

Four Ways Employers Can Combat Workplace Gambling

By CalChamber Employment Law Counsel

The NCAA men's basketball tournament — known as “March Madness” — is in full swing. With it come betting brackets and wagers in office pools, and thousands of hours in lost work production.

March Madness highlights a year-round occurrence in many businesses. Workplace gambling ranges from the seemingly innocuous (office fantasy football leagues) to the destructive (employees with serious gambling problems stealing from employers).

Employers may not be concerned about employees predicting winners for fun, or office bragging rights. But use caution if money, or items with monetary value, are at stake.

Technically, any sort of office pool for tangible gain is considered gambling.

Most gambling is illegal under California law ...

California Penal Code section 337a makes it illegal for individuals or employers to participate in gambling in the workplace. You can be fined or imprisoned for violating this law. Additionally, Penal Code section 336.9 covers betting pools with less than \$2,500 at stake, and provides for a maximum fine of \$250 for participating in such a pool.

1. Know When and How Employees Gamble

Though workplace wagering can occur every day, supervisors should be extra vigilant during:

- Late March for the March Madness tournament. According to the FBI, \$2.5 billion is wagered every year on the tournament. Only \$80 million of that is bet legally through Nevada sports books. It's a safe assumption that a portion of the remaining \$2.4 billion is bet at work.
- October and early November for the Major League Baseball playoffs and World Series.
- Late January and early February for the National Football League playoffs and Super Bowl.

Betting on major sporting events comprises the bulk of office gambling, but it occurs throughout the year in many other forms. The creativity — in some cases absurdity — of office bets is surprising.

According to Careerbuilder.com, employees bet on who can grow the “best mustache,” how long a male co-worker could keep binder clips attached to his body, and how many words a manager would say in a meeting (the quiet manager only said 11). These examples are all, technically, gambling.

2. Be Consistent

As a matter of policy, you should prohibit all forms of gambling in your workplace, as you would any other illegal activity. If you allow one form of gambling and not others, you’re likely setting a bad precedent.

Many employers allow some forms of gambling in the workplace, such as fantasy football leagues. The outplacement firm Challenger, Gray & Christmas submits that fantasy football may actually be good for productivity. In a survey of 100 HR professionals, the firm found:

- Approximately 20 percent block access to sports websites from company computers.
- 46 percent did not care if employees played fantasy football as long as it did not affect productivity.
- Approximately two-thirds of the HR professionals surveyed said they take part in fantasy football leagues.

Employers should be consistent when it comes to disciplining employees for any sort of gambling ...

If an employer looks the other way while an employee visit sports-related websites to game plan his or her Sunday fantasy football strategy, it may prove difficult to justify disciplinary action against another employee who used the same company property to gamble on a poker website during office hours.

Some forms of gambling may appear harmless, but be consistent; gambling is gambling.

3. Know the Warning Signs of a “Problem Gambler”

Problem gambling can lead to decreased productivity, and in extreme cases, theft and hostile behavior.

Warning signs that may add up to a gambling problem include:

- Decreased work performance
- Trouble concentrating
- Increased and unexplained absences from work
- Arguments with co-workers that involve money owed
- Mood swings that may result from winning and losing bets
- Complaints of increasing debt
- Theft

4. Make It Policy

Employers should consult with their in-house counsel or employment law attorney for help in determining what exposure the company has to gambling, and develop a policy based on those findings. When the policy is finalized, distribute it on paper and electronically. It should also be contained in your employee handbook, if applicable.

Management should make all supervisors aware of the policy. Ensure that the supervisors get the proper training and receive the support they need to effectively enforce the policy.

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