



Social Media Policies: Avoiding Interference with Federal Labor Laws

The National Labor Relations Board (NLRB) issued a renewed guideline regarding common problems with company policies related to employees' use of social media. These guidelines stem from recent cases in front of the NLRB. The National Labor Relations Act (NLRA) protects "concerted activity" between employees, which can include complaints and other such discussions among employees regarding the workplace practices or policies of their employer. As such, overly broad company policies restricting general use of social media can easily infringe upon these NLRA rights. Employer policies should be specific and narrowly-tailored to avoid inadvertently prohibiting such protected activities among policies. While minor complaints or "gripes" among employees are not necessarily protected activities, discussions among employees on social media sites can quickly become protected concerted activity under the NLRA.

The NLRB cites several cases as examples of overly broad social media policies. The NLRB analyzes these policies by determining whether the language would "chill employees" in the exercise of the rights under the NLRA. For example, the NLRB characterized one policy as overbroad that prohibited employees from "using social media to engage in unprofessional communication that could negatively impact the Employer's reputation or interfere with the Employer's mission or unprofessional/inappropriate communication regarding members of the Employer's community." The NLRB stated that this policy may be reasonably construed to prohibit employees from undertaking certain protected activity, including discussions among employees regarding their pay or treatment in the workplace, and as such, is an overbroad policy.

Employers with social media policies should be careful to tailor them to the specific needs of the business. While it is generally acceptable to prohibit disclosure of confidential or proprietary information in public forums, employers should also include a list of exceptions to the rule. Otherwise, if you maintain an overly broad policy and discipline employees in accordance with the policy, the company can be liable for violating an employee's rights under the NLRA.

FEES & BURGESS, P.C. - Calendar of Events

Fees & Burgess, P.C., is proud to present, and participate in the presentation of, the following upcoming seminars:

Downsizing and Reductions in Force: Minimizing Risks and Defending Business Decisions

When: March 13, 2012 11:30-12:45

Where: Fees & Burgess, P.C. - Huntsville, Alabama

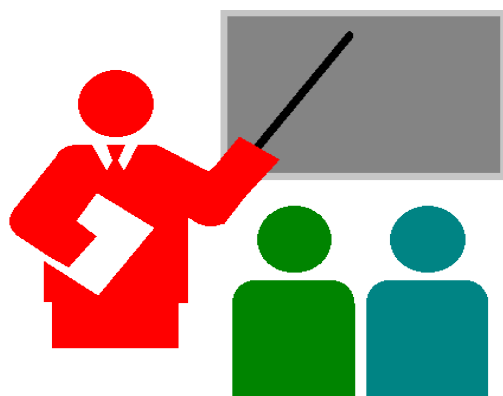
It is never too late to prepare for and plan a strategy for reduction of risk in a downsizing environment. Even if your company has suffered significant reductions in force in the current economic downturn, start planning now to do it right the next time.

Join us for a lunch and learn, presented by Jeff Roth and Leah Green, to discuss downsizing and reductions in force, with a focus on:

- Proper downsizing decisions
- Employee selection
- Reviewing and defending decisions
- Areas of enhanced risk
- WARN Act requirements
- Pending legislation regarding employee entitlements
- Issues associated with reductions in hours worked
- Severance policies
- Releases
- Practical implementation

The cost for attendees will be \$49, including lunch from the Honey Baked Ham Company. Each attendee will also receive a matrix to assist in completing a WARN Act analysis and performing related calculations using the definitions provided in the statute.

To register, or more information on this and other programs, please visit us online at www.feesburgess.com; contact us by e-mail at seminars@feesburgess.com; or by phone at (256) 536-0095.





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