

Communications by State Officers

Guidelines for audio/video and social media communications

Under IC 4-2-6-15 (42 IAC 1-5-16), a state officer may not use the state officer's name or likeness in a *communication* paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money.

“Communication” refers to the following: (1) An audio communication; (2) A video communication; (3) A print communication in a newspaper.

State statute includes certain exceptions to the prohibition on a state officer using his or her name or likeness in a communication paid for with state funds.

Exceptions

(1) This rule does not apply to the following:

- A communication made by the Governor concerning public health or safety.
- A communication for a compelling public policy reason that is approved by the budget agency after an advisory recommendation from the budget committee.
- A communication posted or maintained on a state owned Internet web site.
- A communication that relates to the official duties of the state officer and that is not made for commercial broadcast or dissemination to the general public.
- Information posted on social media if the information relates to the official duties of the state officer.
 - Note that a state officer may not use state funds to post information on social media if the social media service provider requires payment for the posting and may not pay a nongovernmental entity to create, develop or post information on social media if the post includes the name or likeness of the state officer.

(2) This rule does not prohibit a state officer from using the title of the office the state officer holds in a communication.

Social Media Guidelines

IC 4-2-6-15.5 provides guidelines for the use of a state officer's name and likeness through social media.

IC 4-2-6-15.5(a) defines “social media” as an Internet web page or any other form of electronic communication through which users create or use online communities to share information (e.g. Twitter, Facebook, YouTube).

Under IC 4-2-6-15.5, a state officer may use state funds to create, develop and post information on social media if the information relates to the official duties of the state officer, and the information posted to social media may include the name and likeness of the state officer.

A state officer may not use state funds to:

- (1) post information on social media if the social media service provider requires payment for the posting, without approval from the budget committee, consistent with the requirements found in IC 4-2-6-15(a)(2); or
- (2) pay a nongovernmental entity to create, develop or post information on social media if the post contains the name or likeness of the state officer; however,
- (3) this subsection does not prohibit the state officer from using state funds to pay a nongovernmental entity that is not the social media service provider for ancillary or de minimis expenses incurred in posting information on social media, such as the costs of transmitting data by means of the Internet or a cellular telephone network to the social media service provider.

FAQs

Can a state officer use his or her name and/or likeness on the state officer's social media account(s)?

Yes, the state officer can use his or her name and/or likeness on the state officer's social media accounts, even if audio or visual communications are posted on the platforms. Please note, however, that the information posted on a state officer's platforms must relate to the official duties of the state officer.

Is a video communication created by a state officer's staff using state-issued smartphones or cameras permitted if the video includes the state officer's name or likeness?

Yes, a video communication created by a state officer's staff and using state equipment is permitted so long as the communication meets the exceptions to the use of state funds to pay for a communication found in IC 4-2-6-15(a) and meets the requirements for social media use outlined in IC 4-2-6-15.5.

Would a video communication that contains the state officer's name/likeness produced by the state officer's outside vendor be permitted to be posted on the state officer's social media accounts?

No, the language in IC 4-2-6-15.5 prohibits a state officer from paying a nongovernmental entity to create, develop or post information on social media, if the post includes the name or likeness of the state officer, with an exception for ancillary or *de minimus* expenses incurred in posting information on social media.

Can the state officer's agency post a video communication produced by an outside entity, such as a media outlet, that was not paid for by the State but does contain the state officer's name/likeness on a state officer's digital media accounts?

Yes, the video communication is not paid for with state appropriations, and IC 4-2-6-15.5 allows a state officer to use state funds to post information on social media if the information relates to the official duties of the state officer.

Can the state officer's social media accounts include a video communication that contains the state officer's name or likeness if the video communication is posted by someone outside of state government?

Yes, this communication is likely not paid for using state funds. Even if state funds are used to create, develop or post the information, the communication is permissible so long as the information relates to the official duties of the state officer.