



Employment Practices

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Q

Employees often write posts about the company on social media sites. Do I have the authority to monitor this and discipline an employee if negative comments are made, even though it's outside of working hours?

A

An employee's right to comment on their employer may be protected by the National Labor Relations Act (NLRA). Provisions of this act, such as the right of employees to discuss, question or criticize their terms and conditions of employment, extend to unionized **and** nonunionized workers.

Under the NLRA, if an employee is addressing *group concerns or is acting on behalf of others*, those activities are protected and employers may not take disciplinary action against the employee. **This protection extends to social media** posts and situations where employees have commented on or "liked" co-workers' online posts made during or outside of working hours.

However, this protection does not apply to outrageously disgraceful or shameful conduct and reckless or maliciously untrue communications. In addition, individuals are not protected by the NLRA when they act in their own interests or address purely personal complaints.

To avoid violating NLRA protections for employees using social media, employers should adopt policies that are narrowly tailored to:

- Prevent discriminatory remarks, harassment, bullying, threats of violence and other behavior that is unacceptable at the workplace;
- Request that employees identify that their comments are their personal opinions and do not represent their employers' official positions on any specific issues; and
- Request that employees do not disclose trade secrets, publish internal reports, provide tips based on inside information or participate in other activities that may be considered inside trading.

Employers wishing to manage their online reputation should refrain from participating in controversial practices such as requiring employees to disclose their personal social media login information. Many states have laws prohibiting such conduct by employers.

For more information regarding how to establish an acceptable social media policies, please contact the HR experts at HRAnswers.org.



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SAMPLE POLICY – EDITS & REVIEW REQUIRED!



Social Media Policy (2024/2025)

At [COMPANY NAME], we understand that social media can be a fun and rewarding way to connect with others and share your life and opinions with family, friends, and co-workers around the world. However, the use of social media can present certain risks and carries with it certain responsibilities. Therefore, to assist employees in making responsible decisions about their use of social media, as it relates directly to their employment relationship with the Company, we have established these guidelines for the appropriate use of social media.

Social Media, Definition

In the rapidly expanding world of electronic communication, social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to an employee's own or someone else's weblog or blog, journal or diary, personal website, social networking or affinity website, web bulletin board, or a chat room, whether or not associated or affiliated with the Company, as well as any other form of electronic communication.

General Guidelines

The same principles and guidelines found in other Company policies apply to employee activities online. Ultimately, each employee is solely responsible for what they post online and the impact that their postings may have with regard to employment with the Company.

Social Media Guidelines

Before creating online content, employees are encouraged to consider the risks and rewards that are involved. Keep in mind that any conduct that adversely affects job performance, the performance of fellow associates, or otherwise adversely affects members, customers, suppliers, people who work on behalf of the Company, or the Company's legitimate business interests may result in disciplinary action up to and including termination.

The following guidelines related to social media use apply to all employees:

- Use common sense. Be aware that what you "say" online is permanent.
- Be conscious when mixing your business and personal lives. When in doubt, it may be best not to post.
- Be fair and courteous to fellow employees, clients, or people who work on behalf of the Company.
- Maintain the confidentiality of company trade secrets and private or confidential information. Trade secrets may include information regarding the development of systems, processes, products, know-how, and technology. Do not post internal reports, policies, procedures, or other internal business-related confidential communications.
- Do not create a link from your blog, website, or other social networking site to a company website without identifying yourself as a [COMPANY NAME] employee.

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- Express only your personal opinions. Never represent yourself as a spokesperson for the Company.
- If the Company is a subject of the content you are creating, be clear and open about the fact that you are an associate and make it clear that your views do not represent those of the Company, fellow associates, members, customers, suppliers, or people working on behalf of the Company. If you do publish a blog or post online anything related to the work you do or subjects associated with [COMPANY NAME], make it clear that you are not speaking on behalf of the Company.

Monitoring by the Company

The Company may monitor content on the Internet. Policy violations may result in discipline up to and including termination of employment.

Resolving Concerns and Complaints

Employees are more likely to resolve work-related complaints by speaking directly with co-workers or by utilizing company problem-solving policy than by posting complaints to a social media outlet. Please refer to the Company's Problem Solving policy for more information on this.

Nevertheless, if an employee decides to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as maliciously false, obscene, threatening, or intimidating, that defames customers, competitors, vendors, or employees, or that might constitute harassment or bullying. Examples of such conduct might include posts meant to put someone in fear for their physical safety or psychological well-being; posts designed to cast someone in a false light to the public; posts that invade a person's reasonable expectation of privacy; or posts that could contribute to a hostile work environment on the basis of race, age, gender, national origin, color, disability, religion, or other status protected by federal, state or local law.

Reporting Violations of this Policy

Employees are encouraged to report violations of this policy. The Company prohibits retaliation against any employee for reporting a possible violation of this policy or for cooperating in an investigation.

Where applicable, the company complies with state laws concerning access to an employee's personal social networking account, including restrictions concerning employer requests for an employee's username and/or password.

Nothing in this policy is designed to limit an employee's right under Section 7 of the National Labor Relations Act, including discussing wages or other terms of employment.

Employees who have questions or need further guidance should contact their supervisor, [HUMAN RESOURCES], or [CONTACT JOB TITLE/DEPARTMENT].

