U.S. Food and Drug Administration Social Media Policy

December 2024

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Purpose

This policy discusses FDA communications to the general public via third-party social media platforms. It explains roles and responsibilities, requirements for establishing an official FDA social media account, and considerations to keep in mind when developing social media strategy and plans.

This is an FDA-specific social media policy, although it is consistent with the broader HHS social media policy.

Definition

Social media are web or mobile based third-party platforms that facilitate interaction and engagement among individuals in a network or virtual community. Social media offers a participatory environment and includes user-generated content such as videos, photos, videos, microblogs, blogs, and wikis.

Scope and Applicability

Federal agencies utilize social media platforms to engage with the public and to extend the reach of messages beyond traditional email notifications and websites. This policy is intended to ensure that the Agency is appropriately represented in this space; compliance with this policy is important to achieving that goal. The FDA encourages the use of social media technologies to enhance communication, collaboration, and information exchange in support of FDA's mission to protect and promote public health. This policy applies to FDA employees, contractors, and other personnel acting in an official capacity when using social media to communicate with the public regarding FDA-related matters:

- Using accounts that the FDA maintains on third-party platforms (e.g., Facebook, Instagram) or,
- In forums or blogs where FDA does not have an official presence (e.g., replying to comments in a blog post where FDA was a guest blogger)

(For discussion on the personal use of social media, please see "Personal Use of Social Media by FDA Employees and Contractors" on page 4). FDA-related matters are topics or issues that relate to (1) data or information only available to the social-media user through his or her employment at FDA; (2) products within FDA's jurisdiction; (3) analyses of FDA programs, policies, regulations, actions, or initiatives; or (4) positions or opinions that could reasonably be perceived to reflect FDA's view on issues within its jurisdiction. This policy does not supersede or replace existing legal obligations in effect.

Roles and Responsibilities

The Office of External Affairs (OEA) Web and Digital Services Staff and the Office of Digital Transformation (ODT) are jointly responsible for ensuring that FDA's use of social media complies with Federal laws, policies, and best practices.

Office of External Affairs:

- Develops the overall communications strategy and priorities for the Agency.

OEA Web & Digital Services Staff (OEA/WDSS):

- Develops policy and procedures for social media use in consultation with ODT.
- Develops the social media strategy for OEA.
- Provides oversight for all social media activities in the Agency.
- Reviews/authorizes all social media channel/account requests for the Agency. Authorization is based on the request meeting Federal/FDA requirements and providing a social media strategy and social media plan.
- Reviews all Agency procurements and contracts, including Terms of Service (TOS) agreements, related to social media tools and services to ensure necessity and reduce duplication.
- Coordinates and manages the Agency's primary social media channels (currently Facebook, Instagram, Threads, X, LinkedIn, Flickr & YouTube).
- Leads the bi-monthly meeting of the FDA Social Media Working Group.
- Serves as the Agency liaison for social media to the Health and Human Services (HHS) Digital Communications Division and GSA Social Media Community of Practice.

Office of Digital Transformation (ODT):

- Applies the requirements of this policy in its functions of providing appropriate Agency-wide web technology services and security, including technical assistance, to program offices.

Centers/Offices:

- Meets with OEA's Social Media Director prior to initiating social media accounts or procurement actions/contracts related to social media tools or software.
    - Develops the Center/Office **social media strategy** and ensures that it aligns with Agency priorities and the Center/Office communications strategy. Further ensures that the Center/Office social media strategy is coordinated with OEA's Social Media Team. The Center/Office social media strategy should include an explanation of why social media should be used to meet the stated goals, as well as information about the planned frequency of posts, audience targets, and other information about how the Center/Office plans to use the account. The Center/Office social media strategy must be submitted to OEA's Social Media Director for review.
    - Develops a Center/Office **social media plan** to effectively implement and manage the Center/Office's social media presence, including: the type of content to be posted both initially and over time, best practices, guidelines for consistency, and how these mechanisms will support the goals outlined in the Center/Office social media strategy. The Center/Office social media plan must be submitted to OEA's Social Media Director for review.
    - Completes a privacy impact assessment, if required, and operates in compliance with HHS and the FDA's social media policies.

- Coordinates with and contributes content to OEA's Social Media Team for posting on the FDA's primary agency-level social media channels (Facebook, Threads, X, YouTube, LinkedIn, Instagram).
- Provides a Center/Office representative to serve on FDA's Social Media Working Group.
- Assists with the dissemination of information about the FDA's social media policies, guidelines, and best practices within the Center/Office.
- Follows approved procedures for collecting and managing records associated with any social media accounts owned by the Center/Office.

