**Social Media in the Workplace**

***Abstract***

The purpose of this executive summary is to research and reviewed the use of a specific social issue that is rampant within our modern society. This issue is the use of social media in the workplace. Specifically this review will focus on employers HR policies that are related to printing the use of social media by employees both at work and in their private lives. With the rapid advancement of technology platforms placing communication at employee’s fingertips via their cell phones or other devices, monitoring how employees are interacting on websites such as Facebook or Twitter can be very difficult. Also many companies have policies that prohibit the use of company intranet and computer systems being used for browsing and posting to social media (Alder, et.al, 2007).

So the overall scope of this research is to provide an overview of the use of social media by employers and their employees and focus on potential risks that could exist in the workplace. This research will also focus on the role of human resources and policing employees use of social media and give insights into the development of policies and procedures as it relates to use of social media.

***Body***

In today’s society the exploding growth of social media has had a tremendous impact on the way that people communicate both at home and in their work environments. The common social media applications that are being used by employees both at work and at home are popular websites such as Facebook, LinkedIn, Twitter, and various other groups are blogs. The use of the social media outlets not only changes the way people communicate but it offers both advantages and disadvantages for businesses in key areas such as external and internal communications, public relations and media, hiring and recruiting, training and organizational learning’s, and many more applications.

For many businesses, it is common to have a company Facebook page or Twitter account that is commonly used for general communications, company updates and information, recruiting tools, and general engagement between the company and its employees or customers. Having these accounts gives a business the ability to have a strategic real-time tool to quickly reach out and touch a very broad group of employees or other groups. By utilizing the social media outlets, companies now have tools that give them instant collaboration which can often lead to improved work production and efficiencies when used appropriately (Gray, 2014).

However there are also disadvantages that are being presented as new challenges for HR managers within the social media realm. The Society of Human Resource Management (SHRM) notes that many companies are reporting potential issues being created when employees are spending a vast majority of their time at work playing on their personal social media accounts which leads to downtime or lost productivity. Additionally there are many concerns about employees sharing company related information in public social media spaces which could lead to data security issues and network security issues.

In addition to these security and legal concerns, companies are also noting that employees are “friending” other employees or their supervisors on their social media outlets. This opens up a whole new realm of potential human resource issues based upon what type of information is being shared amongst employees and how they are communicating about company actions. Even with the creation of social media use policies by HR for employees to follow, controlling the use of these private spaces presents legal challenges and many obstacles for HR managers and employers (Gray, 2014).

The specific issue that becomes very difficult for HR managers is trying to police and monitor private employee accounts. There are ethical and legal concerns that continue to be challenged in courts by employees who have had their privacy violated by the employer. This was the case of the UPS driver who reported issues with the mechanical safety of trucks within the fleet that you worked on which led to his termination. Under OSHA whistleblower laws, the employee was able to secure a large settlement from UPS by claiming the company had wrongfully terminated his employment based on information they had used about his filing a claim. This violation of his privacy put the company at risk and cost them a lot of money and also set a precedent for any future situations that would make it very difficult for an HR manager to look into and employee’s private complaints (UPS).

In their article the “Impact of Individual Ethics on Reactions to Potentially Invasive HR Practices”, Alder, Schminke, and Noel studied the impacts associated with individual employees and their need for privacy and workplace. What was originally noted throughout the article was the importance of privacy being respected with individuals and private lives. In many cases employees about the HR practices were invasive or intrusive. Some of the common areas pointed to from a legal perspective are an employer’s right to electronic monitoring of individuals both in the workplace and in their social media spaces in their private lives. In many cases the honest attempts by HR managers to police company intranet sites often leads to comments by employees being used against them for disciplinary action (Alder, et. al, 2007).

For example, often companies will find instances where employees have badmouth their managers or their company or their fellow employees publicly on open websites or social media forms. In many cases HR will be informed of these negative or abusive comments and will launch an investigation into these situations. However, many of these cases will end up being challenged by employees who claim their privacy was violated based upon the HR manager prying into their social media space. This is a very difficult situation for both employer and the employee as the laws are not clearly defined in many cases around what are the expected privacy rights of employees in these social media outlets. Therefore trying to use comments on social media for disciplinary actions have to be carefully conducted or it will blow back on the employer (Gray, 2014).

From a legal perspective there have been a variety of limitations placed on employers through recent decisions made by the National Labor Relations Board and other various state laws. Specifically the NLRB has taken a very aggressive defense in regards to the employee’s rights to engage in “concerted activity” the other social media accounts. This has been followed by many states passing legislation that restricts employer’s rights to access their employee’s social media accounts which can make it very difficult for HR to pass policies and manage these situations (Kenealy, 2013).

