

What Small Businesses Need To Know About Social Media Policies

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What is social media? Why should my business use social media?

Why do I need a social media policy?

If my company does not use social media for marketing, how does this affect me?

These are some of the questions that I receive from business owners and human resource managers. Chances are your employees are using social media and it could be hurting your business. Likewise, if your business is not taking advantage of social media, it could be missing a valuable marketing opportunity.

Below are the answers to these questions and others in order to provide you with a good starting point on creating your business' own social media policy.

What is social media?

Social media is not made up of any one website or online media. Social media broadly describes an electronic means of social networking through the exchange of ideas and information. Some of the more popular social networking websites include Facebook, LinkedIn, Twitter, YouTube and Google+. This is not just a fad that will disappear in months or years. Social media has exploded with Facebook boasting over one billion users, LinkedIn and Google Plus each identifying over 500 million, and Twitter 250 million users.

Are there any benefits of social media for my business?

The benefits from social media are endless. It can result in increased website traffic, enhanced brand recognition and an excellent marketing opportunity. The exposure is far greater than more traditional means of marketing and can vastly improve your company's visibility on the internet. As an added benefit, there is little to no expense to use social media, although it can be time consuming.

Can I prevent my employees from using social media to talk about the company?

No. Prohibiting employees from posting information related to work and working conditions is unlawful - even if they do it on their personal social media accounts. Employees are afforded protection to discuss disputes with his or her employer. Blanket restrictions from using social media are unlawful. A policy that prohibited employees from using social media "with employer resources and/or company time" was recently struck down since employees have the right to do so during break times and in non-work areas. However, a social media policy may restrict an employee from speaking on behalf of an employer.

What restrictions can an employer place on an employee's use of social media?

An employer can lawfully restrict employees from using social media during actual work time and in work areas. In addition, employers can restrict employees from disclosing confidential and proprietary information. Confidentiality provisions are essential to a well drafted social media policy. An effective social media policy should have a provision prohibiting posts that are harassing, discriminatory or retaliatory toward colleagues, vendors and clients. Such prohibitions are enforceable even if the posts are made outside of work.

Can I require that employees provide me with their user name and password for his/her social media account?

On August 29, 2013, Governor Christie signed legislation barring employers from requiring or requesting prospective or current employees to provide the employer access to an account or social networking website. The legislation limits what an employer can request in order to access social networking profiles. Violations may result in fines, damages and attorneys' fees for a successful

employee. The law also precludes employers from retaliating against employees who refuse to provide usernames and passwords.

Can I include any other provisions as to how employees interact with each other?

Requiring or prohibiting employees from “friending” colleagues is not permissible. Policies requiring that co-workers interact with each other in a certain manner are closely scrutinized and are prohibited to the extent that they stifle an employee’s ability to complain about the employer. Recent decisions have even struck down provisions requiring employees to be cordial and respectful to his or her colleagues.

Can I restrict who has the ability to post on social media websites on behalf of the company?

Generally, the answer is yes. Employers can limit or specify which employees can post on behalf of the company. It is important for business owners and managers to monitor the content that is posted on behalf of the company. If an employee with access to social media profiles for the company is terminated, be careful. Change social media passwords and monitor the accounts closely.

While you cannot restrict your employees from being on social media, there are rules which you can write into a social media policy which will protect your company. Your social media policy should be included in your updated employee handbook. Please speak with an attorney to help you prepare a social media policy (or the employee handbook if you do not have one).

National Labor Relations Board Chairman Mark G. Pearce was [quoted in the New York Times](#) stating that “All we’re doing is applying traditional rules to a new technology.” Although some of these guidelines are intuitive, many of them are not. It is important that your company prepares and implements an effective and enforceable social media policy. Just as important as the implementation is the adherence. Failure to follow your social media policy can be worse than not having one at all.