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The Dangers of Social Media and How to Prevent Them

Nearly everyone uses social media. More people are using Facebook than the total population of the U.S., Germany and England combined! It is estimated that three in four U.S. workers engage in the personal use of social media while at their job. Employees are communicating more through social media than through email, limiting the control employers have over what they are saying and doing.

Social Media Benefits to an Organization:

Social media can provide a vehicle for employees to connect to clients, colleagues, mentors, applicants and networking groups. Employers can source vendors and obtain live feedback from users. Social media can be an excellent way to promote your organization and gain valuable market place information. Social media can offer employees a way to increase computer and communications skills.

The Costs to an Organization:

The above notwithstanding, the lack of productivity due to social media is significant. The average U.S. worker spends one to two hours a day on social media sites. Social media sites often present an opportunity for union organizing and a venue for disgruntled employees to complain. With little or no control over content, the damage to an organization's reputation can be staggering. Employees can divulge company trade secrets, proprietary information and client information if an organization does not have a clear policy on social media. The biggest loss to a company can come from lawsuits caused by the misuse of social media sites.

Laws Concerning Social Media:

The National Labor Relations Act, section 7, states that employees have the right to discuss working conditions; this includes social media use. New York and Colorado have enacted statutes to protect employee's activities outside of work. These off-duty statutes limit an employer's ability to discipline employees for engaging in legal activities outside of work (such as seeing a picture on Facebook of an employee drinking alcohol). The Fourth Amendment **does not** apply to private employers so there is no inherent right to privacy for their employees. This allows employers (who provide appropriate notification) to search company issued cell phones and computers for damaging emails, texts, etc.

How to Control Social Media use at Work:

Organizations must create social media policies and communicate them regularly to employees and managers. A carefully constructed employee handbook policy should not “chill” employees from exercising their rights under section 7 of the NLRA. The policy must not be too broad, which may make it too difficult to interpret.

Factors companies should consider when creating a social media policy are:

- Make it clear that employees cannot identify themselves as representatives of the company without permission.
- Anti-discrimination and harassment policies apply to social media use.
- Blogging and posts should not contain offensive language or be disrespectful to co-workers or clients.
- Proprietary and trademark information should never be divulged.
- Company logos and pictures of the company are confidential information and should never be used without permission.
- Make the consequences clear if the policy is not adhered to and enforce rules consistently.

Social media policies should be reviewed every year to remain current with new legal and employment considerations. Organizations that effectively adopt and enforce social media policies will be better equipped to prevent, limit, and control issues relating to an employee’s use of social media websites.

Social media policies need to address a company’s business needs and culture. PMP recommends that companies review their policies to be sure that they address recent case law decisions on what it can and cannot dictate. For example, in *Marsh vs. Delta Airlines*, the U.S. District Court found in favor of the airline when an employee sent a letter to a local newspaper complaining of Delta’s service. The court ruled that the employee had an implied duty to be loyal to his employer. PMP’s HR professionals and staff attorneys can assist you with drafting your social media policy. Contact Mary Simmons, or any of our HR consultants, to discuss your company’s specific needs.