Office of the Chief Counsel (OCC):

- Provides legal advice relating to the web and social media.

Office of Ethics and Integrity:

- Oversees ethics requirements for FDA employees, including advising employees on the ethics rules pertaining to use of social media in a personal capacity.

Office of Enterprise Management Services (OEMS), Records Management Team:

- Oversees records management requirements for the FDA, including requirements pertaining to web records.

Personal Use of Social Media by FDA Employees

FDA recognizes the right of employees to express their personal views via social media and encourages employees to use social media to share information that may benefit the public health, consistent with the following.

Some principles, guidelines, and standards of conduct that apply to FDA employees in their official duties may apply to employee participation in social media, even in their personal capacity. For example, employees are bound by the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; the HHS Supplemental Standards of Ethical Conduct, 5 C.F.R. Part 5501; any applicable conflict of interest statutes; the Hatch Act, 5 U.S.C. §§ 7321-7326;[1] and the *FDA Policy on Use of Government Electronic Equipment and Systems,* FDA SMG 3140.1.[2] Moreover, employees must

[1] The Hatch Act limits certain political activities for most federal employees (see https://www.fda.gov/about-fda/ethics/hatch-act-political-activity-and-federal-employee). Issues related to employee use of social media can arise under the Hatch Act, particularly as it relates to endorsement of political fundraising activities. For further guidance regarding the Hatch Act's restrictions and prohibitions or particular questions about how the Hatch Act might apply to a planned use of social media, please contact FDA's Office of Ethics and Integrity.

[2] For more detailed information about the ethics rules governing the personal use of social media, see OGE Legal Advisory LA-15-03, The Standards of Conduct as Applied to Personal Social Media Use (April 9, 2015).

understand that non-public information (e.g., personal privacy information, trade secrets, confidential commercial information, or information subject to government privilege) may not be conveyed via social media unless its release to the public is lawful and has been authorized by FDA management in accordance with the law.

To use social media in his or her *personal* capacity, an employee generally does not need to obtain permission or approval from supervisors or agency management and does not need to obtain outside activity ethics clearance pursuant to the HHS Supplemental Standards of Ethical Conduct at 5 CFR § 5501.106(d).[3] However, the ethical restrictions on receipt of compensation, disclosure of nonpublic information, and improper use of government title or official authority still apply to this activity.

It is important to remember that when employees use social media tools in a personal capacity, they are not speaking for the Agency, and it should not appear to others as though they are speaking for FDA. For this reason, employees should not use FDA e-mail addresses to establish personal social media accounts or as an identifier during participation in personal or otherwise unofficial social media activities. Although employees should not refer to the fact that they are FDA employees in a manner that suggests or implies they are speaking on behalf of the Agency or that the Agency sanctions or endorses their viewpoints or activities, consistent with the views of the Office of Government Ethics, an employee may include his or her title or position in an area of the social media account designated for biographical information.[4] Beyond inclusion as biographical information, use of an employee's official title or position, or other indicia that the employee may be speaking on behalf of the agency (e.g., featuring the use of the agency logo; referring to the employee's role in the government to justify their statements) may create ethical concerns.[5]

Ordinarily, an employee (other than a senior leader) need not use a disclaimer to disavow government endorsement of their personal social media communications.[6] If, however, he or she has concerns that

[3] Under the HHS Supplemental Standards of Ethical Conduct, FDA employees are required to obtain prior outside activity approval before engaging in *certain* speaking and writing activities, if those activities are related to an employee's official duties or at the invitation of a prohibited source. 5 CFR § 5501.106(d)(1)(ii). But employees acting in their personal capacity do not need to seek outside activity approval to write letters to the editors of newspapers and other periodicals, or to provide other public commentary (although they do remain subject to restrictions on receipt of compensation, disclosure of nonpublic information, and improper use of government title or official authority). Designated Agency Ethics Official Supplemental Instruction, Letters to the Editor(s) of Newspapers and Other Periodicals, No. 98-1 (Nov. 20, 1998). We consider employee personal use of social media regarding FDA related matters to be a similar form of public commentary, and therefore employees do not need to seek outside activity approval for the personal use of social media.

[4] See OGE Legal Advisory LA-15-03, The Standards of Conduct as Applied to Personal Social Media Use (April 9, 2015) interpreting 5 CFR § 2635.702(b)

[5] See OGE Legal Advisory LA-15-03, The Standards of Conduct as Applied to Personal Social Media Use, page 3 (April 9, 2015) (listing factors to consider when evaluating whether a reasonable person with knowledge of the relevant facts would conclude that the government endorses the social media communication).

