



Review of the Interim University of Maryland Policy on Student Social Media Privacy

PRESENTED BY Bryan Eichorn, Chair

REVIEW DATES SEC – August 29, 2017 | SENATE – September 6, 2017

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT [V-1.20\[A\] - University of Maryland Policy on Student Social Media Privacy](#)

NECESSARY APPROVALS Senate, President

ISSUE

In October 2016, the University President approved an interim Policy on Student Social Media Privacy (V-1.20[A]), which establishes parameters for the use of student social media accounts in academic or career-based activities. In February 2017, the Senate Executive Committee (SEC) voted to charge the Senate Educational Affairs Committee with reviewing both the interim policy and a relevant Maryland state law; reviewing similar policies at peer and Big 10 institutions; consulting with various campus stakeholders; considering how grievances should be addressed; and recommending revisions to the policy, if appropriate.

RECOMMENDATIONS

- The Educational Affairs Committee recommends that the Senate approve the revised Policy on Student Social Media Privacy (V.1-20[A]), which immediately follows this report.
- The Educational Affairs Committee recommends that the Teaching and Learning Transformation Center (TLTC) develop resources for faculty and teaching assistants that address the responsible use of social media in courses and communicate the potential consequences associated with violations of this policy or state law. These resources should be regularly updated to reflect the advent of new social media platforms and changes in the terms of service of existing platforms. The TLTC should also incorporate responsible social media use in applicable seminars and trainings, including its Graduate Student Teaching Orientations.
- The Educational Affairs Committee recommends that the Senior Vice President and Provost inform deans, department or program chairs, and other relevant administrative staff of their responsibilities under the policy. Specifically, such notifications should ensure that unit-level administrators are aware of their role in hearing complaints, the resources related to the responsible use of social media in courses, the importance of creating structures to review the use of social media in academic or career-based activities in their units, and the potential consequences associated with violations of this policy or state law.
- Finally, the Educational Affairs Committee recommends that the Office of Undergraduate Studies add information on the policy to its Course Related Policies webpage.

COMMITTEE WORK

The Educational Affairs Committee reviewed a section of the Annotated Code of Maryland, reviewed policies at peer and Big 10 institutions, and spoke with stakeholders across campus. These include the Senate Student Affairs Committee, faculty who use or study social media in their courses, representatives of the Career Center and the Department of Intercollegiate Athletics, and the Associate Provosts for Faculty Affairs and Learning Initiatives.

The committee considered whether a more restrictive policy was necessary to resolve concerns related to the policy's privacy implications. It decided against significantly narrowing or eliminating the conditions under which social media can be used, both for practical reasons and because doing so would unreasonably impinge on the prerogatives of faculty members or unnecessarily limit important career-development opportunities. It did, however, recommend language indicating that University faculty and staff cannot obligate students to violate the terms of service of any social media platform. The committee also recommended several revisions to clarify ambiguous language and explicitly acknowledge relevant state law and University policy.

In its review, the committee explored various options for addressing violations of the policy. After discussing a range of possibilities, it decided to recommend that complaints should be directed to the appropriate unit-level administrator.

The proposed revisions and recommendations were reviewed by the Office of General Counsel. The Educational Affairs Committee voted to approve the revised Policy on Student Social Media Privacy (V-1.20[A]) and recommendations by an email vote concluding May 15, 2017.

ALTERNATIVES

The Senate could choose not to approve the revised Policy on Student Social Media Privacy and accompanying recommendations, leaving the interim policy in place.

RISKS

There are no associated risks.

FINANCIAL IMPLICATIONS

There are no financial implications.



Review of the Interim University of Maryland Policy on Student Social Media Privacy

2016-2017 Committee Members

Bryan Eichhorn (Chair)	Celina McDonald (Faculty)
Ben Bederson (Ex-Officio Provost's Rep)	Abani Pradhan (Faculty)
Fasika Delessa (Ex-Officio SGA Rep)	Kellie Robertson (Faculty)
Linda Macri (Ex-Officio Graduate School Rep)	Dylan Selterman (Faculty)
Marcio Oliveira (Ex-Officio Division of IT Rep)	Elizabeth Soergel (Faculty)
Doug Roberts (Ex-Officio Associate Dean for General Education)	Ji Seung Yang (Faculty)
Adria Schwarber (Ex-Officio GSG Rep)	Michelle Brooks (Exempt Staff)
Ann Smith (Ex-Officio Undergraduate Studies Rep)	Cathy Fisanich (Non-Exempt Staff)
Lindsey Anderson (Faculty)	Prasoon Gupta (Graduate Student)
John Buchner (Faculty)	Anne Tavera (Undergraduate Student)
Vedat Diker (Faculty)	
Jeffrey Henrikson (Faculty)	

