

Labour & Employment Law

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Social Media Policies: Setting the Right Balance in the Workplace

An increasingly multi-generational workplace brings significant new human resources challenges. One of the major issues is how employers should address employee use of social media both in the workplace and outside business hours.

What is social media?

Social media is essentially any online, web-based social structure that allows individuals or organizations to generate and share content. Social media allows participants to join and maintain online links for business or social purposes. Some of the most popular current social media host sites include Facebook, Twitter, YouTube and LinkedIn, in addition to blogging (online personal or organization journal) sites.

Why should I care about social media in the workplace?

Your corporate reputation may be jeopardized by the use of social media by employees. The prevalence of social media can also become a major productivity issue. Younger employees may not have yet experienced the potential pitfalls of social media use in the workplace.

How is social media different from e-mails?

E-mails have become a universal means of communicating with others in the workplace and beyond. E-mails rely on a valid e-mail address to which the sender delivers his or her content. Conversely, social media network host sites allow users to upload content directly onto the network, allowing many other users of the site to view the content simultaneously. The potential risk to a company's reputation is thus exponentially greater with the use of social media.

Does it make a difference if my employees use their own computers for social media?

Employers have the right to regulate the use of social media by employees on company time and on company equipment. However, since social media does not require the use of company equipment, employees may engage in activities outside of the workplace that may still have serious consequences for the employer. Examples of such activities include the online posting of defamatory

comments about the company or others, the disclosure of commercially sensitive or confidential information or the identification of the employee as holding socially objectionable views. To the extent that the activities link the employee to the employer, they can have significant repercussions on the employer's reputation.

What are some of the most serious risks for an employer when employees use social media?

Employees may falsely believe that the content they post to social media is not publicly accessible. Divulging company information, making offensive or discriminatory comments online about fellow employees or revealing personal information about others exposes the employer to significant legal risks, including potential lawsuits, Human Rights Tribunal Claims or police involvement. Even where the content itself is not illegal or unlawful in nature, it may still have major ethical and/or reputational consequences for the company.

If social media has so many potential pitfalls, what can I do as an employer?

One option is a complete ban on accessing social media in the workplace. This means blocking access to all forms of social media on company equipment, prohibiting the discussion or identification of employer-related matters on social media at any time and creating and enforcing strict company policies with escalating disciplinary measures depending on the gravity of the infraction. This approach has the disadvantage of signalling a lack of trust by the employer that employees will act responsibly in using social media.

A more preferable option is to create a clear and accessible corporate social media policy and ensure that employees are made aware of both the policy and the consequences for not following it. By integrating the use of social media into the overall business strategy of the company, an employer

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can reduce the risk of legal and reputational liabilities. Since social media is now an everyday reality in Canadian workplaces, an employer can proactively ensure that employees use social media in a responsible manner.

What should be included in my company social media policy?

While each organization is inherently different, there are some general topics that are considered essential for a good corporate social media policy. These include:

- Defining social media terminology and what the policy in fact does and does not cover;
- Identifying unacceptable social media conduct, such as posting confidential company information, making comments that violate the *Human Rights Code* or harassing another employee through online content;
- Reinforcing for employees the public and permanent nature of online content;
- Advising employees of whether the employer is monitoring employee use of social media and of the Internet in general;

- Confirming that employees are prohibited from speaking online on behalf of the employer without prior authorization;
- Setting limits on the amount of time employees may access social media during business hours and on company equipment;
- Providing advice to employees on how to use disclaimers to identify that opinions expressed in their personal capacity are not those of the company;
- Informing employees of the consequences of breaching the social media policy and the sanctions or disciplinary measures that may flow from such a breach; and
- Recognizing that social media is continually evolving and that employees are responsible for exercising good judgment in deciding what should or should not be posted online.

A well-crafted corporate social media policy will become an indispensable human resources tool for your workplace, helping to manage employee expectations and responsibilities in their inevitable use of emerging and evolving social media technologies.

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