

CONSTITUTIONAL CONSIDERATIONS

In contrast to private businesses, governments must be particularly aware of and protect Constitutional Rights. These protections must be intricately woven into every communications plan.

FIRST AMENDMENT

Perhaps the most relevant to crisis communications planning are First Amendment Rights. A public employee does not relinquish his or her First Amendment Rights to comment on matters of public interest by virtue of government employment. Public employees have a First Amendment Right to engage in speech on matters of public concern without fear of discipline or retaliation, but the public employer retains the right to regulate speech when the speech is done:

- As part of the duties of the employee and at the employer's direction;
- When it is not related to a matter of public concern; or
- When the employee's interests are outweighed by the employer's interest in efficient operation.

WHAT IS A MATTER OF PUBLIC CONCERN?

Examples of matters of public concern include: matters of political, social or other concern to the community; policies that are of interest to the public at large; issues that have legitimate news interest and have received media attention; and / or public controversy.

In addition to First Amendment Rights, it's important to consider whether government action is protecting both Due Process and Privacy Interests of employees:



DUE PROCESS

If the matter may involve criminal actions, are we protecting the rights of persons who may be accused to a fair trial?



PRIVACY INTERESTS

Are we protecting reasonable expectations of privacy, including victim rights in some contexts?

