

Hoopa Valley Tribe

Digital Participation and Social Media Guidelines

I. INTRODUCTION

The Hoopa Valley Tribe ("Tribe") seeks to promote the activities and successes of its Tribal entities and employees. We recognize that one of the best platforms available to do this is the use of social media and thus have created these Digital Participation and Social Media Guidelines ("Guidelines") to help understand our most effective ways of achieving this.

These Guidelines are meant to cover all employees of the Hoopa Valley Tribe, including department managers, members of the tribal government, and elected officials.

When used effectively, social media can be our most effective tool. In situations of emergency, marketing, fostering community, and creating community, social media is unmatched in its efficiency. However, the nature of social media opens the Tribe to a variety of liabilities.

II. GENERAL BEST PRACTICES FOR EMPLOYEES

EXPECTATION

Employees are expected to be working during work hours. If an employee is engaging with a Tribal department account it is expected to be for the purposes of furthering the best interests or business relationships of the Tribe. It is important to be aware of whether or not the time used for personal social media during the work day is your own time or the Tribal entity's and to correct your behavior as necessary. If personal activities begin to flow into work time, it is first and foremost, the employee's responsibility to correct this behavior. If the behavior is not corrected, supervising officials have the authority to take subsequent action.

It is important to be conscious of how your behavior will be received by others. If your job is public-facing, it can be considered rude to be on your phone and refuse eye contact with your customers or clients. If you are an employee who is expected to participate in meetings, the same is true. It is important for the public, business partners, and community to have trust and confidence in the Tribe and its employees.

BEST PRACTICES

Be sure you are engaging in social media conversations the right way. Your communications should reflect your area of expertise, particularly if you are communicating with a customer,

business partner, other Tribal department community member, or otherwise about or on behalf of the Tribe. Please refrain from commenting on situations in which you have little to no training or experience.

All employees are encouraged to post about Tribal entities and share news and information, but only department managers are authorized to speak on behalf of the Tribe or Tribal entities or issue official responses. If you see a post regarding your place of employment that is negative or contains falsified information, notify your department manager. Always remember that anything posted on social media can go viral or be screenshot, reshared, or reposted as there is very little privacy protection on social media, no matter what your privacy settings may be. Everything you post online can be traced back to you. Your post can be shared with others and archived even if you delete it after posting. Even if your bio includes a disclaimer that states your content is your own, this does not prevent the possibility of complaint, or a social media user noting that you work for the Tribe or Tribal entity.

Because of this, once something is posted on social media it is difficult to delete to completion. Be sure you are only posting content you would feel comfortable showing to your boss, your coworkers, or the Tribal government.

You should avoid posting content that includes legal conclusions, intellectual property of the Tribal government, copyrighted material, or any defamatory or inflammatory language.

FIRST AMENDMENT PROTECTIONS AND TRIBAL EMPLOYEE RIGHTS

Freedom of Speech is protected under the First Amendment of the United States Constitution. These Guidelines will not be interpreted or implied to interfere with any Tribal member's First Amendment right. Generally, the standard of review to determine if a First Amendment violation has occurred is as follows:

To succeed on a First Amendment retaliation, claim against a government, the plaintiff-employee must first establish that:

- (1) the employee spoke on a matter of public concern;
- (2) the employee spoke as a private citizen rather than a public employee; and
- (3) the relevant speech was a substantial or motivating factor in the adverse employment action, and if the employee can establish this prima facie case, the burden then shifts to the public Tribal entity to show that (4) it had an adequate justification for treating its employee differently than other members of the general public; or (5) it would have taken the adverse employment action even absent the protected speech.

Also, Tribal Employee have a right to discuss wages, hours, and working conditions with co-workers, and the guidance contained herein does not restrict that right or in any way limit a Tribal Employee's exercise of rights under Tribal law.

