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Negotiations 103: Collective Bargaining in the Brave New World: Exploring the Impact of Electronic Media on Negotiations, Protected Activity and Privacy in the Modern Workplace

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38th Annual National Conference

Negotiations 103: Collective Bargaining in the Brave New World:
Exploring the Impact of Electronic Media on Negotiations, Protected Activity and Privacy in the Modern Workplace

City University of New York Graduate Center, 365 Fifth Avenue, New York, NY 10016

Tuesday, April 12, 2011 – 1:30 pm – 3 pm.

Panelists:

Nicholas Anastasopoulos, Esq., Mirick O'Connell LLP, Worcester, MA
Stuart W. Davidson, Esq., Willig, Williams & Davidson LLP, Philadelphia, PA
Larry Hunt, Director of Human Resources, Smith College, Northampton, MA
Michael Loconto, Esq., Associate Director of Labor & Employee Relations, Harvard University (Moderator)
Amy L. Rosenberger, Esq., Willig Williams & Davidson LLP, Philadelphia, PA

A Primer on Campus Social Media Policies

By: Michael Loconto (e-mail for web-linked digital copy at michael_loconto@harvard.edu)

I. Consider the Institutional Stakeholders When Drafting a Policy

- **Internal Audiences:** Human Resources (including recruiting)
- **Public-Facing Units:** Communications, Development & Alumni Affairs
- **Student Services:** Admissions, Student/Academic Affairs & Career Services
- **Operational & Research Groups:** Master's & Doctoral Programs, Professional Education, Clinics, Institutes, Research Programs, Revenue-Generating Units
- **Legal Counsel**
II. Common Policy Characteristics and Content (Notable policies in parentheses)

- Confidentiality (Michigan)
- Privacy (Michigan)
- Civility/“Do No Harm” (Michigan, Tufts, DePaul, UMass Boston)
- Personal Responsibility (Michigan, UMass Boston)
- Liability (Michigan, UMass Boston)
- Transparency/Affiliation (Michigan, Tufts, DePaul, UMass Boston)
- Branding/Trademark/Copyright/Use of Logo (Michigan)

III. Most Policies Steer Clear of Restricting Protected Speech

- Practical Advice
  - Clearly state related institutional policies covering, for instance, Confidentiality, Conflict of Interest, Trademark/Copyright Use
  - Clearly state related statutory coverage, such as the Digital Millennium Copyright Act (DMCA), HIPAA, FERPA, etc.
  - Analogize to conventional/preexisting forms of communication (e.g., writings, speech)
  - Restate or Create a hierarchy for approving social media use on official institutional business
  - Consider a “Safe Harbor” for personal use of social media and institutional electronic devices where such de minimus use:
    - (1) is of a purely personal nature and does not relate to institutional matters
    - (2) does not harm institutional property
    - (3) does not offend institutional policies, applicable laws, and
    - (4) does not impact institutional operations or the employee’s workload

IV. Practical Implications for Collective Bargaining

- Consult legal counsel to consider your bargaining obligations (if any)
- Consider social media in the context of main table collective bargaining
  - Social media use needs to be a consideration when drafting ground rules
APPENDIX OF SELECTED INSTITUTIONAL POLICIES

University of Michigan – Guidelines for the Use of Social Media:
http://voices.umich.edu/docs/Social-Media-Guidelines.pdf

Tufts University – Social Media Best Practices and Guidelines:
http://webcomm.tufts.edu/?pid=25

Vanderbilt University – Social Media Handbook:
http://www.vanderbilt.edu/publicaffairs/webcomm/vu-resources/social-media-handbook/

Vanderbilt University Medical Center – Social Media Policy:

University of Oregon – Social Media Best Practices:
http://www.communications.uoregon.edu/socialmedia

The University of Texas M.D. Anderson Cancer Center – Blog Policies and Guidelines:
http://www2.mdanderson.org/cancerwise/policies-and-guidelines.html

The Ohio State University Medical Center
- Philosophy on Social Media: http://www.scribd.com/doc/28858335/Ohio-State-University-Medical-Center-Social-Media-Philosophy
- Policy and Procedure Manual excerpt (Social Media):

Hamilton College – Social Media at Hamilton: http://www.hamilton.edu/social

Harvard Business School – Social Media and Blogging Policy:
http://www.hbs.edu/marketing/policies/socialmediapolicies.html

Harvard Law School – Weblogs at Harvard Law School – Terms of Use:
http://blogs.law.harvard.edu/terms-of-use/

DePaul University – Social Media Guidelines:
http://brandresources.depaul.edu/vendor_guidelines/g_socialmedia.aspx

Colorado State University – Social Media Policy:
http://www.socialmedia.colostate.edu/page/Social-Media-Policy.aspx

UMass Boston – Social Media Policy:
http://www.umb.edu/communications/entry/social_media_policy
APPENDIX OF SELECTED INSTITUTIONAL POLICIES (CONTINUED)

Dartmouth College

- Guidelines for Managing Interactions on Dartmouth Social Media Websites (last update: 5/09):
  http://www.dartmouth.edu/~hometeam/resources/guidelines/interaction.html

- Social Media Guidelines (last update: 10/09):
  http://www.dartmouth.edu/~hometeam/resources/guidelines/social-media.html

Duke – Social Media (Public Affairs/News & Communications Policy Guide excerpt):
http://news.duke.edu/duke_community/policy.html#socialmedia

University of Chicago – Social Media Guidelines:
http://itservices.uchicago.edu/groups/webservices/toolkit/web_writing/social_media.shtml

Other industry policies may be found at: http://socialmediagovernance.com/policies.php/

Other Related Materials

Commonwealth of Massachusetts – Governor’s Office Social Media Usage and Policies:


IBM Virtual World Guidelines:


Additional studies may be found at: http://socialmediagovernance.com/studies/