

Do You Know Who's Reading Yo

A look at email privacy in the workplace

I gnoring your company's email policy can have some devastating consequences.

Just ask workers at Dow Chemical, in Midland, Michigan, where fifty employees were fired for violating the company's email policy. In Houston, Dow planned to fire another forty employees for circulating violent or sexually explicit material via the company's email system. One union official who represents some of the workers called the firings a "witch hunt."

He might be right. In Houston, Dow identified the employees who had violated the email policy by searching through more than 6,000 email accounts. Those employees believed that their emails were protected by the same laws that govern the U.S. Post Office—where tampering with U.S. mail is a federal offense.

They were wrong.

Email is covered under the Electronics Communications Privacy Act of 1986 (ECPA), which expanded federal

wiretapping statutes to include electronic communication and stored electronic communications. In theory, this act provides the same expectation of privacy as using the telephone. The federal statute has a number of exemptions, however. For instance, employers are allowed to monitor email if the employee gives prior consent to the monitoring. Also, the employer may monitor email messages if they are trying to prevent com-

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puter crime, system failure, unauthorized personal use, or other abuses. While many states have passed laws that prohibit the monitoring of email messages, most of these state laws have similar exceptions.

In addition, courts have set high standards for proving that an employer has invaded an employee's privacy. A California court determined that a group of

employees who claimed that their company violated their privacy could not sue their employer because the email messages in question were mostly business related. In Pennsylvania, the district court ruled that an employee who sent out unprofessional comments via company email could not expect that those messages would remain private. In addition, searching the employee's email did not violate the employee's privacy in the same manner as searching an employee's personal property.

In an effort to protect themselves, many employers have set up policies to inform employees that their work email may be monitored. In many respects, this is understandable. Employers are required by federal law, known as Title VII, to not create or tolerate a "hostile environment" in which an employee is subject to discriminatory intimidation, ridicule, or insult. For that reason, setting policies that prohibit the use of email to send inappropriate messages

CHURCHES, EMAIL, AND THE INTERNET

Churches that provide their staff with Internet and email access should develop policies regarding their use. At a minimum the policy should state:

1) Email and Internet access should be used primarily for church business. Incidental personal use should be kept to a minimum.

2) The church prohibits discriminatory email messages as a matter of policy.

3) Use of the email and Internet is a privilege not a right, which may be

revoked at anytime for inappropriate use.

4) Any message sent via the church's email system may be monitored by the church at any time, even if a message has been deleted.

5) Staff should not use the email system to communicate obscene, derogatory, defamatory, or inappropriate messages.

6) Violation of these policies may lead to disciplinary action up to and including termination.

Failing to establish appropriate policies can expose a church to risk, says Brad Hedberg, assistant vice-president for the Rockwood Company, a major provider of insurance coverage for Covenant churches.

"Whether someone distributes inappropriate material on church stationery or on the church website the exposure is the same," says Hedberg. "The delivery method is different." Hedberg also says that a church's personal and advertising injury section of their liability policy usually protects them if a church employee sends out

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helps to ensure that all people have an opportunity to work in nondiscriminatory environment.

Employees need to be aware that even innocent email messages may be prohibited by their company's email policies. While you may not be sending pornography through your company's email system, you should make sure that you know and understand your company's email policy. Many of the Dow Chemical employees claimed to have no knowledge of the company's policies. (This lack of knowledge had no effect on their termination.) Being aware of the policies may have saved some of their jobs.

Title VII gives Christians the right to share their faith in the workplace, provided they do not disrupt work routine or create a hostile work environment. If your company allows employees to send personal messages to use via email, then you as a Christian have the same right to communicate your faith (through Bible verses, invitations to church, etc.) by email. If an employer

prohibits the use of email for personal messages, that would prohibit use for religious purposes as well.

Even if your company allows employees to send personal email messages, it might be prudent to let a supervisor know about your own beliefs, and ask if there is a problem with sending religious messages. (See sidebar on religious freedom at work.)

The bottom line is that employees need to be aware that their company has

the right to monitor their email. Employees should read and understand their company's email policy and abide by it. At the same time, Christians should feel free to use email to share the gospel, provided they do so in a manner consistent with the company's email policy and Title VII protections. □

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an inappropriate or illegal message using the church's website or email system. However, the individual sending this message will not be protected since most policies exclude coverage for intentional acts.

The best course of action for a church that provides email and Internet access is to develop, in consultation with legal counsel, policies regarding use of email and Internet by staff. The church should also consult with their insurance provider to ensure they have adequate insurance coverage.

Religious Freedom at Work

Religious freedom in the workplace is protected under Title VII. This law gives people the right to share their faith in the workplace, provided they do not disrupt work routine or create a hostile work environment.

To qualify for protection under Title VII, an employee must:

- 1) Hold a sincere religious belief that conflicts with company policy.
- 2) Inform their employer about their beliefs.
- 3) Have been disciplined, discharged, or discriminated against because they failed to comply with a policy on the basis of their beliefs.