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# Company Bashing & Employee Harassing on the Internet: Keeping Things Professional with a Social Media Policy

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The internet has transformed almost all aspects of everyday life. The internet continually reaches into our homes, families, and workplaces. Most adults have a Facebook “timeline” where their activities, feelings, thoughts and photographs are chronicled instantaneously and perpetually. Facebook’s business cousin, LinkedIn, chronicles professional business developments and connections and ties them to the subscriber’s company. For example, if one wants to see what is happening at Ford Motor Company, a search can be conducted online with a few keyboard strokes to see what its employees are posting about their jobs, workplace and company. The boundaries and related legal and business implications of what is posted online no longer stop at the office suite door. How much and what type of content finds its way onto the internet for public consumption depends upon not only the activity of your employees, but also the existence of, and their adherence to, your company social media policy.

As with any effective employee policy, the written terms of a social media policy must be easy to understand and not be pages upon pages of mind-numbing boilerplate. If a policy is going to prevent a violation from occurring, the employees must actually read and understand the policy. The best employee policies tap into the employee’s common sense as a foundation for the rules to follow in the policy.

Similar to other employee policies, a social media policy must not infringe upon an employee’s rights to report legal violations or to engage in protected activities under the National Labor Relations Act. As shown by recent rulings by the NLRB and case decisions, the NLRB is actively reviewing social media policies and striking them down if they attempt to impair employees’ rights to comment on their working conditions and other protected activities. The NLRB considers social media to be the equivalent of a “technological water cooler” and has determined that discussions that are protected around the water cooler (even if they bash the company) are just as protected if they are online postings. Importantly, the NLRB

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does allow prohibitions against discriminatory, harassing, bullying and the disclosure of trade secrets, medical or health information, or other confidential company information.

In addition to avoiding prohibitions against protected labor activities, a social media policy should remind and instruct employees to:

1. Use common courtesy, respectfulness and politeness in postings, particularly when about other employees.
2. Protect company confidential and trade secret information.
3. Avoid talking about clients, customers or competitors.
4. Never comment on company legal matters or litigation.
5. Remember that Google has a long, long memory.
6. Be clear about the lines between personal and business postings. Their business identity does not end with the workday or stop at the office door.
7. Consider that they are judged by others based upon what they re-post, share or “like.”
8. Be honest and do not attempt to hide behind online names or false profiles because they are traceable.
9. Cool down before posting if a situation has made them angry. Like a slap, an angry posting cannot be undone.
10. Read the social media policy and ask questions if they don’t understand it.
11. Realize that there is no right to privacy regarding online postings, especially if they are using company-owned or paid for devices.

There are several social media policies that have been published and approved by the NLRB that a company can use as a starting point to craft a company-specific policy. Our firm is happy to assist your company with establishing a social media policy that will enable employees to manage their online profiles and postings properly.