

Human resource management law example



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1. There is a page in the Company's Employee Handbook that states that anything brought onto the Company's property, including the employees themselves, is subject to random search for items belonging to the Company. There is a space for the employee to acknowledge receipt of this notice. Mr. Yourprop has a copy of the handbook but never signed the page. Does that matter? Explain.

Even though it is best practice to have an employee sign any company policy or handbook, it is not required by law. Handbooks should also be signed if there are any major updates to the company policies and procedures.

Because the handbook outlines the policies and procedures of the company, it is important for the employees to acknowledge and promise to abide by them. The acknowledgement of the company policies and procedures can create an employment contract between the company and the employee. If there is ever an issue between the company and the employee, the acknowledgement ensures that the employee was aware of the company's policies and procedures.

It is often misunderstood that by refusing or forgetting to sign the handbook means that an employee is no longer held responsible for following the company's policies contained in it. A company cannot force an employee to sign the acknowledgment. However, they can get supervisors to sign for them stating that the employee received the handbook. Should a legal issue come up, the company has proof the employee was aware of the policies and procedure of the company. (Employee Handbooks, 2014)

2. Can you (or Mr. Yourprop's supervisor) search Yourprop's assigned locker in the Company's on-site gym for digital evidence? Support your answer.

The lockers are owned by the company and are provided to the employee for their convenience. Most likely the company's handbook would include policies regarding the use of all of the facilities owned by the company and provided to the employee, including a provision to search such facilities. Mr. Yourprop is believed to be in possession of stolen material, creating reasonable suspicion. In the case of *O'Connor v. Ortega*, 480 U. S. 709 (1987) in regards to administrative searches at the workplace, the Supreme Court ruling stands that "...only reasonable suspicion is necessary for search to be conducted." (Wikipedia, *O'Connor v. Ortega*)

3. Can you (or Mr. Yourprop's supervisor) use a master key to search Yourprop's locked desk after he has left the premises for digital evidence? Support your answer.

This question, like the previous one, poses the same dilemma. The fact that the supervisor has a master key and can search different areas of the building was most likely included in the company policies. To conduct a search of a private property, a search warrant would be needed. Mr. Yourprop can also argue that the desk is locked and he has a reasonable expectation of privacy. However, the equipment in question is not the property of Mr. Yourprop and so a search warrant is not needed and so he cannot have a reasonable presumption of privacy. (Solomon, 2012)

4. Makestuff Company uses a security checkpoint at the entrance to the building. A sign adjacent to the checkpoint states that the purpose of the
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checkpoint is for security staff to check for weapons or other materials that may be detrimental to the working environment or employee safety.

Screening is casual and usually consists of verification of an employee's Company ID card. Can security staff at this checkpoint be directed to open Mr. Yourprop's briefcase and seize any potential digital evidence? Support your answer.

Employee searches require a delicate balance of the employee's rights and those of the business. The Fourth Amendment provides protection against unreasonable search and seizure of their persons, homes, and personal property. This applies to the government, and public work place, however, most private employers are exempt. Private business are allowed a number of techniques when they suspect misconduct. Private employers are allowed random searches of employees' personal property such as lunchboxes, purses, briefcases and coats with advance notification. Also, electronic monitoring, surveillance and similar searches would require an employer provides notice to employees of such activity. (Garber, 2008). The company already has this policy in both the handbook and includes a sign at the entrance warning all visitors of their policy. Given that during the exit interview, Mr. Yourprop used language that could be interpreted as having committed criminal activity, the employer already has probably cause for a search. (King, 2005)

5. Can you (or Mr. Yourprop's supervisor) search Yourprop's personal vehicle currently parked in the Company parking lot for digital evidence? Support your answer.

In this case, the company has a legal right to search the employee's vehicle while it is in the company spaces. The company has a policy in place that informed employees that it reserved the right to perform searches on employees to ensure proper policies and procedures are being followed. In this case, the company is trying to protect sensitive data which could be detrimental to the company if stolen.

Generally, private employers can also perform personal property searches as long as advance notice is provided to the employee. A search of the vehicle parked on the company's premises is not unreasonable given that the employee was given notice of the potential for vehicle searches and the apparent suspicion of his job-related misconduct. (Workplace Searches, 2015).

6. If evidence of the theft of intellectual property is found, Makestuff Company may seek to pursue criminal prosecution. Can Mr. Yourprop's supervisor require local police investigators to search his personal vehicle which is parked on the Company parking lot? Support your answer.

The supervisor can legally direct local police to search the employee's personal vehicle. The supervisor will notify to police that the vehicle is parked on company property and also contains evidence of criminal activity against the company. The search without a warrant of an automobile does not violate the Fourth Amendment. In 1925, in a case of *Carroll v. United States* (267 U. S. 132), the Supreme Court ruled that " The warrantless search of a car does not violate the Constitution. The mobility of the

automobile makes it impracticable to get a search warrant." (Wikipedia, Carroll v. United States).

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