

Social Media and Technology in the Workplace

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Summary of Topics

- Social Media, Harassment & Retaliation
 - Wait, are we really still discussing this?
- Artificial Intelligence
 - We are all using it, but do we have policies in place to limit risk?
- Remote Work
 - Are we protecting confidential data and information?
 - Do we have the policies and practices in place to appropriately manage a workforce that is “out of sight” (or in-sight depending on your technology)?

Social Media, Harassment & Retaliation

Social media has been around for multiple decades, are we really still seeing it used in a way that violates our policies and expectations?

Social Media, Harassment & Retaliation

- Are your policies and practices clear that behavior that occurs outside of work, that may adversely impact/impair the work environment can result in discipline at work?
- General employee mentality
 - You're the boss of me at work, but I can do what I want outside of work.
 - If someone doesn't like what I post/say online, they can simply stop following.
 - My life is an open book/I am going to become an influencer.

Social Media, Harassment & Retaliation

- This mindset results in a few different issues:
 - Sharing of company information that is confidential;
 - Presenting the company itself in a bad light;
 - Adversely affecting the working conditions of peers and subordinates; and
 - Resulting in management having access to information they otherwise would not have had.

Social Media, Harassment & Retaliation

- Examples of how this ultimately plays out:
 - Employee posts on Instagram picture of herself with low-cut top and significant cleavage asking for someone to be her “daddy” with a link to her amazon “wish list” which includes multiple “adult” items.
 - Employee’s work name badge is clearly visible
 - Employee has taken pictures in the ladies' room at work. No identifying insignia in the bathroom, but you recognize the bathroom.
 - Long-term employee is terminated from position after multiple failed attempts at performance management. The employee was trying, but just could not meet expectations.
 - The evening of her termination, an employee posts on Facebook, “Best day ever. The wicked witch is dead. IYKYK.” Dozens of people liked the post. One co-worker responded, “Wait, what’s up; spill the tea.” Another co-worker posted, “Such an amazing day; idk how she lasted as long as she did, she was abysmal.” In response, a third co-worker posts, “Did they finally fire that b*tch? That’s been a long time coming.”
 - The post in public and the employees each identify their employer on their profiles.

Social Media, Harassment & Retaliation

- Other examples of how this plays out
 - Employee posts on threads: “Company changed our signature lines and wants us to identify our pronouns. I changed mine to F&%* You.”
 - Employee’s account includes their company headshot and full name, but does not otherwise identify who they work for.
 - An employee who uses they/them pronouns brings it to HR’s attention.
 - Employee calls out approximately twice a week as a result of symptoms related to an undiagnosed stomach/bowel condition. On the weekends, however, he posts images of himself at the gym on Facebook and provided a lengthy update about how he is working towards certification to become a personal trainer.
 - Employee posts “day in a life of a young executive” on TikTok. She uses her first name, no filter, and identifies the state she lives in. Posts show her home office, driving to client meetings, and her “morning routine.”

Artificial Intelligence

You're using it now. Your employees are using it now. Do you have the right parameters and policies in place to make sure that you are not creating liability?

Artificial Intelligence

- Management (and employees) are using it to make work easier
- Do you have policies and procedures in place surrounding the use of Generative AI?
 - Scope
 - Compliance with other policies
 - Code of Ethics
 - Anti-Harassment/Anti-Discrimination
 - HIPAA
 - Copyright/work product policy
 - IT Resources and Communication systems policies
 - Guidelines for use (and prohibited uses)
 - Audit process
 - Mandatory training

Artificial Intelligence

- HR Use of AI
 - Hiring
 - Third-party data and algorithmic scores and interaction with the FCRA.
 - How does the AI make a decision? What are the datasets and how are they weighed?
 - Investigations
 - Is the information you are seeing/viewing real?
 - How deep do you need to dig in order to determine the legitimacy of the data/profile/source?
 - Performance Management
 - Biased algorithms.
 - Over-reliance on data-driven insights without focusing on human context.

Remote Work & Technology

Do we create policies and practices around bad actors, or presume our employees are where they are supposed to be, doing what they are supposed to be doing?

Is Remote Work Here to Stay or is RTO the trend?

- If companies can figure out a way to maintain culture and cohesiveness, yes remote work will stick.
- Data suggests it is positive for retaining and recruiting employees.
- Responding to the Backlash of Return to Office (RTO)

Positive or Negative Effects

Service firms were asked how offering remote work affects the business

■ Positive ■ No Effect ■ Negative



Source: Federal Reserve Bank of New York

Bloomberg Law

Remote Work and Technology

- Do we have the right policies in place to manage our workforce?
 - Remote work policy
 - Are there any performance metrics required to work remotely?
 - What are expectations while individuals are working remotely?
 - Time entry;
 - Availability;
 - Location;
 - Simultaneous care for others.
 - Electronic Monitoring
 - Moonlighting Policy
 - Health & Safety
 - Security of data and information

Remote Work and Technology

- Are we appropriately protecting confidential/proprietary information?
 - Do we have policies in place that appropriately set forth our expectations?
 - Where is data stored (personal devices or company owned devices)?
 - What can/cannot be printed?
 - What can/cannot be downloaded onto a thumb drive or otherwise shared from the system?
- What (if any) physical security is there surrounding the work environment more generally?
 - Are there third parties or family members who can overhear phone calls/reviewing emails
 - Are there limitations on where work can occur (co-working spaces, coffee shops, etc.)

Managing Remote Employees

- Do's

- Be clear as to expectations
- Hold individuals accountable to those expectations
- Make sure individuals have the tools necessary to accomplish the tasks at issue
- Train managers in managing a remote workforce
- Be clear as to corporate culture and values
- Understand the implications on remote work as an accommodation

- Don'ts

- Amend/change expectations based on the person or circumstance
- Let it slide because of other ongoing issues
- Hope it will get better and not deal with issues in real time
- Say something “is okay” when it really isn't

Thank you

Questions?

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