Date of Submission

May 2017

BACKGROUND

In October 2016, the University President approved an interim Policy on Student Social Media Privacy (V-1.20[A]). The policy, modelled on a similar one established by the University System of Maryland (USM), circumscribes the actions of University employees who interact with students' social media accounts. The interim policy provides specific criteria under which students can be required to use social media in academic or career-based activities. In February 2017, the Senate Executive Committee (SEC) voted to charge the Senate Educational Affairs Committee with reviewing both the interim policy and a relevant Maryland state law; reviewing similar policies at peer and Big 10 institutions; consulting with various campus stakeholders; considering how grievances should be addressed; and recommending revisions to the policy, if appropriate (Appendix 4).

COMMITTEE WORK

The Educational Affairs Committee began its review in March 2017. In researching the policy's origins, the Educational Affairs Committee learned that in 2013 the Maryland General Assembly directed the USM to develop a policy that would protect students' social media privacy. In response, the USM created the Policy on Student Social Media Privacy (V-1.20), which was approved by the Board of Regents in November 2013. Faculty members at USM institutions raised concerns that the policy prohibited the legitimate use of social media in academic and career-based activities. The USM revised the policy in 2014 to ensure that it permitted the responsible use of social media in appropriate contexts. It also directed each USM institution to develop its own social media privacy policy. The University of Maryland policy was approved on an interim basis by the President in October 2016.

The committee reviewed the Annotated Code of Maryland, Education Article, Section 26-401 (Appendix 1). Based on SB0210, the law establishes protections for student social media privacy at

state institutions of postsecondary education. While the law is more detailed than either the USM or University policy, it establishes the same basic protections for students. The committee learned that few peer and Big 10 institutions provide similar protections for students' social media privacy (Appendix 2). While many institutions have policies regulating faculty and staff social media use, few have policies that apply to students in academic contexts, and only the University of California System's policy provides protections similar to those of the USM and University policies. The committee also consulted with the Senate's Student Affairs Committee. The Student Affairs Committee generally supported the principles behind the policy, agreeing that social media can be a valuable tool and praising the policy's incorporation of generic social media accounts (Appendix 3).

In reviewing the interim policy, the committee carefully considered the role social media can play in certain academic and career-based activities. It consulted with faculty in the College of Information Studies and the Philip Merrill College of Journalism who incorporate social media in their courses. It learned that social media plays a significant role in a range of classes, whether as a subject of study or as an invaluable tool for students entering particular fields, such as journalism. The usefulness of social media in establishing and advancing a career was echoed by representatives of the University Career Center & The President's Promise, which teaches students how to use social media to identify or appeal to potential employers. The committee also consulted with representatives of the Department of Intercollegiate Athletics, which is aware of the policy and state law and has identified staff members responsible for ensuring its employees are in compliance.

During the committee's review, several committee members and the Associate Provost for Faculty Affairs expressed concerns with the policy's privacy implications. The committee considered whether any engagement with students' social media accounts could blur important ethical boundaries and open University faculty and staff to potential legal liability, and considered developing a more restrictive policy to mitigate those concerns. The committee also considered requiring that each College establish a system for reviewing and approving any syllabus incorporating social media use. After consideration, the committee decided against these approaches, both for practical reasons and because they unreasonably impinged on the prerogatives of faculty members or unnecessarily limited important career-development opportunities. However, units may want to consider structures to review the use of social media in academic or career-based activities, if appropriate.

The committee did conclude that greater specificity could facilitate compliance with the policy, and discussed concerns with the section of the policy covering activities that require the use of a social media account. The policy includes provisions related to generic social media accounts, which can be used to fulfill the requirements of an academic or career-based activity. The committee found that some social media platforms do not allow individuals to create more than one account, and/or require that accounts be opened using an individual's legal name (e.g. Facebook and LinkedIn). The committee developed revisions that explicitly indicate that University faculty and staff cannot require the use of social media when doing so would obligate students to violate a social media platform's terms of service. Given that many social media platforms are not yet fully accessible, the committee also added a reference to the University's Disability & Accessibility Policy and Procedures.

The committee discussed appropriate grievance procedures at length and explored various options for addressing violations of the policy. It initially considered revising the Policy on the Conduct of Undergraduate Courses and Student Grievance Procedure to encompass violations of the social media policy. These grievance procedures, however, only apply to undergraduate students; they would not be suitable for graduate students or for complaints unrelated to an academic activity,

such as those that could be brought by student athletes, students using the Career Center, or student employees. The committee considered identifying a compliance officer responsible for resolving complaints, though finding a single individual or office that could appropriately hear complaints from students, athletes, and employees proved difficult. Given that violations of the policy are likely to be rare and inadvertent, the committee decided that complaints should be directed to the appropriate unit-level administrator.

