



Communication law questions in a new age

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Q: One of my employees made disparaging remarks about the company on a social networking website. How can I prevent this conduct?

A: Employers should create a social networking policy that warns employees about the consequences of inappropriate social media use. General guidelines for an effective policy include the following:

Set forth your company's position on Internet use and social media; among other things, make it clear that employees have no ability to speak for the company and that improper communications are strictly prohibited.

Educate employees on online etiquette and encourage them to be polite. Employees are often perceived as the face of the company.

Convey that employees have no right of privacy in social networking sites accessed on company equipment, and that the company may monitor all such activity.

Indicate the consequences for violating the policy: discipline and discharge.

Train employees and managers on the policy and follow up periodically to ensure compliance.

Q: One of my employees sent sexually explicit text messages to a co-worker using a company-issued device. Can I monitor private communications of employees on company equipment?

A: The U.S. Supreme Court will soon rule on its first texting privacy case. In the suit, an Ontario, Calif., police officer sued the city and its wireless provider for invasion of privacy after the officer's supervisor discovered that, using his city-issued text-messaging pager, the officer had exchanged hundreds of sexually explicit messages with his wife, his girlfriend and a co-worker. The officer contends an informal policy existed that allowed officers to maintain privacy in their text messages if they paid overage charges, which he did.

Regardless of the outcome, this case illustrates the issues that arise when employees use company-issued communications devices. Employers should have a written policy indicating that an employee's personal use of a company-issued BlackBerry, computer, cellular phone or similar device is not private. In addition, employers should monitor communications sent on company devices, as reasonably necessary, to deter, discover and investigate misconduct, to the extent permitted by law. Finally, employees need to be aware that improper use of company devices will not be tolerated.

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