Legally under section 7 of the national Labor Relations act, 29 U.S.C., 157, it addresses “concerted activity” and grants employees the right to “use concerted activities for the purpose of collective bargaining or other mutual aid or protection”. It has been the position of the NLRB that employees have the right to take to social media and complain about their supervisors for their company with their peers or other employees as long as it’s within the terms and conditions of their employment. Under section 7 of the NLRA, the case of Bettie Page Clothing is used setting a legal precedent for employees to be able to discuss openly their frustrations about work or their supervisors on social media without recourse for disciplinary action in the workplace.

In fact, the NLRB, Division of Operations-Mgmt. has specifically taken on the case of social media in their summary “Report of the Acting General Counsel Concerning Social Media Cases” which is memorandum OM 11-74, at 6–7, dated Aug. 18, 2011. In this report, the NLRB said that “social media activity qualifies as protected "concerted activity" even where individual employees merely "seek to initiate or to induce or to prepare for group action”, and cite the case of Hispanics United of Buffalo, Inc. to support their position . So for HR managers and employers this ruling and strong defense by the NLRB has greatly reduced the extent to which employers can base employment decisions or disciplinary decisions on the basis of an employee’s social media activity (Kenealy, 2013).

Even with the NLRA and numerous state laws put in place to protect the private social media space for employees, HR managers still have some significant leverage from which they can monitor and act on malicious employee social media activity. State and federal courts have consistently upheld that monitoring of an employee’s social media activity is perfectly legal if the employee was forewarned and the activity was taking place on company issued/employer owned computers or devices, or company intranet bandwidth.

In the case of the *United States v. Simons*, 206 F.3d 392, 398 (4th Cir. 2000) the court ruled in favor of the employer and stated that the employee “did not have a legitimate expectation of privacy with regard to his employer's record of his Internet usage when employer's policy clearly states that employer would "audit, inspect and/or monitor" employees' use of the Internet at work”, thus setting a legal precedent that allows employers in these situations to monitor their employees internet accounts (Kenealy, 2013).

From the employee perspective, bills have been introduced into Congress such as the “social networking online protection act, H.R.537” which prohibits the employer from requiring or requesting their workers to provide passwords or usernames for accessing personal social media accounts or websites. However there are no federal laws that specifically restrict employer from using social media monitoring is a method for making employment related decisions. Yet the extent to which an HR manager uses social media for monitoring of an employee’s private life comes into question and should be carefully thought through before it becomes a standard company policy. Employees in their private time may discuss their protected statuses such as their veterans disability or their sexual orientation, thus opening the door for many antidiscrimination lawsuits should an HR manager choose to disclose this information obtained through social media monitoring (Willets, 2013).

***Conclusion***

In summary, the use of social media can provide many advantages to the employer and its employees based upon its efficiency and its capabilities. However there are also many disadvantages that are presented to the employer that have to be considered before a proper policy and procedure can be put into place. The key for all HR managers is to first respect the privacy of all employees and protect the company and its interests. Therefore a policy should be put into place that clearly states employee’s use of social media can and will be monitored on all work devices that her employer owned.

The next step for HR is to conduct proper training and communications with the workforce that clearly state the company’s position about the negative impacts of using private social media during work hours. Specifically the policy should address that productivity downtime and efficiency losses due to an employee participating in such private social media instead of doing their job will not be tolerated. However, it is not the company’s intention to monitor the private lives of its employees; therefore HR will make every effort possible to respect those employees’ rights if an investigation has been warranted.

Finally the HR managers must stay abreast of all current laws within their states and at the Federal level so they can ensure compliance with these laws is occurring. HR will not implement any policy that places our company at risk of invading our employee’s privacy rights. It should be clearly stated that the company respects all employees’ right to privacy yet the company expects all employees to maintain proper etiquette while utilizing company assets to participate in social media activities.

In closing it should be made crystal clear to all employees that anything they say publicly should not be considered off-limits for other employees or managers to read should they come across any negative comments or possible security risks. Therefore all employees should be cautioned that there behavioral social media sites is always open to scrutiny should they participate in negative or risky behaviors and the company will reserve the right to address these situations should HR be made aware of them.

By putting in place a firm policy and openly communicating with all employees the expectations of our work environment as it relates to the use of social media, we can greatly mitigate many of the abuses practices that have occurred in other companies. The key to taking advantage of social media and avoiding the disadvantages should be a top priority by HR as we introduce policies and procedures to help our employees and understanding the risks associated with open social media sites. As laws and technologies change, associate are HR policies to ensure we are current in our approach to monitoring social media appropriately (Willets, 2013).

**References:**

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