

# Member Speech, Expression and Social Networking

## 1048.1 PURPOSE AND SCOPE

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 District.

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.

### 1048.1.1 APPLICABILITY

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

## 1048.2 POLICY

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

## 1048.3 SAFETY

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 Fresno County Fire Protection District 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.

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- Otherwise disclosing where another firefighter can be located off-duty.

### **1048.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the District'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, 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 Fresno County Fire Protection District or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Fresno County Fire Protection District and tends to compromise or damage the mission, function, reputation or professionalism of the Fresno County Fire Protection District 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 District.
- (e) Speech or expression that is contrary to the canons of the Firefighters' Code of Ethics as adopted by the Fresno County Fire Protection District.
- (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 District for financial or personal gain, or any disclosure of such materials without the express authorization of the Fire Chief or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of District logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Fresno County Fire Protection District on any personal or social networking or other website or web page, without the express authorization of the Fire Chief.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or District 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).

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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.

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).

#### 1048.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While 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 Fresno County Fire Protection District or identify themselves in any way that could be reasonably perceived as representing the Fresno County Fire Protection District in order to do any of the following, unless specifically authorized by the Fire Chief (Government Code § 3206; Government Code § 3252):

- (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 his/her individual capacity or through an outside group or organization (e.g., bargaining group), is affiliated with this district, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Fresno County Fire Protection District.

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).

#### 1048.4.2 POLITICAL ACTIVITY

The following rights are retained by firefighters by statute and are extended to all other members by the Fresno County Fire Protection District (Government Code § 3252).

- (a) No member shall be prohibited from engaging in political activity, unless otherwise prohibited by law, in violation of District policy or any time a member is on-duty or in uniform.
- (b) Members shall not be coerced or required to engage in political activity.

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- (c) A member can seek election to, or serve as a member of, the governing board of a school district or any local agency where he/she is not employed, including, but not limited to, any city, county, special district or political subdivision.

### **1048.5 PRIVACY EXPECTATION**

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 District technology system.

The District reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the District, including the District email system, computer network or any information placed into storage on any District system or device.

This includes records of all keystrokes or Web-browsing history made at any District computer or over any District network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through District computers, electronic devices or networks.

However, the District may not require a member to disclose a personal username or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

### **1048.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Fire Chief 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 District or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the District.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her 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 District.

### **1048.7 TRAINING**

Subject to available resources, the District should provide training regarding the limitations on speech, expression and the use of social networking to firefighters and supervisors.