

U.S. Supreme Court Gives School Board Members Back Control of Their Personal Social Media Pages

The Court clarified that only when school board members are acting as state actors and within their official duties, are they limited in their ability to block unwelcome content on their social media pages.

A public official's social-media activity constitutes state action only if the official:

- possessed actual authority to speak on the State's behalf; and
- presumed to exercise that authority when they spoke on social media.

If state action is found, the official's social media page will be considered a public forum meaning speech and social media comments cannot be regulated or restricted by a school board member.

A school board member may have a private social media page where they may freely block and delete unwelcome comments and content as they are not acting within their official capacity.

It was advised that to avoid any confusion or accidental creation of a public forum on a public official's private social media page, the page should clearly indicate that the social media page is private. There should be a label or disclaimer such as "this is the personal page of John Smith" or "the views expressed are strictly my own."

School board members should be wary of "mixed-use" applications of social media. Combining private and public posts may prevent the owner from blocking disruptive community members if blocking prevents them from commenting on posts that are deemed public.