[6] See OGE Legal Advisory LA-15-03, The Standards of Conduct as Applied to Personal Social Media Use (April 9, 2015).

the use of social media may create the impression that his or her views are sanctioned by the agency (beyond using an official title or position in an area dedicated to biographical information), the employee may use a disclaimer to address this misimpression. Displaying the following disclaimer prominently in one's user profile would be effective:

"The views presented here are my own and do not represent my employer."

There are different considerations for senior FDA leaders. Because senior leaders may have, or appear to have, the authority to hold an *official* FDA social media account in their individual names, these leaders should take greater care to clarify that their *personal* social media accounts are not official FDA accounts. Thus, the use of a disclaimer is recommended for senior FDA leaders' personal accounts to clarify that the account is personal.[7] Further, in using *personal* social media accounts, senior FDA leaders should not appear to be making official statements on behalf of the agency and should also not use any government staff to assist with the account.[8]

If the social media platform does not provide a forum to display this disclaimer, the employee should consult with the Office of External Affairs about other appropriate methods to convey that the employee is not speaking on behalf of the agency.

Requirements to Establish an Official FDA Social Media Account

Before establishing a new social media account, Centers/Offices must contact OEA's Social Media Director with their proposal.

The Agency-level accounts for Facebook, Instagram, Threads, YouTube, Flickr, and LinkedIn are currently the only accounts authorized for those social media platforms except where an exception had been previously granted (i.e., FDA Recruitment Network on LinkedIn). Accounts on X are limited to Centers, certain offices within the Office of the Commissioner, and senior leaders (e.g., Center directors, deputy commissioners, CIO, and the FDA Commissioner). These accounts are established and maintained by the appropriate Centers and offices. Note that any comment moderation on any official account, whether in the name of an individual, Center, or the agency, must adhere to FDA's Comment Policy.

To request permission to open a new official account, the requesting Center/Office must develop a proposal (covering objectives, benefits, alternatives considered, etc.) and present the proposal to OEA's Social Media Director. Once approved, the Center/Office will develop a social media strategy and social media plan. The plans will address the commitment of resources, as well as detailed direction needed to manage and maintain consistency within the account and to ensure all actions are in line with policy and the Center/Office communications strategy.

[7] See *Lindke v. Freed*, 601 U.S. 187, 202 (2024) (suggesting including "this is the personal page of [employee name]" or "the views expressed are strictly my own").
[8] *Id.* at 202-03.

All official uses of social media must be pre-approved by Center/Office management in consultation with the appropriate communications office.

Policies and Considerations

The FDA will use only social media platforms and third-party sites that have been approved for Agency use, and such use must be in accordance with approved Terms of Service (TOS) agreements.

The FDA must comply with applicable federal laws, regulations, and requirements including, but not limited to, Section 508 compliance, privacy, ethics, copyright, information security, and records management in its social media use.

Ensure Accessibility under Section 508

The FDA is committed to making content accessible to everyone in accordance with FDA's Accessible Electronic and Information Technology Policy: https://www.fda.gov/about-fda/about-website/accessibility-fda

Privacy Protection

The statutes, regulations, and policies that govern privacy, the collection of personal information, and the protection of a user's personally identifiable information (PII) still apply when using social media. In addition, the agency should generally avoid creating records that identify individual social media users.[9] The applicable privacy requirements will depend on the types and uses of social media.

The FDA does not intend to share PII that is submitted by the public via FDA's third-party websites and applications.

Offices that apply for the first Agency accounts on a social media platform must complete a privacy impact assessment (PIA). For more information and an example of a PIA document, visit http://www.hhs.gov/pia/

Consult with the Agency's Privacy Officer to determine privacy implications and specific requirements.

[9] The Privacy Act provides that agencies may not create or maintain any records "describing how any individual exercises rights guaranteed by the First Amendment" unless one of three possible exceptions are met. 5 U.S.C. § 552a(e)(7). These First Amendment rights include "religious and political beliefs, freedom of speech and of the press, and freedom of assembly and petition." Office of Management and Budget Circular A-108, Responsibilities for the Maintenance of Records About Individuals by Federal Agencies, 40 FR 28948, 28965 (July 9, 1975). See also Department of Justice: Office of Privacy and Civil Liberties | Overview of the Privacy Act: 2020 Edition. The exceptions provided are: (1) the record is expressly authorized by statute; (2) the record is expressly authorized by the individual about whom the record is maintained; and (3) the record is part of an authorized law enforcement activity. 5 U.S.C. § 552a(e)(7). Examples of express authorization by an individual include: a member of military indicating religious affiliation in case injured or killed on duty; an applicant for political position indicating a political affiliation.

