



other confidential information. However, some postings can be unintentional. For instance, an employee may issue a post about a new product that is premature.

**3 Social media posts can provide useful information for hiring or a basis for firing.** Companies will learn a lot more information about prospective employees from their social media activity versus their résumé. In fact, some companies are asking job applicants to provide their passwords for their social media accounts prior to making the decision to hire the applicant. Be mindful, however, that employees' posts on social media sites can be protected speech. Refusing to hire, or firing, employees based on this speech can lead to discrimination claims against the company. Deciding whether to use social media posts as a basis to hire or fire is like walking a tightrope—it requires balancing many factors, and given the potential liability, it should be discussed with legal counsel first.

**4 Companies should adopt a social media policy.** A social media policy establishes the company's guidelines for social media communications and is a company's first line of defense to reduce risk. Be sure to include provisions in the policy that address trade secret protection and employees' statements about the company's and competitor's products. Furthermore, consider including provisions that address ownership of social media accounts, user names and content.

The following are some ideas for what should be contained in a social media policy:

- Social media posts should not disclose any confidential or proprietary information of the company or any third party.
- Employees should not comment on any aspect of the company's business; if they do, they must clearly identify themselves as an employee and include a disclaimer to the effect that the views expressed are solely those of the employee and do not reflect the views of the company.
- Employees' Internet postings must respect intellectual property, privacy and other laws.
- Employees must obtain company approval when posting about the company's business and competitors.
- The company reserves the right to request that certain posts or other content be removed from social media sites.

These are just a few examples of guidelines for a social media policy. In the meantime, let's hope your employees' Facebook or Twitter postings don't end up being used against your company in a dispute. ●



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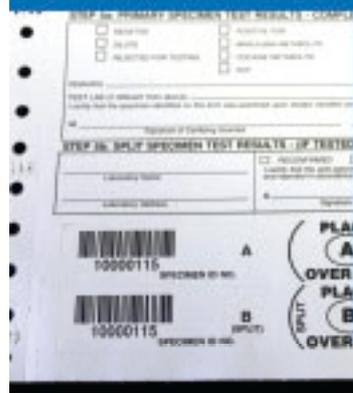


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