

## This March, Will Employers Bench Office Betting Pools?

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March inevitably brings the “madness” associated with the **NCAA** basketball tournament and office betting pools. Sports gambling is illegal in almost every state, and the NCAA opposes all forms of legal and illegal sports wagering. The **American Gaming Association** estimated that \$9 billion dollars was wagered illegally on the tournament last year alone, and office pools routinely contribute to that annual total. Still, it is a thinly-veiled secret in many organizations that office betting does go on from time to time. Employers can and do take different approaches to the issue, from looking the other way to disseminating and strictly enforcing a prohibitive policy. Whatever path management follows, they should do so with their eyes open to the risks—legal and non-legal—related to office gambling.

While the NCAA basketball tournament is the biggest catalyst for office betting, it isn't the only potential trap for employers. The number of things you can bet on at this moment range from novel to the downright strange. From Fantasy Football to who will win this season of *The Bachelor*, employers regularly face the difficult task of addressing gambling in the workplace. Employers that look the other way sometimes do so in recognition of the potential for boosting morale and building camaraderie among employees, or, perhaps, out of the sheer difficulty of detecting and effectively prohibiting all forms of social betting in the workplace.

### Avoid Technical Fouls

Even though law enforcement officials do not appear to be cracking down on office gambling, employers should learn the specific laws of their state. In most states, office gambling falls under blanket rules against betting; violations can result in a misdemeanor. In a minority of states, the rules are more nuanced. Take, for example, Colorado: office pools are permissible where the pool is “incidental to a bona fide social relationship,” which includes coworker relationships. In Iowa, social betting pools are also permitted if no individual wins or loses more than \$200 during a 24-hour period.

Employers operating in more than one state have the added concern of violating federal law. The Interstate Wire Act of 1961 has been used to prosecute interstate online gambling operations. The **Uniform Internet Gambling Enforcement Act** also prohibits unlawful internet gambling and may be implicated if office pools cross state lines.

Employers should also be wary of more typical employment claims related to office betting pools.

First, betting pools can be a basis for a whistleblower suit against an employer. Because betting pools are illegal, there is a chance employees might blow the whistle on such activity and later claim retaliation.

Second, office betting pools might lead to discrimination or workplace bias claims. Some employees may have moral or religious objections to gambling, or, employees who simply choose not to participate might feel ostracized. Employees facing pressures to participate or feeling left out could lead to legal exposure for employers.

## **Be Wary of Benchwarmers and Unruly Fans**

Office gambling can bring on other unwanted workplace effects like distracted employees, decreased productivity and reduced attendance. Many tournament games take place during the workday. The sheer number of viewing outlets at an employee's disposal makes decreased productivity all the more likely. Beefing up Internet blocks can prevent access to sites that allow employees to monitor scores and stream games. However, even with these blocks, mobile platforms generally provide workers with easy access to this information on their personal cell phones.

The biggest defense of allowing office pools is the potential for boosting morale and building camaraderie among employees. Competition is fun. However, pools also can cause division and friction among employees. Sports rivalries can be heated. The addition of wagers only adds fuel to the fire. Friendly banter can quickly turn into destructive trash talking.

## **Perfect Your Defensive Stance**

March is an excellent time to revisit policies and put a full-court press on office betting pools. Considering all the possible pitfalls, the safest approach for employers is to ban pools. Employers should institute a clear, written policy. An effective policy (1) defines the prohibited behavior, (2) details that gambling pools are illegal, and (3) provides that employees can be disciplined for engaging in such behavior. The policy should also specify all areas where betting is prohibited, not only online, but also in offices and common areas—such as cafeterias and coffee rooms. Complaint procedures should be explained in the policy. The procedure should mirror the procedure for other types of complaints.

Employers also should enforce any policy they create. Employers can use events like March Madness or the Super Bowl to remind employees of the anti-gambling policy. Employers will need to take the necessary technological precautions, like blocking gambling websites. Lastly, managers and supervisors should enforce the anti-gambling policy consistently and evenly.

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