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BLOGS

[Archives](#); [Privacy & Information Security](#); [Workplace Policies](#); [Workplace Safety](#)

March Madness How to Keep the Madness from Spreading from the Basketball Court to a Judicial Court

The NCAA Men's and Women's Basketball Tournaments start this week. While these exciting college sports events bring exciting comebacks, underdog wins, and pride in employee alma maters, they also can usher in several weeks of reduced productivity, potentially contentious employee interactions, and believe it or not – legal risk.

In 2016, 70 million tournament brackets were completed, many of which involved office pools. The first round of March Madness reportedly costs employers an estimated \$4 billion in lost productivity. As part of this decreased productivity, employers may experience an up-tick in absences and the live-streaming of games on employer technology that can detract from work time and create a serious technology lag for legitimate business applications. For example, its being reported that perhaps as many as 12 percent of employees will watch a basketball game during a work meeting this month.

To address these issues proactively, employers should consider reminding employees of their policies and procedures regarding attendance, performance, and technology usage. If an employer has an anti-gambling policy, it should also publicize and consistently enforce that policy. Supervisors can also address employees lack of productivity or absences on an individualized basis as needed. Above all, employers should uniformly apply whatever workplace policies they have in place.

Employers should also be vigilant about possible workplace conflict that could erupt, for example between Hoosiers and Wildcats or Blue Devils and Jayhawks fans. The surge of collegiate pride can turn into workplace tension, particularly if the employees are part of a March Madness bracket. Additionally, employees who do not get swept away with tournament fever may feel left out and excluded from social activities with colleagues during this month, and as a result conflicts may increase. Fortunately, most workplace conflicts don't involve violence, but employers should have clear workplace safety and conflict resolution procedures that are clearly communicated to employees and followed by supervisors.

Finally, employers should be cautious before establishing any official workplace pool. Laws in most states, including Minnesota, prohibit sports betting and certain types of workplace brackets. In Minnesota, for example, any bet is illegal unless it qualifies for a specific exception. Private social bets are one such exception, but certain tournament brackets do not qualify for that exception. For instance, the owner of the location holding such a bet (like an employer) cannot derive any profit from the wager, cannot organize regular occasions for the bets, or advertise their occurrence. This would seem to rule out many employer-sponsored basketball brackets. Furthermore, tournament brackets are illegal if an entry fee is required. While it remains uncertain whether the Minnesota Department of Public Safety would take much interest in an employer-sponsored tournament bracket, employers should be aware of the law and act accordingly.

As in the world of basketball, March brings many close calls for employers as well. Employers should consult legal counsel if they have any questions regarding March Madness or other employee issues.