


Social Media in the Workplace

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Concerns:

- Individual views, Group consequences
 - Privacy
 - Data Security & Loss
 - Confidential Information
 - Employee Laws & Regulations
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Individual Views, Group Consequences

- Misconduct leading to Harassment – ANALYSIS:
 - What is the reasonable response to any transgression or potential act of misconduct?
 - Do the views expressed constitute “unwanted conduct that has the purpose or effect of violating a person’s dignity or creating an offensive, intimidating or hostile environment?”
 - Role of Human Resources is to investigate and support employees while balancing the risk taken on by the Organization
 - “Equal Opportunities” basis
 - Role of the organization: academic v. private entity v. public entity
 - Role of forum: private comments, public speech
 - Level of tolerance and support of expression, individual culpability, negativity to organization

Privacy

Important: Manage employees' expectations of privacy

- Communicate the circumstances surrounding such expectations
- Means by which an employee's activities can be monitored

- Example: NO EXPECTATION OF PRIVACY with electronic devices used for business purposes

- Privacy Policies should be in place to provide for the Organization to access to these devices used to conduct business (including personal cell phones) as necessary

Data Security & Loss

Everyone within the Organization needs to recognize that cybersecurity is a threat and be part of the plans and programs necessary for effective defense.

Use of security tools/software and incident response reporting

Passwords, PINs being kept secure

Understanding technology and what information needs to be protected

Driving every aspect of data v. Fire and forget

“It’s not my job”



Confidential Information

- Trade Secrets, Trademarks, & Copyrights of the Organization
 - Inventory to know the asset
 - Protocols to safe-guard including access to and use – restrictions or limitations have to be communicated
- Sensitive Information of the Organization and/or its Clients
 - Understand the difference between Confidential Information and Sensitive Information
 - Not confidential: employees' wages and working conditions, trademarks or copyrights
 - Confidential: social security numbers, health information, trade secrets
 - Potentially NOT or COULD BE Confidential: client contact information

TELL EVERYONE WITH ACCESS TO THIS INFORMATION THAT THIS IS CONFIDENTIAL EITHER THROUGH A DESIGNATION IN THE COMPANY HANDBOOK, WHEN GIVEN ACCESS TO IT, OR IN ANY OTHER OBVIOUS WAY

KEEP INFORMATION IN A SECURE LOCATION

MEASURED BY A STANDARD OF REASONABLENESS, NOT PERFECTION



Employee Laws & Regulations

Specific in social media area:

- Must be compliant especially with Department of Labor in wage and hour policies
- Contract/Tenured employee v. Independent contractor v. Common law employee

MAIN IDEA: Employee reporting of time worked can ensure that employees are fully compensated for all time worked, lessening the risk of violating wage and hour regulations

AND keeps a proactive, positive, effective work culture and environment


KEEP IN MIND -- ALL COMPLIANT, ALL THE TIME:

Discrimination, Employee fraud/misrepresentation, Hostile Work Environments +



What to do?

#1 FORMAL WRITTEN POLICIES

1. Social Media Use Policy with meaningful training to highlight key risks and views of Organization with the understanding discharge may be an option if conduct brings an Organization into dispute.
 2. Breach Plan or Protocol in place addressing how to manage or address a breach of the Organization information on Organization's devices and personal devices used by employees for Organization business
 3. Confidential/Trade Secret Agreements with employees outlining treatment and ownership of valuable and sensitive information
 4. Clear and concise policies on employee's report of all time worked
 5. Clear and concise policies and protocol when issues arise, outlining the investigation process including the consideration of placing an employee on paid leave
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What to do?

#2 DON'T DISCRIMINATE

#3 BE CIVIL, BUT NO SUGARCOATING

#4 BE COMPLIANT WITH OTHER LAWS

#5 DOCUMENT EVERYTHING

#6 CONSULT AN ATTORNEY



Questions?

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