

## White Papers

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### **E-Mail and Online Etiquette: What Employers and Employees Need to Know**

Everyone has some awareness that e-mail is not a particularly safe mode of communication and that you should refrain from sending confidential information over an e-mail server. Most people also know that once you click “send,” you have created a permanent record of that correspondence.

Despite this, employees, managers, and owners continue to use work e-mail as a mode of informal communication for both work and non-work related reasons. Most organizations today could not function without e-mail and, realistically, employers cannot prevent all personal use.

Employees receive, on average, 60 to 200 e-mails per day. Most of those e-mails are work related, but some are likely personal, or a blend of work and play. This interconnectivity does not come without a price. A 2005 survey conducted by the American Management Association and the ePolicy Institute demonstrated that of the participants:

- 25 percent had terminated employees for e-mail misuse,
- 13 percent of those same employers have been involved in litigation triggered by an employee’s use of e-mail, and
- 20 percent of the employers have had e-mail subpoenaed in litigation.

Indeed, every piece of litigation that comes across my desk includes an e-mail discovery issue. In every instance, e-mail correspondence either helps or, more likely, significantly hurts the defense of the case. In some instances, the newly discovered e-mail results in new theories or claims against the employer or employee.

Just as managers and supervisors must be trained to recognize and manage employee misuse and abuse of workplace technology, employees need to be trained on what is and is not appropriate online behavior.

#### **The Informality of E-Mail and the Internet Contributes to Increased Risk**

The Internet is largely anonymous. Thus, people lose their inhibitions when writing e-mail or blogging online. With one click the e-mail goes into the cyberworld without a second thought. The informality of e-mail supports this “lack of filter” phenomenon. Disgruntled current and former employees cannot resist the temptation to blast employers or co-workers on personal blogs, write angry e-mails to coworkers, or leak the employer’s confidential information online.

The lack of filter also spills over from personal use to everyday business use. Business communication through e-mail, for example, has almost replaced

formal written correspondence, providing immediate connections between businesses and their customers and between employees and their co-workers. Despite its informality, e-mail creates a more permanent written record than other forms of communication, creating potential for liability due to its predictable, traceable storage.

### **Decrease Risk with E-mail and Online Etiquette Training**

E-mail is a valuable tool for any organization. It enables users to communicate a broad range of complex ideas, quickly, easily, and regardless of schedule or geographical disparities. E-mail is also, however, arguably the most dangerous and invasive communication tool invented to date. Employers need to educate employees and supervisors about the ramifications of improper correspondence. These ramifications can be as simple as misunderstandings between employees and/or supervisors or hurt feelings that can impact employee morale, or as significant as legal liability for improper disclosure of confidential information or online conduct amounting to harassment.

While this list is not all-inclusive, online and e-mail training should include some of the following points:

1. **There is no such thing as a private e-mail.** Don't send anything by e-mail that you would not want posted on the company bulletin board or uncovered by your competitor or an employee during litigation.
  - Do not use e-mail to discuss confidential information.
  - Never send personal information via e-mail. This raises a variety of legal concerns and liabilities.
2. **As an employee, you have no expectation of privacy in your e-mail communications.**
  - Be aware that most organizations have the capability to, and do in fact, monitor usage of company-provided technology.
3. **Be aware of how you communicate via e-mail so your message is not misinterpreted.** Communication between humans is approximately 90 percent body language, 8 percent tone of voice, and 2 percent spoken words. With e-mail, 98 percent of the communication's context is no longer in play.
  - E-mail is a business communication - avoid the temptation to be overly casual.
  - Do not send e-mails that reflect badly upon you or the organization you represent. Avoid all chain e-mails!
  - Do not send inappropriate e-mails with a company computer ( that is, e-mails containing offensive, derogatory, or profane language).

Be careful of excessive punctuation, ALL-CAPITALIZED letters, or enlarged font sizes. The impact can be negatively misinterpreted by the person receiving your e-mail message.

If you are hesitant or unwilling to say something to someone in person, do not send the message in an e-mail.

Avoid putting a supervisor's name in the cc: or bcc: field regarding an unpleasant conflict with another employee, especially if this is the first time your recipient is made aware of a conflict.

These educational ideas only touch upon the training necessary for all employees, supervisors, and business owners to understand the impact and potential repercussions of communicating via e-mail. Most employers do not think about etiquette protocols until it is too late, that is, after they discover potentially damaging e-mails or other electronic data during litigation. This data can take many forms, including internal "strategy" discussions about business deals, "banter" between two employees regarding another employee or supervisor, or messages between an employee and supervisor suggesting an improper relationship.

### **Takeaway**

Don't wait until it is too late to protect against future liability. Just as managers and supervisors must be trained to recognize and manage employee misuse and abuse of workplace technology, employees need to be trained on what is and is not appropriate online behavior.

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