

Social Media and Your Employee Handbook

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Among tech savvy businesses, leveraging social media to promote brand recognition, create event publicity, and increase product sales has become all the rage. Along with these potential benefits, however, it has also become clear that social media presents businesses with a whole new set of challenges in their role as employers. In the aftermath of a recent riot, for example, a Vancouver business received more than a hundred emails regarding offensive comments made by one of its employees on his Facebook page. Because the employee had identified the name of his employer in his user profile, his ill-considered riot related comments also had a negative impact on his employer's reputation. Reports like this one remind us that social media has a way of amplifying the impact of employees' use (and misuse) of information technology and blurring the line between personal and professional conduct.

So what do you need to know about social media? For those of us who have yet to set up a Facebook account, follow someone on Twitter or post to a blog, take heart, the basics are actually pretty straightforward. "Social media" can refer to any of several web-based applications that are accessed from a computer or a mobile device, like a smart phone or tablet. What tends to set social media apart from other internet content, however, is its interactive nature. Where "traditional" web pages may display content and provide links to other websites, the flow of information is pretty much one way. Social media websites, on the other hand, enable any user (not just a webmaster) to create content, leave comments, or even edit others' content, as well as interact with other internet users in real time. Publishing content to the internet on social media sites does not require hosting a website or editing html code, and as a result, social media sites have dramatically lowered previous barriers to participation on the internet.

The potential problem, of course, is that they also have lowered the barriers to inappropriate participation on the internet. This is why it is so critical for employers to develop and implement a social media policy as part of a comprehensive employee handbook. An effective policy on social media will help you, as an employer, to clarify your expectations on the use of social media, give guidance to those employees who participate in social networking sites, and provide a framework for responding to violations of that policy.

- You should be clear on whether you will allow the use of social media at work and if so, under what circumstances.
- You should be clear that employees who engage in social media should not identify themselves as representatives of the company, unless authorized to do so.
- You should also clearly communicate that even when employees use social media on their own time they may still be associated with their employer. This means

that any respectful workplace, anti-harassment or anti-discrimination policy you may have will still apply.

- Employees' blogs, pages, etc. should bear a disclaimer stating the employee's views are not the views of his or her employer. This may be especially important for the use of social networking sites like LinkedIn where users routinely request and provide professional references or endorsements.
- Your policy should emphasize the public nature of social networking and social media. Once posted, social media content and comments may be impossible to completely retract.
- Be careful not to restrict protected "concerted activity" through which employees communicate about wages or working conditions. Even in non-union work environments, restrictions on such discussions are prohibited by the National Labor Relations Act and have resulted in complaints against employers who seek to limit employee use of social media.

Finally, be aware that there are also potential pitfalls for *employers* who use social media. Liability can arise from invading employees' privacy, particularly if employers use deception or coercion to access restricted sites. Employers should also be mindful that protected class status information such as race, religion, gender, disability and age (to name just a few) should not be considered in the hiring process regardless of its source. Merely accessing that kind of information could lead an unsuccessful applicant to file a discrimination claim.

The Bureau of Labor and Industries Technical Assistance for Employers Unit offers handbooks, seminars, and even onsite trainings on this and other topics of critical importance to employers. For more information, please visit our website at www.oregon.gov/BOLI/TA, or contact us by phone at 971-673-0824.