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Introduction

In the United States, employers have only limited rights insofar as conducting searches of their employees are concerned (Definitions. uslegal.com, 2015). There are very specific rules that govern the rights of the employer as well as the rights of the employee; as with criminal searches and seizures, employers have only very specific rights where their employees are concerned. Although not all work environments are governed by the same rules, this particular case study focuses on the ACME Corporation, which is not a government-affiliated corporation—this means that there are no issues with security clearances or other special cases in which employees may forfeit more of their rights (Definitions. uslegal.com, 2015).

Despite the fact that the ACME Corporation does not have an affiliation with the federal or state government, there are still regulations that must be followed. Some of these regulations have to do with the individual's right to

privacy, while others have to do with the employer's right to protect itself from employees and their activities while acting in the name of the employer or company (Definitions. uslegal. com, 2015).

For the most part, the rights of the employee are paramount in the workplace when it comes to searches and seizures; because of the general position of authority that the corporation or the employer has over the employee, it is important to understand that the employee has rights and protections established that ensure a private sphere that the employer or corporation cannot enter without specific consent from the employee (Nolo. com, 2015). Because ACME wants to design a search plan for the workplace to improve loss prevention, it is important that the corporation lay out the policies for employees, demonstrating to them what rights they retain and what rights they are granting to the corporation insofar as searches and seizures are concerned (Definitions. uslegal. com, 2015).

Reasonable Expectations of Privacy in the Workplace

Every employee has a reasonable expectation of privacy in the workplace when a company or organization has no search policy designed for employees (Nolo. com, 2015). NoLo (2015) writes that because each state has different regulations and the Constitution of the United States does not apply to private businesses, it is often the courts that decide what constitutes a reasonable or unreasonable expectation of privacy in the workplace. Employers can protect themselves from accusations of unfair treatment by creating a very clear policy regarding searches. NoLo (2015) writes, “ the law considers the worker's reasonable expectations of privacy.

A worker who legitimately expects, based on the employer's policies, past practice, and common sense, that the employer will not search certain areas has the strongest argument here. For example, a worker has a high expectation of privacy in the employee restroom or a changing area, particularly if the employer has not warned workers that these areas might be monitored” (Nolo. com, 2015). The courts do not always rule in favor of employees, but employers who do not have cohesive policies regarding searches and seizures are often without any legal protection in court (Ppspublishers. com, 2015).

Search Policy Elements

When designing a policy for ACME, it is first important to understand the overall goals of the policy. The policy’s purpose is not to set employers and employees at odds with each other—no company has the end goal of causing distrust between different employees in the company, and few companies have the end goal of violating employees’ right to privacy on a whim. Instead, the goal is to reduce the pilferage of company assets—a goal that can be met without interfering with the rights of the employee too severely. This policy can also reduce the likelihood of discomfort for employees by ensuring that it is an entirely transparent process, designed only to reduce loss for the company, not to control employees in any unethical ways.

The first and most important part of this process is ensuring that the whole search policy is written down and provided to employees when they are offered employment (Ppspublishers. com, 2015). For employees that are

currently employed, upon adoption of the new policies, existing employees must be able to review the policies and express any discomfort with the new policies before they are enacted by the company as a whole (Ppspublishers.com, 2015). Without this part of the process, it seems as though employees could potentially have a legal claim if they are ever subject to any search that they consider unfair or unethical (Ppspublishers.com, 2015).

Before the company introduces the policy, legal consideration should be taken to determine if the policy violates any state or federal regulations regarding employees and their rights to privacy (Twc.state.tx.us, 2015).

Some states have much more stringent requirements for security, while others are more lenient and tend to take the side of employees. Providing employees with constant, written communication regarding expectations can make the workplace more effective and build mutual understanding—this is good for the organizational environment and for loss prevention policies within a company (Workplacefairness.org, 2015).

Operational Protocols for Conducting and Documenting Searches

There are a number of important things to keep in mind when designing the policy for the company. The first is that if at all possible, random searches should not be allowed by security policy (Workplacefairness.org, 2015; Nolo.com, 2015; Definitions.uslegal.com, 2015). Although random searches would potentially be better for loss prevention strategies, there have been few times that random searches have been successfully upheld in court as good strategies for employers (Workplacefairness.org, 2015; Nolo.com, 2015; Definitions.uslegal.com, 2015).

A more successful legal strategy is to mandate searches only when the employer suspects the employee of some kind of wrongdoing—random searches on people who are suspected to be honest are rarely fruitful, and are more likely to be problematic if they are tested by employees in a court of law (Workplacefairness.org, 2015; Nolo.com, 2015; Definitions.uslegal.com, 2015; Twc.state.tx.us, 2015). It is also important that a policy never require the individual or individuals who are doing the searching to touch employees or detain them—this could easily escalate a situation to violence, and it is better to have some assets lost than have the company sued and have to settle (Twc.state.tx.us, 2015).

Another aspect to the security policy is to reduce the employee's expectation of privacy (Nolo.com, 2015). By providing locks, passwords, keys, and so on, the employer is controlling the privacy of information and of asset management; this means that all employees know that their manager or boss has access to things that they are doing on their company computers, or that their manager has the keys to their company locker; this reduces the expectation of privacy within the organization and makes employees both less likely to steal, but also less likely to have a successful claim for unreasonable searches on the property (Nolo.com, 2015).

Employers have the right to protect their assets, and so the policy elements outlined here are undoubtedly fair. They prevent the employer from interfering in the employee's personal life, but they still give the employer the right to check things related to the employee's work; these policy elements also make it very clear to the employee that the employer can and will check on their activities in the workplace, so this makes employees less

likely to behave in inappropriate ways. Mutual respect and understanding are organizational values that should be fostered through the security policy.

Discussion and Conclusions

The security policy set forth by this organization is not a singular document that can never change. Security policies need to be constantly updated to reflect things like changing company policy and changing technology within the company; in addition, all aspects of the company's security policy must be followed, because if parts are ignored, this makes the ACME Corporation more vulnerable to legal questions. When an employee feels as though his or her rights have been violated, it is often due to a miscommunication between management and the employee; very few managers actively seek to be unethical in their searches and seizures for loss prevention. Instead of setting management and employees at odds with each other, the security policy at ACME Corporation should serve to make expectations clear for everyone. There will undoubtedly be some problems, especially when the policy is first introduced, but fair and equal implementation of the policy will also help protect the various individuals involved in the process.

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