

### Social Media in the Workplace

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Employers have discovered over the last few years that the use of social media in the workplace has become a fact of life. Many employers use various social networking tools for business purposes such as recruiting new employees, public relations, sales prospecting and building a brand. Although the use of social media sites such as Twitter, Facebook and LinkedIn have brought about many new business opportunities, the use by employees also brings new risks to the workplace.

Many employers report that they are aware that the use of a social network at work is directly related to a decrease in productivity. In fact, one study shows that more than half of those surveyed log onto a social networking site more than once a day while at work.



The loss of productivity is the most obvious concern for employers, but there are a number of other risks that are more troubling. Consider, for example, an employee who reveals confidential business information in a blog entry that can be viewed by anyone, or a manager who posts a discriminatory comment on his public Facebook page regarding an employee. Employers can also be subject to legal liability when an employee promotes the company's services or products without disclosing the nature of the employment relationship. In addition, employees can cause serious harm to an employer's reputation by using social media to criticize the company or its customers, products or services.

Employers also have legal concerns when imposing discipline against an employee for improper use of social media. In a recent case the National Labor Relations Bureau (NLRB) found that an employee's Facebook postings were a "protected concerted activity," and that the company's blogging and Internet posting policy contained "unlawful provisions, including one that prohibited employees from making disparaging remarks when discussing the company" and another that "prohibited employees from depicting the company in any way over the Internet without company permission." According to a statement by the NLRB, such provisions interfere with employees' right to engage in the protected concerted activity. The case will go before an NLRB administrative judge and a hearing is set for Jan. 25, 2011.

### Protection for Employers: Develop a Well Written Policy, Train Human Resources, Managers and Supervisors

There are steps an employer can take to obtain some protection. A well-drafted company policy is essential, although, as the recent NLRB case illustrates, a policy cannot provide complete protection. However, the implementation of a social media policy consistent with the organizational culture and approach to social technologies is an important step.

The social media policy should make clear to employees what the employer expects with regard to social media use, both on and off the job. The policy should also address certain issues with respect to former employees when there are solicitation and non-competition concerns.



The policy should include compliance requirements with all relevant existing company policies, such as policies about employment references, confidential information, harassment or any illegal activity. Employees must also be advised about the proper use of a disclaimer when posting their opinions online.

Training human resource personnel and other managers and supervisors about how to deal with these new issues is imperative for employers.

### **Use of Social Media Within Employee Recruitment and Hiring Practices**

Another common use of social media for employers is in the recruiting and hiring process. The use of social media in the hiring process can be a useful tool in obtaining information that may not be found on a resume or during a job interview. For example, an employer might be able to find out whether an employee poses any particular risks to the business. One survey showed that 50% of web users say they would be embarrassed if their employer or potential employer looked at their website. The same survey indicated that 39% of employers do look at the social network profiles of current and potential employees.

The use of social media during the hiring process raises concerns about invasion of privacy. Another real concern to employers is the risk associated with learning information from an online profile that provides too much information, such as age, race, pregnancy status or disability. This would allow an applicant to argue that an employer improperly relied on information about a protected characteristic, giving rise to a discrimination claim. There are also Fair Credit Reporting Act (FCRA) and other issues associated with using online information in the hiring process. Again, training the hiring managers, supervisors and decision-makers is critical to managing these risks.

### **Social Media Training and Policy Drafting Consultation**

Technology is changing the workplace daily. Employers are well advised to keep up with the new workplace issues by drafting and adopting appropriate policies and procedures and providing necessary training to key personnel.

Human Resource Services (HRS), a division of Personal Assistance Services, is available to provide the training and consultation you need. Our Social Media in the Workplace training provides practical education and guidance in the following key areas:

- Types of Social Media
- Current use of Social Media in the Workplace
- Danger Areas
- Changing Vocabulary
- Social Media and Hiring
- Corporate Liability for Employee Posts
- Disclosure of Confidential Information
- Social Media Post-Employment
- Social Media and Litigation
- Best Practices for Company Policies

To schedule *Social Media in the Workplace* Training at your workplace, call PAS at (800) 356-0845 or email our training department at [training@paseap.com](mailto:training@paseap.com)