Ethics

When using social media tools and third-party sites, FDA employees are bound by the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635.

Employees should not use their government positions, titles, or authority to endorse any product, service, company, non-profit organization, or any other enterprise. Reference to product, service, and entities should be in furtherance of the agency's legal authority in carrying-out official functions. There are some exceptions but, generally, even if you are communicating solely within the FDA, you should be careful about giving an appearance of governmental sanction or endorsement.

Employees must avoid certain types of political activities that are prohibited by the Hatch Act, 5 U.S.C. §§ 7321-7326, including engaging in political activity while on duty and soliciting political contributions. Issues related to employee use of social media can arise under the Hatch Act, particularly as it relates to endorsement of political fundraising activities. For further guidance regarding the Hatch Act's restrictions and prohibitions or particular questions about how the Hatch Act might apply to a planned use of social media, please contact FDA's Office of Ethics and Integrity.

Do not divulge non-public information. This includes any information designated as confidential or privileged, or any other type of information that may not be disclosed, such as internal FDA deliberations.

Protect Copyright

Images, text, video, and audio files used in blogs or on third-party social media sites must comply with the Copyright Law of the United States of America and Related Laws Contained in Title 17 of the United States Code and other Federal policies and directives. On FDA social media accounts, copyrighted material may only be used if a license is provided or purchased.

For questions regarding copyright, contact the Office of the Chief Counsel.

FDA Representation and Interaction

As technology evolves and online behaviors change, the social media landscape adjusts and adapts. Because of this, FDA will account for these changes within social media platform-specific plans. These plans will include direction and best practices based on the needs of the social media audience within the constraints of the platform.

- Each Center/Office will develop a process to respond to comments in order to address user questions or concerns.
- FDA's comment policy is posted on FDA.gov. Do not hide or delete comments except as provided by FDA's comment policy. Any comment removed by FDA should be recorded and archived prior to deleting. For additional information or assistance with developing a plan for

administering comments or more information on how to address comment policy violations, please contact OEA's Social Media Team.

- FDA is able to link to websites outside of FDA.gov according to federal linking policies. Links to outside supporting material may be suitable in some instances, but in most cases, the FDA should be the authoritative source. Consider FDA's regulatory mission when using links to any websites outside of FDA.gov.
- All official profiles on social media platforms must be identified with the FDA name and/or official FDA logo and .gov website links. Before use of any logo other than the official FDA logo, the logo must be cleared by OEA's Office of Editorial and Creative Services in consultation with OEA's Social Media Team.

Consider IT Security, Infrastructure, and Architecture Requirements

Social media tools and usage on FDA networks must comply with all requirements established in the Agency's IT Security policies and related procedures. You should contact the Center/Office Information Systems Security Officer (ISSO) for assistance with security requirements.

Consider Paperwork Reduction Act Requirements

Some FDA uses of social media may be subject to the Paperwork Reduction Act (PRA), which governs the solicitation and collection of information from the public by or for the federal government, whether that collection is voluntary or mandatory, and regardless of the format. The Office and Management and Budget (OMB), which administers the PRA and approves covered information collections, has issued a memorandum entitled "Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act," to help clarify which government uses of social media require OMB approval of an Information Collection Request (ICR) and which do not. Of particular note, the OMB document distinguishes uses of social media that are akin to general solicitations of comment that might be posed in a Federal Register notice or public meeting (and which do not require approval under the PRA) from use of social media to conduct surveys (which does require approval). Online trivia contests (or quizzes) are not subject to the PRA under 5 C.F.R. 1320.3(h)(7), which excludes "examinations designed to test the aptitude, abilities, or knowledge."

Before using social media to pose questions or invite comments on particular topics, please consult the OMB memorandum and FDA's Paperwork Reduction Act Team to determine whether the proposed activity requires preparation and approval of an ICR package. Adhere to ICR processes and procedures when applicable.

Maintain Records

All content created within social media that qualifies as a federal record must be captured and maintained in a recordkeeping system according to the FDA's Records Management Policies. Consult the Center/Office Assistant Records Liaison Officer (ARLO) about retaining these records in accordance with the FDA's Records Management Program. The ARLO can help determine the most appropriate methods

to capture and maintain records. Similarly, if an FDA social media account will be terminated or renamed, please consult the ARLO about best practices for maintaining records associated with the account.

