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Avoid A Penalty Flag: Fantasy Football Legal FAQs

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There are close to 26 million people playing fantasy football this season, so it is highly likely that some of your employees are among them. Here are some answers to commonly asked questions concerning this new pastime, so “fantasy football” does not become a “nightmare” in your workplace.

1. Is it legal?

It is legal to “play” Fantasy Football (“FF”), or sponsor or organize a league. In fact, there are major companies (i.e. CBS and ESPN) that charge a fee to “host” leagues and to keep and compute league statistics. So, having a league and playing is lawful.

Gambling, however, is *not legal* in many states. So, if FF “players” (your employees) are betting on games or on the season, that is unlawful, and such conduct should be prohibited in the workplace. Remember, you need to enforce any rule against gambling at work in a consistent manner. In addition, betting money among employees is not a good thing in general. (There was a case in New Jersey

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where an office manager was arrested for taking a cut of a “pool” in an FF league.)

2. What about productivity?

Concerns about productivity are legitimate, so employees and managers should be reminded that FF play should not interfere with work and that they should not be playing during work hours. Some companies block sites from office computers, and that is fine. However, attempting to prohibit all play or discussion of FF at work is probably not realistic.

The better approach is to remind employees of your Internet use policy and that playing FF cannot interfere with their responsibilities

3. What about complaints concerning FF?

Employees may complain about FF leagues at work as offensive to their religious beliefs or just distracting or annoying to those who do not play. There have also been cases of women complaining that they were excluded from an FF league by men, and that this created a hostile environment.

If such a complaint comes in, it should be promptly addressed and responded to – as you would any other workplace complaint.

We also recommend a short reminder

to managers, to be “aware” of employees who are forming a league or playing FF as a group. They should “watch” for employees who are being excluded, so as to avoid claims of discrimination. This could be a more significant problem if a manager participates in a league, as it raises the risk of a claim if an employee in the manager’s group or department is not invited to participate. Again, managers should be mindful of these issues.

You also don’t want a “complainer” to be ostracized or punished because of his or her complaint, as this could give rise to a claim of retaliation.

4. Should you outright ban all FF among your employees?

We do not believe that a full ban is either necessary or recommended. You can and should issue a rule saying that FF cannot be played while at work and on duty, but an outright ban on all off-duty FF play among employees may violate state or local law. For example, New York has a law that prohibits discrimination based on “lawful outside activities.” FF could fall within that category. We also think that such a ban would be very unpopular and nearly impossible to enforce.

The better approach is to remind employees that existing rules prohibit them from gambling or doing anything that interferes with their work and that FF is no exception. You also need to police how FF is being played in your company. In the end, you need to do what is right for your business. However, if employees are reasonable about it, FF can be a lot of fun and a good thing for employee morale.

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