

HRWS TRENDING



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JUNE 2019

IN THIS ISSUE:

Social Media In The Workplace

Q&As

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support@hrworkplaceservices.com

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866.691.7757

16679 N. 90th Street Suite 100
Scottsdale, Arizona 85260

HRWS
HR WORKPLACE SERVICES

EMPLOYERS, THEIR EMPLOYEES, AND EVERYBODY'S SOCIAL MEDIA RIGHTS

In a recent interview, former Texas Tech and new Arizona Cardinals head coach, Kliff Kingsbury, explained that he and his University coaching staff would create fake social media accounts, while at Texas Tech, to keep "tabs" on their players. They looked for anything that could potentially hurt the University, the program or the players, themselves.

At first, one might believe that this is not a big deal because the information was already available; others might think it is over the top.

But, what if it was one of your employees who was posting information that you did not approve of?

The Legal Repercussions

When you distill it all down to its most basic elements - there simply is no law that states the profile you create for social media must be real. So, keeping "tabs" on an employee in this way - is not the issue. Not legally, anyway. The real issue comes into play when you learn that an employee is posting negative commentary.

So, What Can an Employer Do?

One of the questions found in the resource center in the myHRWS Portal examines this issue and answers the question:

"Can an employee be disciplined for posting negative comments on a social networking site?"

The answer:

It depends.

An employer may discipline an employee for posting negative comments on a social networking site if the employee's comments are harassing, offensive or inappropriate, and not related to employment issues.

However, if the posts could be interpreted as engaging in protected concerted activity with coworkers and are related to employee working conditions, an employer risks violating the National Labor Relations Act.

On the other hand, if the negative comments involve an individual grievance, with no attempt to enlist other employees in a joint action or discuss wages and working conditions, disciplining the employee for the negative posting is appropriate. Some states, however, have laws prohibiting employers from terminating an employee for off-duty activities, which would include activities on social networking sites, absent of showing that the activity caused actual harm to the employer.

Contact your HRWS advisory team for best practices or policy-development assistance.

INTERESTING QUESTIONS

RECENTLY ASKED OF HRWS ADVISORY STAFF



Q: What documentation should be maintained when employees engage in misconduct?

A: Documents related to an internal investigation and any resulting discipline should be maintained separately from personnel records. However, a summary of the discipline may be placed in the employee's personnel file.

Q: How can an employer create a diverse workforce?

A: A diverse workforce comes by way of attracting a diverse pool of job applicants understanding the value that comes from each of the candidate's unique qualities. It is helpful for employers to post job opportunities outside the company. Of course, job postings should never make race, gender, age or religion references as the point is to hire the best individuals. The key is to expand a company's recruitment footprint, so it can.

An employer can also serve its diversity interests by implementing policies and practices geared toward tolerance and inclusiveness. The concept of diversity, itself, is premised on the idea that organizations are most productive and effective only when the views and abilities of all employees, regardless of their unique characteristics, are embraced by everyone else. Ultimately, the goal of diversity is to foster a culture of mutual respect and understanding, which always leads to a more productive, closer-knit, and more respectful work force – that brings an incredible amount of insight to the world around them.

Q: What are some good tools to use for succession planning?

A: There are many effective ways to address succession planning at your organization. Here are a few places to look to get you started:

- ▶ leadership assessment (particularly relevant to senior leadership positions and, at these levels, often conducted by outside consultants) can be particularly helpful
- ▶ employer's internal performance review process – giving an opportunity to work together to map out a goal-driven plan of ascension
- ▶ provision of internal and external class "library" with training programs, conferences and seminars, community involvement opportunities, mentor programs and even outside Board opportunities - all designed to support individual development planning
- ▶ a structured feedback process to individual succession candidates.