

MIND YOUR E-MANNERS!

Digital do's and don'ts

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Frequent readers of The Human Element will know from past writings that I take my social media with a dose of salt. I blog, but I do not tweet. I closely monitor my adult kids' Facebook pages, but my wall is bare. I am Linked In (... minimally.)

But lately I have been pondering a pressing question: What is appropriate workplace behavior in the digital age? The issues range from politeness and good taste to serious legal liability. Here, I aim to address a few.

Multitasking makes fools of us all

The prevalence, immediacy, and accessibility of electronic media encourages multitasking. Why not continue working on an Excel spreadsheet while participating in that conference call, and periodically checking your smart phone for messages?

As I've never been good at this stuff, I read with some satisfaction that studies show no one is. Individuals claiming to be multitaskers were given just one task to perform, but they were unable to concentrate and execute, because they were unable to filter out distracting stimuli.

More worrying is the finding that rear seat car accidents involving children have increased notably in the last five years. Unable to isolate a causal factor, the National Highway Safety Board is left with a correlation between this increase and the exponential rise in smart phone usage. If multitasking puts our children's lives at risk, is this a habit we want to cultivate?

Besides being inefficient and dangerous, multitasking is just plain rude.

You wouldn't pick up a newspaper and start reading it in the middle of a meeting, would you?

But how many times have we been in a conference and seen the attendees with their eyes and hands on their iPads or iPhones just under table-top level? It sends exactly the same message: "I'm not interested in what you're saying; you are not important."

If you absolutely have to check for an email or text and respond to it briefly, warn everyone at the start of the meeting, and excuse yourself politely when it comes through.

Texting--keep it short

In my humble (and unabbreviated) opinion, abbreviations like "LOL", "OMG", and worse, make you sound like an overwrought preteen at a Justin Bieber concert.

Now that might be the appropriate tone to strike in some workplaces. But I do not think it is suitable for the bank.

Ditto "emoticons." "Smiley" faces are the purview of kindergarten teachers, not financial professionals.

Let's reserve texting for brief scheduling-type messages, such as "See you in 10 minutes," or "Can't make lunch. Tomorrow?"--not for substantive conversations. For those we have the phone or--dare I say it?--person-to-person meetings.

More words to the unwary (some from personal experience)

When web-conferencing, remember to switch off any pop-up alerts. (The world does not need to know that your colonoscopy prep starts at noon.)

Beware the bcc: a recipient hits "reply all" and your cover is blown.

E-Harassment and E-Discovery

It never ceases to amaze me what people will put in an e-mail, including stuff they would never say in a face-to-face situation.

Somehow, they lose the ability to filter themselves (multitaskers, perhaps?)

And it's not just the co-worker to whom they send that risqué joke or offensive language; that person may share a twisted sense of humor or poor taste with the sender. It's the unknown hundreds of people to whom the e-mail is forwarded and re-forwarded, or the single manager who strolls past the cubicle when the e-mail is displayed on the screen.

Charges of workplace harassment based on sex, race, ethnic origin, religion, age, disability, or another protected category, are on the increase, mainly because of computer technology.

These cases are extremely difficult and expensive for an employer to defend. Discovery--the process by which documents and other evidence are exchanged between the litigants prior to trial--includes the discovery of electronic data.

An e-mail is forever, and a persistent and thorough plaintiff's attorney will insist on the retrieval of all possible messages, whether on the bank's systems or employees' personal devices. In a prior posting, I explained the importance of implementing a document retention policy, and procedures for a "litigation hold."

Employee rights ... and responsibilities

All the foregoing illustrates the need for a well-thought out electronic use policy. Employees should be clearly informed about what computer and other technology use related to the bank is encouraged, discouraged, permitted, and prohibited, and what will be the consequences of a violation of the rules.

Unfortunately, this is a moving target. As soon as the bank develops and promulgates a thorough policy describing permitted and prohibited behavior, technology moves on, and the policy is, at least in part, obsolete.

The current hot area of controversy is employee use of personal social media accounts. As previously reported in this blog, the National Labor Relations Board has taken the position that an employee's Facebook complaints about her boss, even if couched in offensive language, are "protected concerted activity" under the National Labor Relations Act (NLRA).

Thus, a policy that threatens termination for disparaging the employer would be an unfair labor practice. Remember that the NLRA applies equally to unionized and non-union workplaces. With regard to social media, your policy should stick to encouraging all employees to obey the law, including privacy, copyright, and trade secrets laws, and to make clear that they are speaking for themselves, not on behalf of the bank.

However, the bones of your e-policy remain the same: employees have no expectation of privacy in their personal use of the bank's computer systems.

The bank monitors employee system use and any violation of the policy will result in discipline up to and including termination:

- • Excessive personal use (for example, surfing the web or blogging on the bank's time),
- • Inappropriate use (harassing or offensive content, solicitations for personal projects).
- • Breach of security (sharing passwords, downloading unauthorized software).
- • Any violation of law.

Enlist IT's help in drafting or updating your computer use policy, but please don't let them draft it for you: You will end up with an unreadable technological treatise!

If you need more help, go to www.employlawcompliance.com. ELC's Bankers' HR Toolkit has an updated electronic use policy and much more.

About Marian Exall

Marian Exall (marian.exall@gmail.com) is an employment lawyer and HR professional with more than 25 years' experience advising banks and other employers on compliance issues. She is a principal and co-founder of Employment Law Compliance, Inc. which provides HR compliance solutions to banks exclusively through the American Bankers' Association. She is a frequent speaker and writer on human resources compliance in the banking industry, including in ABA Banking Journal, on ABA Telephone Briefings, and at national and state bankers' association conferences.

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