



June 30, 2021

Dear Superintendent Brabrand and Members of the School Board of Fairfax County Public Schools:

As we know, there has been much acrimony and division sowed in the community due to the way the elected School Board officials use their social media profiles to speak and interact with the Fairfax County community.

We highly recommend that you take this time of reflection today during your closed meeting to decide on how to respond to the [Open Letter](#) from the Zionist Organization of America (ZOA), the oldest and one of the largest pro-Israel organizations in the U.S., dedicated to fighting antisemitism and anti-Israel bias in schools. To this end, Do Better FCPS is publicly stating its support of the ZOA and we are also asking today that you take the following three actions, as stated in their letter, and repeated below:

- Issue a clear and unequivocal statement to the community that condemns Ms. Omeish's social media posts as hateful, divisive and antisemitic, that acknowledges and condemns the antisemitism that is growing in the U.S. and exists in your own schools, and that assures your community that antisemitism will no longer be tolerated, whether it be from students, teachers, staff, school board members, or anyone else.
- Instruct Ms. Omeish that consistent with the Code of Conduct, she must immediately remove her partisan, hateful, and divisive social media posts.
- Censure Ms. Omeish if she fails to remove the social media posts.

**In addition, Do Better FCPS wants to draw your attention to the following. If the School Board Members consider themselves elected officials, then these references are germane as standards upon which FCPS should strive to achieve when setting up and enforcing Social Media Policies for School Board Members and all public-facing FCPS Leadership Team Staff.**

According to the [Congressional Research Service](#)'s *Social Media in the House of Representatives: Frequently Asked Questions*:

“Member-controlled content on social media accounts is subject to the same requirements as content on Member website.” Content posted on Member websites (and thus social media accounts) must be germane to the conduct of the Member's official and representational duties. **Official websites (and thus social media accounts) may not be used for campaign or personal purposes**; may not generate, circulate, or otherwise encourage petitions; may not include advertisements or any private person or entity or imply government endorsement of a product or

service; may not include grassroots lobbying; and must be in compliance with federal law and House rules and regulations applicable to official communications.

According to the [Freedom Forum Institute](#):

“...government employees are only protected by the First Amendment when they are speaking as *private citizens*. If their speech is part of their official job duties, then they can be fired or disciplined for it.”

This rule comes from a 2006 Supreme Court case, *Garcetti v. Ceballos*. Some other relevant lessons, as explained by the Freedom Forum, include:

- When a government employee tweets from a government social media account, that employee is speaking pursuant to his or her official duties and is not protected by the First Amendment. A government employer would be within their rights to terminate an employee who tweeted statements in opposition of that agency’s expectations.
- Government employees can, of course, express themselves on their own personal social media accounts. They can speak freely regarding their private lives: families, friends, gardening tips, recipes, and so forth. They may also engage in political speech on social media as long as it is not through the lens of their employment.
- Some government employees are considered “public-facing” employees if they frequently interact with the public (for example, a city councilman, a school superintendent, or a White House press secretary). These employees are almost always considered to be speaking pursuant to their official duties, whether they’re speaking about their jobs or speaking in a personal capacity. This is because of the public perception that these public-facing employees can never really sever their connection with the government, and that even when they are speaking about personal matters, they somehow represent the government’s position.
- Some employees, like teachers or police officers, are held to a higher moral and ethical standard than the general public, and so even their private conduct is considered to have an impact on their official job duties.
- If a government employee was speaking as a private citizen, the next question is, was their speech regarding a matter of public concern? If they weren’t speaking on a matter of public concern, the First Amendment will *not* protect their speech. If they were speaking on a matter of public concern, the First Amendment *might* protect their speech.<sup>1</sup>

**Of course, you are aware that there exists the [Fairfax County Social Media Policy & Guidelines for Official Accounts](#). What does not exist is a rule whereby School Board Members (as elected government officials) should be required to maintain two, distinct, social media profiles on each and every platform on which they communicated to the public.**

---

<sup>1</sup> Moniz, Melemaikalani. *To tweet or not to tweet: government employees and social media* <https://www.freedomforuminstitute.org/first-amendment-center/topics/freedom-of-speech-2/free-speech-and-government-employees-overview/to-tweet-or-not-to-tweet-government-employees-and-social-media/>

We are requesting that FCPS establish the following **Social Media Policies** immediately:

- All elected School Board Members, including the Student Representative, and all public facing Administrative Leadership Team Staff should have distinct social media profiles on every platform that they use to communicate, one for their official FCPS role and one for their personal conduct.
- On official accounts, bios should state official job titles and will clearly indicate the relationship to Fairfax County Public Schools. Any links in the bio should direct only to FCPS web properties and never to personal or campaign websites. No political content should be liked, shared, or commented on using official accounts. In addition, no campaign fundraising should be conducted from official accounts, nor shall Board Members allow supporters to tag their official accounts in campaign, fundraising or political content. Board Members will make an active, timely attempt to delete all self-referential tags that violate this rule. School Board Members shall not interact with labor unions or teacher associations, either with the organization or with individual union leadership members, unless conducting official business, as using their official accounts in a Collective Bargaining state can be a serious conflict of interest.
- On official accounts, School Board Members, including the Student Representative, and all public facing Administrative Leadership Team Staff should not be allowed to block members of the Fairfax County community who are seeking to communicate with FCPS officials in their official capacity so long as safety concerns are not at stake.
- On personal accounts, bios should make clear if this is a personal or campaign account and any disclosures required for campaign finance laws should be followed.
- For all public communication, on official and personal accounts (as made clear by *Garcetti v. Ceballos* that government employees are considered “public-facing” employees if they frequently interact with the public and that these employees are almost always considered to be speaking pursuant to their official duties, whether they’re speaking about their jobs or speaking in a personal capacity) any conduct may be cause for censure or other consequences.

We look forward to hearing that you will be **doing better** on providing guidelines for proper conduct and, just as importantly, on enforcing of such guidelines for the betterment of the whole.

Thank you,

Do Better FCPS