

# SBDC *Front Page*

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## **SOCIAL MEDIA AND THE WORKPLACE**

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Blogging employees, unsatisfied customers, embarrassing moments posted on Facebook or Youtube. What is becoming increasingly clear is how complicated social media can be for a business.

In a series of recent decisions, the National Labor Relations Board made it clear that employees who engage in discussions of employment terms or conditions or make comments reflecting group concerns are engaged in “protected concerted activity,” and are shielded from discipline under the National Labor Relations Act. A sampling of cases in a recently published NLRB report demonstrates how difficult it may be to make this determination. Consider the following examples:

- An employee at a luxury car dealership posts on Facebook about his concerns that an event at the dealership will “send the wrong message” to customers because foods include “overcooked hot dogs and stale buns.” This was found to be protected activity, because the employee was found to be speaking on behalf of more people than just himself.
- A newspaper encouraged employees to open Twitter accounts as a means of fishing for news stories. An employee then tweets his personal views about sports headlines, his public safety beat and the television station owned by the newspaper – and continues to do so after repeated warnings against such conduct. This was found to not be protected activity, as it did not relate to the terms or conditions of his employment and did not involve concerns of employees other than himself.

While more employers are adopting social media policies, such policies may be unenforceable if they (1) prohibit employees from postings that might depict the company in unfavorable terms; or (2) include broad prohibitions on disparaging comments, inappropriate discussions or the use of offensive language. Accordingly, in a social media policy it is imperative that business owners find balance between setting an appropriate standard for electronic communication and prohibiting so much electronic communication that it is either illegal or impossible to enforce in a practical sense.

Learn more on this topic by attending [Hiring, Firing, and Social Media](#) on Wed., Oct. 12, at the UWM Small Business Development Center.

## **Small Business Development Center**

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