

NEW WORKPLACE WORRY: 'TEXTUAL HARASSMENT'

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Text messaging in the workplace has become an increasing source of concern for employers. Much like the emergence of e-mail in the 1990s, the popularity of text messaging among employees in all age ranges has grown significantly in the last several years. And any time a new method of communication is created, it's inevitable that a certain segment of employees will use that medium to convey inappropriate messages that have the potential for getting themselves – and their employers – in hot water.

Some of the hallmarks of the new “harassment by text message” trend sound very similar to the concepts we first experienced about 10 years ago, when e-mail was becoming commonplace at the office. Like e-mail, texting tends to embolden people because of the sense of anonymity involved with communicating electronically. Unlike a face-to-face meeting, the lack of immediate repercussions can lead people to say things they would not say otherwise. Also like e-mail, texting is more informal than memo or letter, and can cause senders to let down their guard. In addition, the communication is instantaneous, cannot be retrieved and survives forever.

What does this mean for employers? There is already a growing number of lawsuits and employee complaints that include offensive text messages as evidence of the inappropriate behavior, most commonly flirtatious e-mails from male supervisors to female subordinates or co-workers.

What can employers do about this growing trend? There are a few important tips to keep in mind. First, employers will

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want to revise company policies to inform employees that harassing text messages to coworkers or others connected to the firm will be considered violations of the company's harassment policy. Second, if an employer issues cell phones to employees, it may want to consider whether text messaging will be allowed on those phones. If so, the employer needs to make sure that the employees using the phones understand that they have no right to privacy, and that all text messages are subject to search and can be obtained by the employer at any time. Third, when investigating a claim of harassment by an employee, the employer may want to review text messages between the employees to obtain an unbiased view of the nature of the communications.

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