

# CHECKLIST: BEFORE YOU FIRE OR DISCIPLINE AN EMPLOYEE FOR SOCIAL MEDIA POLICY VIOLATIONS



**Legal Authority:** “The U.S. Supreme Court and federal courts now classify social media as a “high risk” broadcasting platform that reaches millions and creates a permanent digital footprint. Your social media policy and training are considered “high liability” human resource issues, not just public relations topics. Employees use their personal devices for work-related task with little oversight, the need for outside expert training is obvious. See *Packingham v. North Carolina* 137 S. Ct. 1730 (2017), and 2 U.S. 1983, *City of Canton, Ohio v. Harris* 489 U.S. 378 (1989)

## ✓ 1. Comply With New Federal Standards

Under new 1983 federal standards, your social media policy carries little or no legal force without proof that your policy was enforced with outside expert social media liability training for all employees.

## ✓ 2. Never Give Verbal Warnings

The U.S. Supreme Court classifies social media as a “high risk” human resource topic, not just a public relations issue. Under this new federal standard, courts reject verbal warnings as adequate 1983 training.

## ✓ 3. Hire A Top Social Media Attorney

Unless your busy in-house attorney is a full-time social media attorney specialist/trainer, it is unreasonable to think your busy attorney has the same expertise as a top social media attorney to train employees.

## ✓ 4. PIOs Can’t Write Social Media Policies

Social Media policies and training raise complex legal and constitutional issues. Unless your PIO or social media manager is a licensed social media attorney, they face unlicensed practice of law claims for writing social media policies and training employees.

## ✓ 5. Do Not Rely On Boilerplate Policies

Organizations have paid out big legal fees placing blind trust on social media policies from reputable policy services and associations. The problem is, most of these policies are written by general or employment attorneys, not social media attorney specialists.

## ✓ 6. Expert Training For All Employees

Courts view all employees using social media, texts, and other digital media as “high risk” broadcasters. You can’t just train the PIO. In a lawsuit, you must prove that all staff received expert social media liability training.

## ✓ 7. Decisionmakers Are Personally Liable

Under new 1983 federal standards, decisionmakers who refuse to hire outside social media attorney specialists to update their policy and training are personally liable for costly employee mistakes.

## ✓ 8. Shatter Myths On Opinions and Jokes

Your social media course content must include an expert analysis of the new U.S. Supreme Court and federal case law on what social media opinions and jokes are not considered “Free Speech” under the First Amendment.

## ✓ 9. Shatter Myths On Personal Accounts

Your social media policy and training must include an expert analysis of the new federal decisions and statutes on social media privacy. You must have a social media attorney uncover the hidden liabilities of how the laws apply to private accounts and personal devices.

## ✓ 10. You Are Liable For Off-Duty Speech

In a social media related lawsuit, many decisionmakers are shocked to find out that courts determine an employer’s liability based on whether the comments were work-related, not whether they were made off-duty, or on their personal accounts and devices.

Questions? Call 954-748-7698