

## **Facebook and an Employer's Right to put policies in place**

Employers can put limits on what employees can post on social media sites, according to a new federal appeals court ruling. The decision comes on the heels of the National Labor Relations Board's charge that a company violated labor laws after firing an employee who posted negative comments about her supervisor on Facebook. That case was settled in the employee's favor before it got to the hearing stage. And it made a lot of employers nervous about just how far they could go to set limits on employees' use of social network sites.

### **Photos on Facebook**

The recent case, as heard in federal appeals court in Georgia, involved a probationary firefighter in Savannah who posted photos of herself in uniform on her Facebook page. Problem was, she also posted revealing photos of herself, including at least one in which she appeared to be nude.

An anonymous tipster let Savannah Fire Department officials know that the woman's postings might conflict with the way the department wished to be portrayed. Her superiors decided to give her an oral reprimand, the mildest step in the department's progressive discipline process. When confronted, however, the woman became "defensive and combative," claiming she'd been singled out — other male firefighters had posted photos related to the department. But she refused to name them.

She was fired for insubordination.

The woman sued, claiming gender discrimination. That claim was dismissed. But here's the part that's of real interest to employers: *The court confirmed that an employee can be fired for violating an employer's policies on photos posted on a public website.*

### **Crafting your policy**

*So where do you go from here?* An employer's social media policy should clearly define the limitations on employees' work-related use of social media channels. Areas to cover:

- Require employees to identify their association with the employer whenever an employee is using social media to comment upon the employer's products or services
- Unless an employee's blogging or online postings are officially sanctioned and reviewed by the employer, the employee should be required to use conspicuous disclaimers that his or her views do not represent the views of the employer
- Set specific rules on the use of photographs and names of co-employees or customers, and
- Remind employees of the employer's right to monitor their social media postings and other online activities for compliance with the employer's policies.

Eden offers one word of caution: Make sure your policy doesn't restrict employees' right to engage in "protected concerted activity" under the National Labor Relations Act — in other words, you can't stifle your workers' rights to discuss workplace issues.