EXAMPLES OF COMMUNICATION THAT MAY BE SUBJECT TO DISCIPLINE:

- 1) Airing strictly personal grievances or complaints solely by and on behalf of the employee's Tribal entity about an individual grievance that is not a matter of common concern for other employees.
- 2) Airing personal grievances or complaints solely by and on behalf of the Tribe or Tribal entity about a matter which is not a matter of public concern. Matters of public concern include matters of political, social, or other concern to the community but do not include personal complaints about internal employee functions or dissatisfaction with employee's management unless such statements bring to light actual or potential wrongdoing or breach of public trust on behalf of the employee or inform the public that the Tribal entity is not fulfilling its duty to the public.
- 3) Making statements that will disrupt the Tribal entity's ability to effectively and efficiently operate and fulfill its duties to the public, such as statements that will cause discord among co-workers or encourage factions among co-workers. (See Hoopa Valley Tribal Code, Title 8- Conflict of Interest).
- 4) Making egregiously unprofessional and offensive statements or communications such as displaying sexually-orientated material; sexual or racial discrimination for harassment based on age, ethnicity, nationality, disability, race, religion, or gender; threats against personal safety; or extreme vulgarity.
- 5) Making statements that are unlawfully slanderous and detrimental to the Tribal entity or the Tribal entity's Board of Directors or Tribal Council. Such statements include comments that are knowingly false or maliciously untrue and which give a false impression about the subject to the public; or sharp, public, disparaging attacks upon the quality of the Tribal entity's business policies in a matter reasonably calculated to harm the company's reputation.
- 6) Revealing the Tribal entity's non-public, private, or confidential information, for example, trade secrets, settlement actions, copyrighted or trademarked information, information necessary to ensure compliance with government regulations and other laws, information about internal investigations if those investigations are designed as confidential by management, or pending reorganizations.

REPRESENTATION

It is important to understand how and when an individual is holding themselves out as a representative of the Tribe. Please be aware of Hoopa Valley Tribal Code, Title 30- Personnel Policies and Procedures, section 5.4 (e) provides that "[n]o employee shall presume to speak for the Hoopa Valley Tribe to any mass media outlet on any matter concerning the Tribe without the delegated authority to do so, or the express prior written approval of the Tribal Council, or unless

public relations, negotiations, and similar work is a duty of the employee's position." Unless specifically authorized to do so, only the Manager of the Tribal entity may make official external communications expressing the Tribe's official viewpoint and official statements.

If you participate in social media activities as part of your employment with the Hoopa Valley Tribe or a business owned by the Hoopa Valley Tribe, on an account created for that purpose, that account is considered The Tribe's Property and remains so if you leave your position of employment. You may not change the password or the account name or create a similar-sounding account or assert any ownership of the account or the contacts and connections you have gained through the account. Any materials created for or posted on the account will remain the property of the account.

If you are using a social media account either on behalf of the Tribe or for personal use, it's important to identify the objective you wish to accomplish with it. If posting in an official capacity, using an account that represents a Tribal Department, business, or program it's important to recognize you are posting in an official agency capacity. If the Tribe determines that their interests are being represented by an employee's post, and you are not authorized to do so, the Tribe reserves the right to ask you to remove it.

If a tribal employee identifies oneself as an employee of the Tribe anywhere on a social media networking site and/or discusses or mentions anything related to the tribal employee's employment, the employee should include a disclaimer that clarifies that the employee is expressing personal opinions and not the official viewpoint on any discussion representing or addressing the official position of the Tribe or Tribal entity. The following is an example:

"I am an employee of "EMPLOYER" but the views expressed here
are mine alone and do not represent that of "EMPLOYER"

Tribal employees may have personal social media accounts to communicate with family and friends, but these personal accounts should be distinct from the official accounts created to represent Tribal entities that distribute information on behalf of the Tribe.

