

10 Takeaways from the 2024 WV SHRM State Council HR Legislative & Law Conference

1. Have a social media policy that is not overly broad but provides notice sufficient to educate your employees regarding prohibited conduct.
2. Employers should use their social media policy to educate employees that public or workplace social media activity is not private, and that the employer has the right to discipline harmful employee social media use, as necessary.
3. Review that social media policy regularly to confirm it complies with the latest standards from the National Labor Relations Board (NLRB).
4. Provide training to employees and managers on social media policy, engaging in difficult conversations, diversity and inclusion, as well as implicit bias. HR should carefully encourage, facilitate, and manage uncomfortable conversations among employees.
5. When you learn about concerning social media activity of an employee, conduct a prompt, thorough investigation, be sensitive to time and place, and act timely.
6. An employee's social media activity (and other employees' engagement in that activity) can create a hostile work environment, even if the posts were made entirely off-site and off-duty.
7. Supervisors and HR personnel should be trained on responding appropriately to hostile environment complaints related to the intersection of social media and social lives.
8. The First Amendment generally does not apply to private employers disciplining their employees for engaging in prohibited conduct, rather this generally restricts state action by the government and not private employers deciding how to manage their workforces. However, employees of private employers have the right to engage in concerted activity under the National Labor Relations Act (NLRA) for purposes of collective bargaining or other mutual aid or protection.
9. Be consistent in applying policies regarding dress and/or appearance codes as well as rules on solicitation, realizing they will be applied across issues/movements/topics/departments.
10. As with all discipline, documentation is key. If it isn't in writing, it didn't happen...



Chase Riggs

Associate

(304) 933-8366

chase.riggs@steptoe-johnson.com



Bonnie Thomas

Associate

(304) 933-8165

bonnie.thomas@steptoe-johnson.com

