

ITEM NUMBER: 10.d.

To: KPPCSD Board of Directors  
From: Ann R. Danforth, General Counsel  
Date: June 14, 2018  
Subject: District Options for Policy Governing District Website and Other Social Media

**I. BACKGROUND**

The District is preparing a new Manual of Policies and Procedures (“MPP”), which will be based on the California Special District Association (“CSDA”) model manual. Staff anticipates that this process will consume several months. In the interim, a number of questions have arisen regarding the use of the District’s new website. The District’s current Policies and Procedures Manual does not address social media use. Accordingly, the Board may wish to accelerate adoption of a policy to govern how the District uses the website and other social media.

**II. ANALYSIS**

Social media has become an increasingly vibrant means of communication in recent years. Websites and other media are now the standard and most effective source of information that many organizations offer the public.

Government agencies face a particular challenge in using social media. Anytime a public agency uses or creates a means of communication, the agency must decide whether to open that forum to all who wish to participate or to limit use to particular users and/or types of information. The First Amendments of the U.S. and California Constitution come into play whenever a public agency owns or controls a media that can be used for interactive communication. To use a simple example, if a city maintains a billboard that is open for use on a first-come, first-served basis, it may run afoul of First Amendment rights if it tries to bar a would-be user because of distasteful content.

The District, like most public agencies, has created and maintains its website for the specific purpose of communicating with District residents and other members of the public. The District could avoid the First Amendment issue simply by disallowing postings by non-District officials. However, there are other agencies whose

communications may further the District's own goals. By adopting carefully drafted criteria, the Board may allow information from those agencies on its website.

Other complications that may arise from social media use include the following:

1. Use of public resource issues
2. Employee use of social media, both on behalf of the agency and personally
3. Other employment-related social media issues
4. Open meeting law issues
5. Public records retention and disclosure issues
6. Procurement, gift and contract issues, and
7. Equal access/Section 508 (disability access) issues
8. Privacy issues

The CSDA model manual's Policies 2415 and 2420 (attached as Exhibit A) address social media and website usage. The model policies address many of the above issues but not all of them. Accordingly, the Board may wish to consider the following modifications:

- A statement of the website's purpose. One possibility: To enhance communication with residents about District services and operations, provide timely information regarding District business, streamline processes and foster productivity improvements.
- A clarification that the website is subject to both Policy 2415 and 2520.
- Criteria for posting hyperlinks and other information outside agencies. I would recommend limiting such postings to agencies that provide services typical of local government agencies, such as Contra Costa County, the Kensington Fire Protection District and the West Contra Costa Unified School District.
- The website and any other District social media should include a statement advising users how to request assistance if they have a disability that impairs their ability to access the information on the medium.
- A statement that information that is outdated or no longer relevant may be removed but such information must be retain in digital or other form as required by California law.

For further information regarding public agencies and social media, I recommend the following article by the Institute for Local Government: [http://www.ca-ilg.org/sites/main/files/file-attachments/3\\_-\\_social\\_media\\_paper\\_110813\\_0.pdf](http://www.ca-ilg.org/sites/main/files/file-attachments/3_-_social_media_paper_110813_0.pdf).

To see examples of other agencies' social media policies, please see:

- <https://www.cityofberkeley.info/webpolicy/>
- <http://www.ca-ilg.org/sites/main/files/file-attachments/sanmateosocialmedia.pdf>
- <https://www.weho.org/home/showdocument?id=10054>

### III. CONCLUSION AND RECOMMENDATION

As time-consuming as they can be, websites and other forms of social media have become an integral part of doing business in the 20<sup>th</sup> Century. A well-crafted policy regarding the use of the new website will simplify decisions for District users and promote confidence that District officials administer the website in a fair and even-handed manner.

**Exhibit A:** CSDA Model Policies and Procedures Manual, Policies 2415 and 2420