The committee made a series of additional revisions to clarify terminology and remove ambiguity regarding the definition of “access.” It also expanded the “Purpose” section to directly reference the state law and the potential consequences for violating it, and to indicate that compliance is the responsibility of each University employee. In addition to these revisions, the committee drafted several recommendations intended to raise awareness of the policy across campus. The committee consulted extensively with the Associate Provost of Learning Initiatives during its review and determined that the Teaching and Learning Transformation Center would be well-positioned to develop resources and provide training to help faculty members navigate the evolving social media landscape and to explore ways to responsibly incorporate social media in their courses. The policy revisions and recommendations were reviewed by the Office of General Counsel. The Educational Affairs Committee voted to approve the revised policy and recommendations by an email vote concluding on May 15, 2017.

RECOMMENDATIONS

The Educational Affairs Committee recommends that the Senate approve the revised Policy on Student Social Media Privacy (V.1-20[A]), which immediately follows this report.

The Educational Affairs Committee recommends that the Teaching and Learning Transformation Center (TLTC) develop resources for faculty and teaching assistants that address the responsible use of social media in courses and communicate the potential consequences associated with violations of this policy or state law. These resources should be regularly updated to reflect the advent of new social media platforms and changes in the terms of service of existing platforms. The TLTC should also incorporate responsible social media use in applicable seminars and trainings, including its Graduate Student Teaching Orientations.

The Educational Affairs Committee recommends that the Senior Vice President and Provost inform deans, department or program chairs, and other relevant administrative staff of their responsibilities under the policy. Specifically, such notifications should ensure that unit-level administrators are aware of their role in hearing complaints, the resources related to the responsible use of social media in courses, the importance of creating structures to review the use of social media in academic or career-based activities in their units, and the potential consequences associated with violations of this policy or state law.

Finally, the Educational Affairs Committee recommends that the Office of Undergraduate Studies add information on the policy to its Course Related Policies webpage.

APPENDICES

Appendix 1 — Annotated Code of Maryland, Education Article, Section 26-401

Appendix 2 — Peer Institution Research

Appendix 3 — Student Affairs Committee Memo on the Interim Student Social Media Privacy Policy

Appendix 4 — Senate Executive Committee Charge on the Review of the Interim University of Maryland Policy on Student Social Media Privacy (Senate Document #16-17-23)



V-1.20(A) UNIVERSITY OF MARYLAND POLICY ON STUDENT SOCIAL MEDIA PRIVACY

(Approved by the President on an Interim basis October 25, 2016)

I. PURPOSE

This policy serves as a guide to ensure compliance with the Annotated Code of Maryland, Education Article, Section 26-401. It applies to all University faculty, staff, and students, and helps ensure the privacy rights of students. ~~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.~~ The policy is intended to permit the appropriate use of Social Media while ensuring compliance with state and federal law and protecting student privacy. Ultimately, however, it is the responsibility of each University employee (e.g. instructor, teaching assistant, athletic staff, counselor, etc.) to ensure they are in compliance. Individuals who violate the state law may be subject to civil liability.

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. ~~a~~An account on a ~~s~~Social ~~m~~Media platform owned or provided by an educational institution; or
 2. ~~a~~An account on a ~~s~~Social ~~m~~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~~electronic 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, **and** Tumblr, ~~and~~ Vine.

III. UMCP SOCIAL MEDIA PRIVACY RULES

- 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. University employees shall not require that a student, prospective student, or applicant change the privacy settings on a Personal Social Media Account.
- B. 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 **information that is not publicly available**.
- C. 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.
- D. University employees shall not require that a student, prospective student, or applicant provide names of the Social Media platforms that he/she employs.

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.

V. LIMITATIONS

This Policy does not prohibit the following activities:

- A. University employees may require a student to ~~provide access to use~~ a Social Media account **in an academic or career-based activity** 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 **(or alternative)** Social Media account;
 - 2. **Students are not obligated to violate the terms of service of any Social Media account;**
 - 23. ~~access-Use~~ is limited to the academic or career-based activity;
 - 34. ~~†~~The student is not required to provide Non-Public Access Information; **and**
 - 45. ~~†~~The academic or career-based activity is designed and administered in a

manner that is consistent with ~~the III-6.30(A)~~ University of Maryland, College Park Policy and Procedures on the Disclosure of Student Education Records ~~(III-6.30[A])~~ and the **University of Maryland Disability & Accessibility Policy and Procedures (VI-1.00[D])**.

University employees are encouraged to obtain unit-level approval before instituting academic or career-based activities involving ~~access to such~~ **student Social Media** 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.

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

VI. COMPLAINTS

Students should report violations of this policy to their unit administrator.