HARASSMENT

As an employee of the Tribe, you are subject to Hoopa Valley Tribal Code, Title 30- Personnel Policies and Procedures, section 5.5:

"The Hoopa Valley Tribe strives to maintain a work environment in which all individuals may expect to be treated with dignity, respect, and courtesy. The purpose of this policy is to foster a positive and safe organizational culture free of intimidation, oppression, and exploitation; unlawful harassment of any kind will not be tolerated. All tribal employees and volunteers, as well as all members of the Tribal Council and all members of the Tribe's

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Boards, Committees, and Commissions, are subject to this harassment policy. Through education and enforcement of this policy, the Hoopa Valley Tribal Council will seek to prevent, correct, and discipline behaviors that violate this policy. Violation of this policy will result in disciplinary action, which may include termination of employment. The Tribal Council accepts no liability for harassment of one employee by another. The individual who commits prohibited harassment is personally liable for such actions and their consequences.”

Please note, the Hoopa Valley Tribal Code, Title 30- Personnel Policies and Procedures is subject to amendment and these Guidelines recommend following the most recent and up-to-date Hoopa Valley Tribal Code, Title 30- Personnel Policies and Procedures concerning harassment.

PRIVACY

As an employee of the Tribe, you are prohibited from sharing personally identifying information about other employees you work with, or information about customers or clients on social media. You should never post personal information about another person without their permission. For example, if you engage with a customer with a complaint on social media do not include identifying information about the customer (i.e. amount of purchase, purchase number). A best practice includes, if directing that customer to a solution, using employment titles such as “Manager” instead of personal names.

Additionally, please be aware of the privacy of the Tribal entity. Employment with the Tribe may allow an employee to obtain information such as trade secrets, copyrighted information, confidential facts, government documents, or other privileged or protected confidential information. An employee is responsible for the confidentiality of this information on social media, the same way they would be in the workplace.

CONFLICTS OF INTEREST

A conflict of interest exists if one’s personal interests interfere with one’s duties of employment. More specifically, if you engage in any personal or business-related activity, including a financial interest, that (1) could potentially interfere with your responsibilities or judgment on behalf of your employer or its clients, or (2) conflicts, or appears to conflict in any way, with the interests, or damages the reputation, of the Tribal entity.

Conflicts of interest in social media can present in many forms. The perception of a conflict of interest can be influenced by factors such as how your profile presents to the public, whether or not you are posting about your place of employment, overlap between your personal activity and the subject of your work, or your contacts. In order to avoid repercussions for conflicts of interest, it’s best to keep a few things in mind:

- 1) **It's best to remain neutral if possible.** Try not to take sides. Social media is not a place to create well-researched, extensively researched assessments of issues, but rather a place to communicate short precise information effectively and quickly.
- 2) **Always maintain professionalism.** Even if you personally know the user on social media, you should treat everyone with equal respect. Never make posts that you would be uncomfortable repeating in a face-to-face conversation, and remember everything you post is publicly available and may be discoverable in legal proceedings or subject to other disciplinary actions.
- 3) **Think before posting.** We acknowledge that social media can become inflammatory or volatile at times. If you are engaged in an emotional exchange, it is good practice to consider what kind of responses your post may elicit or how the post could be interpreted if someone read it with absolutely no context around the topic of conversation.

III. DEPARTMENT MANAGERS

As department managers, there is a heightened responsibility that accompanies the use of social media. Please monitor your department accounts if they have one, the information shared there, and the level of interaction by both your employees and social media users. Also, please be aware of your responsibility to monitor information about your department, programs customers, or employees.

Inquiries and concerns are a normal part of social media interaction and the Tribe expects them to be addressed in a responsible and timely manner. If you wish, you may assign an employee in your department to assist with the management of social media, but the assignment is not a relief from liability. You will still be expected to monitor the activity of that employee as well as the account.

Be prepared to respond to misinformation, disinformation, inaccuracy, and rumors with the utmost level of professionalism. The failure to respond with a calculated and coordinated response gives rise to an opportunity for misinformation to gain traction and become widespread.

