

Use of Social Media by Members of Adjudicative Boards

Purpose of the Bulletin

1. The purpose of this Interpretation Bulletin is to clarify how the Code of Conduct for Members of Adjudicative Boards (the "Code of Conduct") guides a member's use of social media.
2. Failure to follow the guidance set out in this Interpretation Bulletin could lead to a finding that a member has contravened the Code of Conduct. Members can seek confidential advice from the Integrity Commissioner with respect to specific situations that may arise.
3. The Bulletin also includes example scenarios that are intended to assist members and the public to understand how the Code of Conduct will be interpreted in relation to members' social media use. Members should seek individual, fact-specific advice to address their questions or concerns.

Definition of Social Media

4. Social Media refers to freely accessible, third-party hosted, interactive Internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network. A non-exhaustive list of examples of social media in use in April 2016 include: Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn.
5. Common features of social media are: accounts can be established at no cost; and, content is by default public and permanent.

Articles of the Code of Conduct

6. Use of social media has the potential to engage all parts of the Code of Conduct, and in particular:
 - a. Preamble
 - b. Article III (Statutory Provisions Regulating Conduct)
 - c. Article IV (Gifts and Benefits)
 - d. Article V (Confidential Information)
 - e. Article VI (Communications with Adjudicative Boards)

- f. Article VII (Media Communications)
- g. Article VIII (Use of Board and City Property, Services and Other Resources)
- h. Article IX (Election Campaign Work)
- i. Article X (Improper Use of Influence)
- j. Article XIII (Conduct at Meetings of Adjudicative Board or Panel)
- k. Article XIV (Conduct Respecting Staff)
- l. Article XVI (Independent Nature of Adjudicative Boards)
- m. Article XVII (Discreditable Conduct)
- n. Article XVIII (Failure to Adhere to Council or Adjudicative Board Policies and Procedures)

Other Relevant Sources of Regulation of Social Media Use

- 7. Use of social media has the potential to engage provincial legislation and City policies, including:
 - a. *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched. (as amended)
 - b. *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50
 - c. City of Toronto *Policy on Use of City Resources during an Election*
 - d. City of Toronto *Corporate Identity Program* (as amended)

Principles

- 8. There is no requirement, or functional purpose, associated with members of adjudicative boards identifying themselves as board members in their personal social media use, and significant risk that such social media use will violate the Code of Conduct and other regulations and principles.
- 9. Members of adjudicative boards have little or no access to City resources for use of social media.
- 10. Adjudicative board members must act with heightened caution with respect to personal use of social media to avoid perceptions of bias.

Guidance

Special Nature of Adjudicative Boards (Articles VI, VII and XVI)

- 11. Members of adjudicative boards carry out quasi-judicial functions and are subject to administrative law principles that apply to hearings and members of adjudicative boards. For these reasons, the Code of Conduct contains specific guidance about communications with adjudicative board members.

12. Taking into account the special nature of adjudicative boards and the communication restrictions imposed on members of adjudicative boards, members who use social media in their personal or professional lives should not identify themselves as a member of an adjudicative board on any social media platform.
13. Members should keep social media participation entirely personal, and set privacy settings as restrictively as possible. Members must think carefully about requests to friend, follow, like or link any content or individuals, especially from someone they do not know.
14. Members must be mindful that care, special scrutiny, and attention may be paid to their social media use due to the quasi-judicial, arms-length nature of their boards.
15. Members must not use social media forums to discuss applications that come before their boards and must be careful to avoid the perception that their communications represent the views of the board.
16. Members should not express views about bylaws or board or City policies that touch on the board's business.

Confidential Information & *In Camera* Meetings (Article V and Article XIII)

17. The Code of Conduct prohibits members from disclosing or releasing confidential information acquired by virtue of their office. Members must not post content on social media that discloses information or conduct during *in camera* or other confidential meetings. Due to the immediacy of social media and its ease of access on smart phones or computers, members should not use social media in any form during *in camera* or other confidential meetings.

Respecting Staff (Article XIV)

18. The Code of Conduct requires members to be respectful of the role of staff to provide professional advice. Members should not use social media to engage in criticism of City or adjudicative board staff. The public nature of social media can increase the risk of harming the professional and ethical reputation of City and adjudicative board staff.

Respecting Each Other and the Public (Article XVII)

19. Just as Torontonians expect members of adjudicative boards to maintain decorum when conducting the business of the board, they also expect members

to act with decorum on social media. Members must never use social media as a platform to treat members of the public, one another, or staff without respect. Members should not engage in or encourage bullying, flaming, or shaming of other social media users. Even if the topic is unrelated to the work of the board, participating in such conduct has the potential to impact on the reputation of the board as a whole. This manner of communication is inconsistent with the Code of Conduct and unbecoming of the office that members hold.

Further Information

This interpretation bulletin is intended to provide general information. To rely on the advice of the Integrity Commissioner with respect to specific situations, members of local boards must seek written advice consistent with the provisions of Article XX of the Code of Conduct.

If you have any questions, please contact:

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Examples for Interpretation Bulletin: Use of Social Media by Members of Adjudicative Boards

A member is appointed to an adjudicative board. The member is an active Twitter user and tweets the announcement of her appointment to her followers.

This is an acceptable use. The member should not, however, update her profile to identify herself as a member of the adjudicative board.

A member concluded a day of hearings that lasted 10 hours. One of the matters became highly emotional and hotly contested. At one point, one of the applicants erupted in anger and told the panel that they were unqualified and should be fired. The board member was exhausted after a long day. As she sat in her car waiting for it to warm up, she took a selfie and posted it to Facebook with the caption, "Long day. No one told me that I'd be yelled at when I volunteered for this board."

The member should not comment about the board proceeding on any social media. Even if the member's followers are limited to family and friends, and the comments are general, the information is "public" and it could be shared more widely. The member's statement is exhibiting a feeling of frustration that could concern a party coming before the panel. This kind of "venting" can occur with board colleagues or close family members (as long as no confidential information is shared) but not using a social media channel.

A member of an adjudicative board has established a Snapchat account without using any board resources. His Snapchat profile does not include any information to indicate that he is a board member. He is a frequent user of Snapchat and has developed a large number of followers to his "my story" which includes short videos and snaps of his work day. He wants to include some snaps of his attendance at a board training day in his "my story." He records and posts a few seconds of the training session with a caption, "learning lots today" and posts this content to his "my story." The member did not inform his board colleagues that he would be posting the video.

This behaviour is discourteous and disrespectful of the board member's colleagues. It also creates the risk of inadvertent disclosure of confidential

information. The member should not post any content to any social media channel that involves board work without first discussing this and obtaining the approval of the board.

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