EXPECTATION

Best Practice

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

1046.6 CONSIDERATIONS

Best Practice

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Administrator or Board designee or the authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.

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- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

1046.7 TRAINING

Best Practice

Subject to available resources, the Department should provide training regarding member speech and the use of social networking to firefighters and supervisors.