HANDLING MISTAKES

The use of social media will always present an opportunity for mistakes whether that comes in the form of misinterpretation, retaliation, or just bad facts. When addressing these errors, remember to maintain transparency. Apologize if the post was made in error or without review. Explanations are always helpful but not always necessary. Avoid blaming or calling out a person by name. If editing a post, it may be a helpful practice to screenshot the original errored post for records or future reference. Always use conflict resolution and de-escalate the situation.

TROLLS

An internet troll is a person who posts with the main objective of starting fights or conflicts, usually through comments. You may find that your department, employee or official social media page has become the target of such activity. The following are some helpful suggestions for handling these types of situations:

- 1) If the user has a genuine concern or complaint that you feel you may be able to address, you may consider inviting them to call you at the official business number (do not give out your personal contact information) or suggest a time they can come in and speak to you in person.
- 2) **Remain calm.** The goal of antagonization is to elicit a response. If you find yourself upset, embarrassed or humiliated, do not respond. Wait until you are calm and can think clearly about the situation.
- 3) **Engage in minimal interaction.** A troll has accomplished their goal if they begin filling up your page or feed with numerous back-and-forth comments. This will only draw more attention to the conflict.
- 4) If you have control over the page or platform, use your best judgment as to whether or not the problem can best be solved by deleting the comments, turning off commenting, or blocking the user. If possible, remember to offer an in-person conversation, either by telephone or face to face, before taking this action.
- 5) Report the user if things get out of control. Remember, no one is expected to be the target of discrimination, racism, or hate speech.

ELECTED OFFICIALS

Social Media is one of the best tools for elected officials. It is a highly effective campaign tool, a great way to educate your constituents, spread information about gatherings, organize, raise funding, call attention to important issues, and present yourself as accessible.

As a representative, your actions are always a reflection of the body you govern. As an elected official, your name and image will present the outward appearance of the Tribe overall. The Tribe recognizes that community members will try to reach you with concerns in a variety of ways, including social media.

Many Tribal Council Members choose to operate separate pages to create a divide between their professional lives and personal lives. However, this is not a complete solution to the absence of privacy that exists on social media. It is important to remember that you are always "on the record" and that everything online has the potential to live forever. In the public eye, the lines between public and private begin to blur. Your ability to limit public interaction is much more limited than that of a private citizen and critics are usually the users who are watching you the

closest. Additionally, your actions are always subject to reputational damage, unfavorable media coverage, and maybe even litigation.

As an elected official, your activities are usually in the public interest, and therefore you may be held to a different standard for defamation than a standard reasonable person. (*See New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)). The following are some helpful suggestions for elected officials:

- 1) It's up to you if you remove comments from your page (either personal or official), but you are more likely to be subject to scrutiny or limiting speech because of it. [Please note, there is a growing number of legal precedents concerning social media as a public forum and the limiting of free speech. (*See Packingham v. North Carolina*, 137 S. Ct. 1730 (2017). This concerns blocking users, deleting comments and take down policies.]
- 2) Never engage in a public fight with the press on social media. Remember, conflict sells!
- 3) Keep your information limited. As previously mentioned, social media is not the place for well developed, researched arguments. This is especially true if you are trying to explain or apologize for your actions. Many users will not take the time to read long-winded posts. Keep it short and easily digestible.
- 4) A lack of knowledge can lead to users into believing you have control over issues that you do not. If possible, try to direct them to a resource that can help them with their comment or concern.
- 5) Try to stick to the facts. Engaging as little emotion as possible is always good practice.
- 6) Remember you have a duty to treat all members of the public in a fair and unbiased matter, whether that's positive or negative, regardless of their connection or relationship to you.
- 7) *Ex Parte* communications or executive session communication is always confidential and may not be shared with anyone who is not a party of the discussion.

If in doubt, and if possible, bring the concern to the board or governing body so a decision can be made that is in the best interest of the entity, and the reputation and image of the group may be protected.

IV. DISCLAIMER

These Guidelines are for general information purposes only and is not intended to provide legal advice to any individual or Tribal entity. The Tribe recommends consulting with your legal advisor before taking action based on information appearing in these Guidelines.