

AB 992 | The Brown Act & Social Media

AB 992 clarifies what kinds of communications elected and appointed officials can have on social media and what kinds of communications on social media could violate the Brown Act. According to this new law which will be effective on January 1, 2021, officials subject to the Brown Act can communicate with members of the public on social media, but should not directly respond or react to anything posted or shared on social media regarding agency business by another member of the same legislative body.

Although one on one conversations on agency matters between two members of the same legislative body are typically permitted under the Brown Act, this law provides that a member of a legislative body may not directly respond to a social media post regarding agency business that is made, posted or shared by another member of the same legislative body.

Some social media interactions are specifically permitted by AB 992. The following communications are allowed on social media regarding agency business – as long as a majority of the legislative body do not use social media to discuss agency business among themselves, including commenting, replying, sharing, reacting or using digital icons such as emojis or GIFs:

- Answering questions from the public
- Providing information to the public
- Soliciting information from the public

AB 992 applies to social media platforms that are open and accessible to the public. This includes well known social media platforms such as Facebook, Instagram and Twitter, but also includes any online service that allows for public interaction such as chatrooms and forums, comment sections on blogs and online media.

The Legislature could not have contemplated social media when the Brown Act was adopted in 1953. This amendment to the Brown Act takes into account the fact that constituents have greater access to elected officials through social media accounts and no longer have to wait for a face to face appointment to discuss issues with their representatives.

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