

# to ignore it

that their emails being sent on work computers will be read by the employer."

That's because an employee can claim invasion of privacy if they're terminated for exploring NSFW content, even if they thought they were being sneaky about it. The court can consider whether an employee had an expectation of privacy. So make it explicit that they don't.

## 'The software knows'

Freking & Betz attorney Katherine Neff said employers can re-create anything an employee has done on a work computer, even without a password.

"I've seen employers able to re-create information from, for instance, an employee who used a company laptop to contact other employers to compete against her employers," she said. "They didn't know her password to get onto her email, but any email she looked at on the laptop, they were able to view that."

Glassman advises employers to have a written policy regarding what is and isn't appropriate to view on the Internet and have it disseminated to employees. There also needs to be a reporting mechanism and a protocol to investigate any reports of behavior that violates that policy. He said that policy should be tied to others that prohibit harassment based on sex, gender, race, religion or country of origin.

Another tool employers have is software that can block access to websites that fall under NSFW categories or communications containing NSFW language.

"You can monitor what people are doing on the Internet and how much time and bandwidth they're spending

on websites, which can red flag certain activity," Keating Muething & Klekamp Partner Mark Chumley said.

"You can block pornography, for instance, and the software knows by the words used on the site," he said.

That can have unintended consequences. Julie Pugh, an attorney at Graydon Head & Ritchey and executive board member at the Greater Cincinnati Human Resources Association, said in her previous job as an HR supervisor she went to the Internet to research how to set up a team-building game of cornhole, but the company's software blocked her.

Having a policy is just a first step, said Boot Camp Digital CEO Krista Neher. Neher trains companies on how to understand social media and implement best practices in their policies.

"A policy is a really important first step, but most employers miss the boat," she said. "A policy is like a cover-your-ass approach."

Neher said companies should have a training program to teach new employees the policies and keep them top-of-mind. It's important to help people translate the policy into everyday situations and give them real examples of what is and isn't appropriate and why.

Others agree that it's important for employees to truly understand the policy. And if they see an NSFW flag, well ... "The fact that you see something tagged as NSFW and you go ahead and click on it, that says something in and of itself," Flamm said. "It makes it harder to say, 'I didn't know it was going to be inappropriate.'"

## ▶ WHAT NOT TO DO

### STUPIDITY ON DISPLAY

FILE UNDER: Definitely not safe for work

#### Twitter trouble

Denver 10th-grade math teacher Carly "@CarlyCrunkBear" McKinney was fired when her employers discovered her Twitter account, where she posted racy photos, as well as pictures of herself smoking marijuana and comments about attractive students.

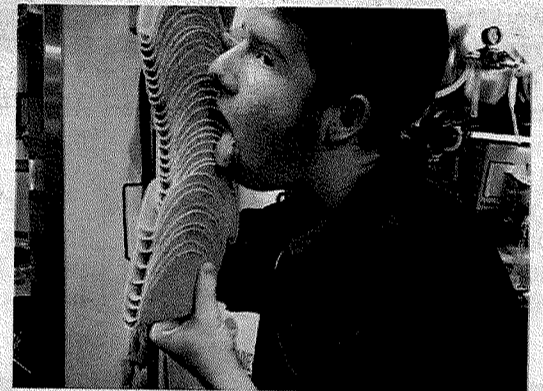


#### Smooth operator

April Sims, a 23-year-old Dallas 911 operator, was fired last June after making racist comments on her Facebook page.

#### Taco terror

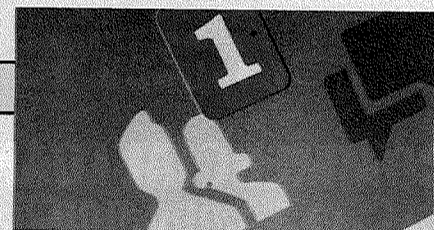
An unnamed Taco Bell employee was fired last summer after a Facebook post by a user named "Jj O'Brien Nolan" showing him licking a stack of taco shells. It went viral on social media.



TACO BELL/FACEBOOK

#### Off the bus

Georgia bus driver Johnny Cook was fired for a 2013 Facebook post in which he said, "I would rather feed a child than to give food stamps to a crack head," after a student complained about not being able to afford lunch.



#### Facebook fail

Cuyahoga County Assistant Prosecutor Aaron Brockler was fired last summer when he posed as an accused killer's girlfriend on Facebook in an alleged attempt at getting a witness to change testimony.

#### School's out

Florida high school English teacher Olivia Sprauer was fired last year after school administrators found racy modeling photographs she had shot on the side under the pseudonym Victoria Valentine James.

#### Jumbo gaffe

An IT contractor in China, Yuan Mou, was fired last year after he inadvertently played 10 minutes of a pornographic film on a Jumbotron he was attempting to repair.

