

UC Davis ICA Policies and Procedures

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Guidelines For California's Social Media Account Law

A. Senate Bill 1349: Social Media Privacy Act

In September of 2012, Governor Jerry Brown signed into law, Senate Bill 1349 *Social Media Privacy: Postsecondary Education Act* ("Social Media Privacy Act"). This Act amended the Education Code by adding sections 99120-99122. Specifically, the Social Media Privacy Act prohibits public and private colleges from requiring or requesting a student, prospective student, or student group to disclose, access, or divulge personal social media. This Act also prohibits postsecondary educational institutions from taking any punitive action against students who refuse to disclose social media information. The Social Media Privacy Act states the following, in relevant part:

Public and private postsecondary educational institutions, and their employees and representatives, shall not require or request a student, prospective student, or student group to do any of the following:

- 1) Disclose a user name or password for accessing personal social media.
- 2) Access personal social media in the presence of the institution's employee or representative.
- 3) Divulge any personal social media information.

A public or private postsecondary educational institution shall not suspend, expel, discipline, threaten to take any of those actions, or otherwise penalize a student, prospective student, or student group in any way for refusing to comply with a request or demand that violates this section. Cal. Educ. Code § 99121.

The Social Media Privacy Act does not affect a postsecondary educational institution's right to: 1) protect against and investigate alleged student misconduct and violations of the law, or 2) to take adverse action against a student, prospective student, or student group for any lawful reason. See Cal. Educ. Code § 99121.

The Act defines social media broadly as "an electronic service or account, or electronic content, including, but not limited to, videos, or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations." Cal. Educ. Code § 99120. This definition encompasses websites and services where electronic content is typically created, shared, and viewed (e.g., Facebook, Twitter, Instagram, Flickr, YouTube, Google+, Gmail, and Hotmail). It also includes electronic content (e.g., photographs, videos, text messages, and emails) on personal computers and mobile devices that has not been posted online.

B. Practical Implications of the Social Media Privacy Act

All UC Davis employees and representatives, including members of the Athletic Department, are prohibited from requiring or requesting a student, prospective student, or student group to disclose, access, or divulge personal social media information.

The following is a non-exhaustive list of conduct UC Davis employees are prohibited from engaging with a student, prospective student, or a student group:

- Sending a "friend" request on Facebook or request to connect on LinkedIn;
- Requesting to follow a student on Twitter or Instagram who has a private or protected account;
- Engaging another individual (including another student) to send friend/connection/follow requests and report back on social media content;

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- Requiring students to accept friend/connection/follow requests;
- Asking for usernames, account names, Twitter handles, passwords;
- Requiring or asking students to share email communications or text messages on personal email or text message accounts;
- Requiring or asking students to share photographs, videos, emails, or text messages stored on personal cell phones, iPods, iPads, tablets, laptops, desktops, or other mobile devices;
- Requiring or asking students to install software that monitors social media activities;
- Requiring or asking students to sign waivers allowing access to social media.

UC Davis employees may not use student employees and/or interns as conduits to obtain information they cannot obtain directly. For example, Athletic Department employees cannot ask student employees and/or interns to send friend/connection/follow social media requests to other prospective or current athlete students.

The following is a non-exhaustive list of conduct UC Davis employees may engage in:

- Request or require the disclosure of passwords for electronic devices issued by UC Davis;
- Review or monitor social media content on UC Davis sponsored sites or accounts;
- Review or monitor social media content on UC Davis social media platforms (e.g., OrgSync and Collegiate Link).