

14.2: Putting It Together- Employee Rights and Responsibilities

In the workplace, as in society, employees and employers have both rights and responsibilities. Federal, state and local laws afford employees a number of rights, including the right to control their financial (credit) information, the right to access their personnel information, a right to engage in “concerted” and political activity and to engage in lawful behavior outside the workplace. Legislation and business requirements also impose responsibilities, including the responsibility to conduct oneself in a professional manner—for example, abiding by business policy, standards of professional conduct and safety and health requirements—and to meet performance expectations.

One of the areas that is a danger zone for both employees and employers is social media. The National Labor Relations Act (discussed further in Module 13: Union–Management Relations) protects the rights of employees to “act with co-workers to address work-related issues,” including discussing pay, benefits or other working conditions with one or more co-workers on social media.^[1] However, there’s a limit to that protection. Public social media comments that are offensive, maliciously false or that are unrelated to working conditions (for example, disparaging an employer’s products or services) do not constitute protected activity. Also a single employee’s social media rant that is not part of a broader discussion of labor issues is not protected activity.

As discussed in Avoiding Bias in Selection and this module, employers use of social media for identifying or evaluating candidates or employees behavior can pose a risk of discrimination based on a protected category such as age, gender, and race. As the legal information website Justia.com notes: “The EEOC has taken the position that personal information from these sites may not be used to make employment decisions on prohibited bases.”^[2]

Conversations on these sites is also likely to reveal protected information such as a criminal record or health information. That said, employers do have a responsibility to police social media—especially if employers are accessing social media on work computers. For example, Justia notes that “if your coworker posts sexually harassing or derogatory information about you away from the workplace, your mutual employer can be liable for a hostile work environment if it knew of the posts or if the harassing party used work equipment, such as a work laptop, to do the harassing.”^[3] Justia also cites litigation that used an employee’s Facebook postings as evidence to substantiate a co-worker’s claim of workplace racial harassment.

Enforcement—in this case, discipline—is essential to maintaining a high-functioning organization. What’s at stake is not only company culture, it’s employee productivity and well-being, the business’ brand and, ultimately, business sustainability. Discipline protects not only your employees and clients, but your business assets and interests. For example, a “toxic” employee—defined as “a worker [who] engages in behavior that is harmful to an organization, including either its property or people”^[4]—increases turnover and associated costs and decreases productivity. Researchers also concluded based on client customer surveys that toxic workers “absolutely” damage a company’s customer service reputation.^[5] Perhaps more disturbing, researchers have found that toxic behavior is contagious; specifically, “that when a toxic person joins a team, others are more likely to behave in a toxic fashion.” As Inc. magazine’s Leadership Mindset columnist Marissa Levin notes “Leaders who wait to contain toxic damage risk losing everything.”^[6]

1. “[Concerted Activity](#).” NLRB. Accessed September 20, 2019. ↵

2. “[Social Media Policies](#).” Justia, September 2018. ↵

3. Ibid. ↵

4. Bookbinder, Dave. “[Toxic Workers Are More Productive, But the Price Is High](#).” TLNT, April 20, 2018. ↵

5. Ibid. ↵

6. Levin, Marissa. “[Harvard Research Proves Toxic Employees Destroy Your Culture and Your Bottom Line](#).” Inc. Accessed September 12, 2019. ↵

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