

FACT SHEET

# Comment Moderation

Clearing the confusion of social media





## Social media platforms can sometimes become magnets for inappropriate or off-topic comments, distracting residents from sharing vital information.

Hiding or removing problematic comments is an important option for public entities. Still, the fear of First Amendment lawsuits makes many agencies feel like they can't always maintain a productive dialogue on social media.

The solution to this dilemma is to embrace a clear comment moderation policy. But what makes a good policy, and how does a public communicator determine when content is in violation? First, specific categories of speech, including obscenity and direct threats, are not entitled to complete protection under the First Amendment. Commercial speech is also subject to different legal treatment and can be excluded from a public entity page. And, of course, privacy laws can be invoked to justify the removal of personally identifiable information such as phone numbers, home addresses, and social security numbers.

Those are the easy cases, but what about the dreaded off-topic comments? While it has yet to be tested in the highest courts, a strong case can be made that the U.S. Supreme Court's definition of a limited public forum can be applied to social media. Under this definition, public entities can create designated forums to limit the topic of speech or the class of speaker as long as they don't discriminate based on viewpoint.

Fair application of the viewpoint-neutral rule can be challenging and risky, so entities wishing to include an off-topic clause in their moderation policy are advised to do so carefully. It is also essential to retain records of all hidden or deleted material.



# Three Steps to **Effective Moderation**

The following steps will help you create a comment moderation policy for your public entity that allows you to enjoy the benefits of social media without all the risk.

## **1 Establish Guidelines**

The first step in keeping a page focused and productive is establishing clear guidelines for commenters and moderators. “We reserve the right to delete inappropriate comments,” is insufficient. You must publicly post what categories of prohibited speech are subject to deletion.

## **2 Train the Moderators**

The next step is training page administrators to distinguish between a prohibited category of speech and a protected viewpoint. For example, negative comments that conflict with your administration’s public policies may be tempting targets for deletion, but you cannot take them down just because they are unflattering.

## **3 Preserve and Protect**

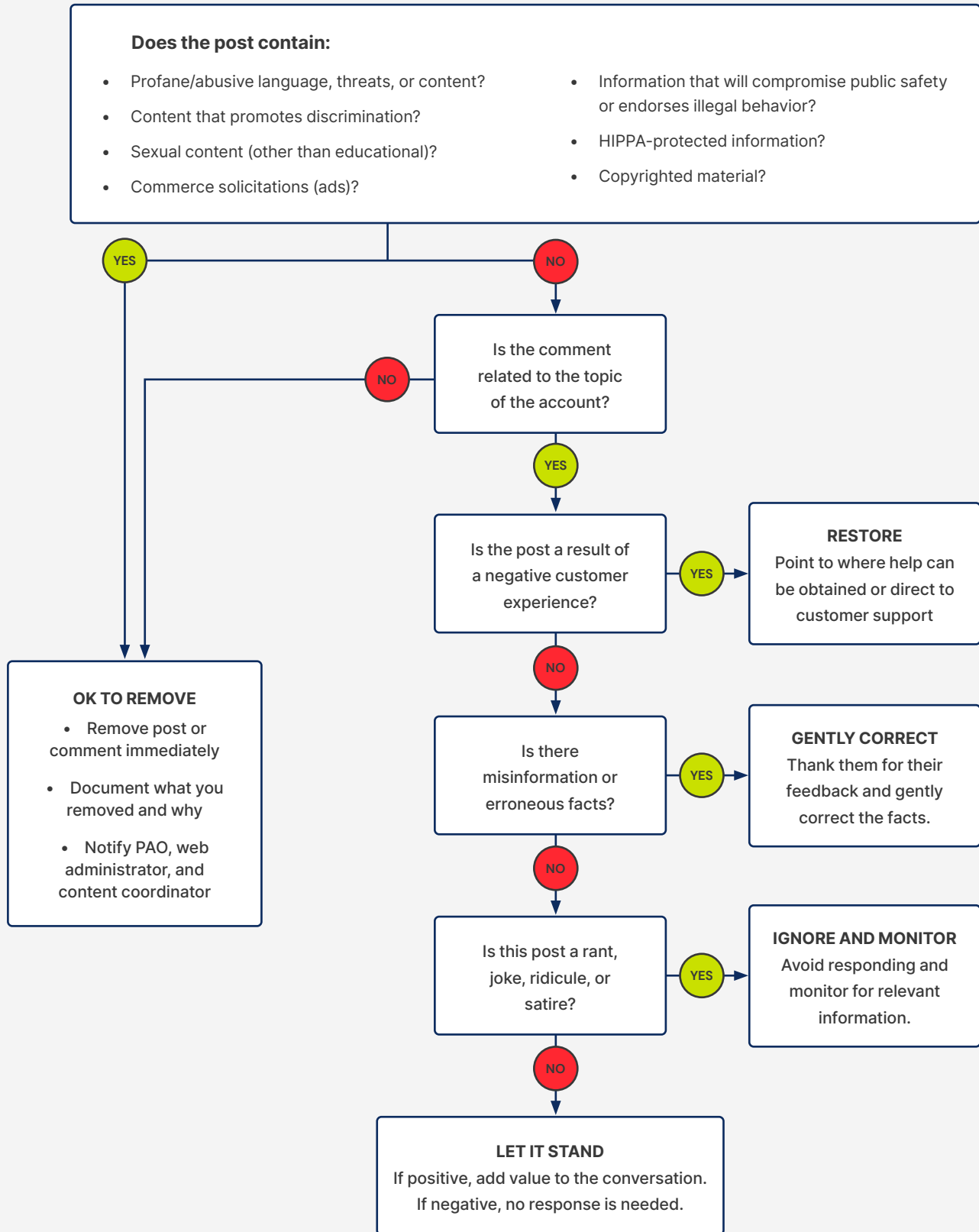
No policy or moderator is foolproof, and case law specifically dealing with social media pages as limited public forums is scarce. The most important step you can take to protect your entity from a lawsuit is to archive records of every post and comment. If no record exists, it’s impossible to make the case that a comment violated your policy. Preserving the comment and context can save your entity from a protracted and expensive legal battle.



For an easily referenceable resource, we created a flowchart on page four that can serve as a model for any public entity employing a comment moderation policy. You can amend this chart to match the policy of your entity, and it can serve as a valuable tool to train and guide staff.



## Should You Delete That Post?



### Removal Considerations



- Be consistent – Only remove comments if it adheres to your guidelines for removal.
- Document – Document and record what you removed and why.
- Respect viewpoints – Do not remove posts just because you disagree with their viewpoint.

Finally, don't let comment deletion become the norm. The point of social media is that it is meant to encourage interaction – complete with diverse opinions and points of view.

The most successful agencies on social media are the ones that face critics head-on instead of hiding behind an aggressive take-down policy. Often negative public opinion is born out of misinformation or misunderstanding. Before hitting delete, embrace the opportunity to ask questions, provide information, correct misconceptions, and show a different side of the story.

Even the most vocal critics can sometimes become the biggest civic boosters when their concerns are heard and addressed.

