



The Internet Complaint and What to Do About It

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Learning Objectives

- Discuss scenarios where employers often experience employee complaints online
- Learn about the legal protections afforded to complaining employees
- Review affirmative steps to reduce the likelihood of having complaints aired in public forums
- Strategize best practices in responding

Examples

- Sexual Harassment: After employees quits, employee posts blog describing systematic sexual harassment
- Work Conditions: Employee posts complaints about supervisor and pay on Facebook
- Glassdoor: Former and current employees anonymously post about the company's management and provision of benefits
- Investigation: Employee provides company confidential information to agency investigating complaint
- Court Documents: Employee includes inaccurate facts about the company in public filings

Employee Protections

- National Labor Relations Act
- Title VII
- Age Discrimination in Employment Act
- Americans with Disabilities Act
- Family and Medical Leave Act and Workers' Compensation
- OSHA
- Wage and Hour
- Sarbanes Oxley
- Other Whistleblower Protections

National Labor Relations Act

- Protects employees engaged in protected concerted activity
- Terms and conditions of employment
- Review policies carefully
 - Confidentiality
 - Social Media
 - Discipline
 - Talking to the Media

Retaliation Provisions

- Title VII, ADEA, OFCCP, ADA, FMLA, Workers' Compensation, OSHA, and more...
- Not limited to complainant
- Policies and Practices
- Company Culture
- Habits

Other Whistleblower Protection

- State laws
- Government
 - False Claims Act and others (Contractors)
 - Whistleblower Protection Act (Federal Employees)
- Sarbanes-Oxley Act of 2002
 - Good faith reports of violations of federal laws relating to securities, shareholder fraud, or other types of fraud (wire, mail, or bank)

Reducing the Likelihood of Complaints

- **Tone from the Top: Cultivate Company Culture to Care**
- **Complaint or Grievance Procedure**
- **Be Responsive**
- **Investigate All Credible Complaints**
- **Be Cautious in Disciplining Protected Employees**

Responding to Complaints

- **Slow Down and Assess the Situation**
 - Public Relations
 - Gather all of the Facts
 - Severity of Allegations
 - Laws Implicated, if Any

Respond Confidently

- Stay Positive and Stay Cool
- Negative Review: Turn the Comment Around to Your Strengths
- Never be Defensive
- Investigate if Appropriate
- Consult Counsel

Caution

- Don't Retaliate (or Appear To)
- Don't Violate Other Laws
- Defamation, Slander and Libel
- Think Beyond Today

Thank You.

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