Correction of Errors [Regarding the Employee's Work or Views]
Ensuring that the work and views of Agency employees are accurately represented by FDA on the Agency's social media channels is critical to the agency. Therefore, an Agency employee can request that an Agency social media communication be corrected, amended, or clarified if

1) the communication is based upon the research or published work of the employee or purports to express the employee's views by name or title; and
2) the communication is false, misleading, or confusing.

Employees seeking a correction [of this kind] should raise their concerns with OEA. OEA will work with the employee and Agency component that administers the social media account to determine what modification or supplement to the earlier social media communication, if any, would be appropriate to correct the prior statement or eliminate the confusion.

Terms of Service (TOS) Agreements

A federal-compatible Terms of Service (TOS) agreement is required for official government use of social media tools. Federal-compatible TOS agreements modify or remove problematic clauses in standard TOS agreements and allow federal employees to legally use these tools. While negotiated TOS agreements resolve the major legal issues of the sign-up process, agencies must still comply with laws and regulations on security, privacy, accessibility, records retention, ethical use, and other specific Agency policies and requirements when using the tools. FDA staff, managers, program or field offices are not authorized to negotiate or sign Terms of Service agreements on behalf of the FDA with social media sites.

OEA Web and Digital Services Staff coordinates with HHS and also the FDA's Office of Digital Transformation to determine what tools are allowed for the FDA's external use.

Some social media tools still need to be supported by the FDA's IT infrastructure and meet other requirements. Contact OEA Web and Digital Services Staff prior to initiating procurement actions for obtaining support and/or services for social media or other digital media tools. There may be a need to sign separate agreements to ensure compliance with all requirements for operating a social media site that is approved for the FDA's official use.

Authority

- President Barack Obama, *Memorandum on Transparency and Open Government* (Jan. 21, 2009)
- OMB Memorandum M-10-06, *Open Government Directive* (Dec. 8, 2009)
- OMB Memorandum, *Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act* (April 7, 2010)
- OMB Memorandum M-10-22, *Guidance for Online Use of Web Measurement and Customization Technologies* (June 25, 2010)
- OMB Memorandum M-10-23, *Guidance for Agency Use of Third-Party Websites and Applications* (June 25, 2010)
- Executive Order 13571, *Streamlining Service Delivery and Improving Customer Service* (April 27, 2011)
- Office of Management and Budget, *Digital Government: Building a 21st Century Platform to Better Serve the American People* (May 23, 2012)
- President Barack Obama, *Memorandum on Building a 21st Century Digital Government* (May 23, 2012)
- OMB Memorandum M-13-10, *Antideficiency Act Implications of Certain Online Terms of Service Agreements* (April 4, 2013)

Additional Resources

Consider FDA's advice to regulated industry and be aware of developments including:

Draft Guidance for Industry – Addressing Misinformation about Medical Devices and Prescription Drugs: Questions and Answers (July 2024)
https://www.fda.gov/media/179827/download

Internet/Social Media Platforms with Character Space Limitations — Presenting Risk and Benefit Information for Prescription Drugs and Medical Devices (draft guidance, June 2014)
https://www.fda.gov/regulatory-information/search-fda-guidance-documents/internetsocial-media-platforms-character-space-limitations-presenting-risk-and-benefit-information

Information the FDA collects under the Privacy Act of 1974
https://www.fda.gov/regulatory-information/freedom-information/privacy-act

Summary Privacy Impact Assessments for the FDA Data Systems
http://www.hhs.gov/pia/

OMB M-10-23, "Guidance for Agency use of Third-party Websites and Applications," June 25, 2010
https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/memoranda_2010/m10-23.pdf

HHS Policies that Apply to Social Media
http://www.hhs.gov/web/socialmedia/policies/index.html

HHS-OCIO Policy for Social Media Technologies
http://www.hhs.gov/ocio/policy/policy_2010-0003.1_-_ocio.html

Federal Linking Policies
https://digital.gov/policies/#linking-policy-and-endorsement-2

HHS Web Records Policy & Guidance for Maintaining Web Records
https://www.hhs.gov/web/policies-and-standards/web-policies/web-records/index.html

National Archives and Records Administration (NARA) on the Implications of Recent Web Technologies
http://www.archives.gov/records-mgmt/initiatives/web-tech.html

National Archives and Records Administration (NARA) Bulletin 2014-02, Guidance on Managing Social Media Records
https://www.archives.gov/records-mgmt/bulletins/2014/2014-02.html

National Archives and Records Administration (NARA) Records Schedule: DAA-0088-2022-0002, Social Media Records of the Food and Drug Administration (Feb. 9, 2024)
https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-health-and-human-services/rg-0088/daa-0088-2022-0002_sf115.pdf