

江三角·劳动法论坛 2014/9

E-HR（证据）管理及相应规章制度设计

Managing E-HR (Evidence) and Designing Employer's Internal Bylaws

——新问题·新思维·新对策

New issues·New thoughts·New solutions

北京：9月12日，苏州：9月16日，上海：9月17日，深圳：9月24日，成都：9月26日

Beijing/Sept.12th, Suzhou/Sept.16th, Shanghai/Sept.17th, Shenzhen/Sept.24th, Chengdu/Sept.26th

语言：中文 Language: Chinese

【课程背景】

随着互联网与新媒体的发展，企业的人力资源管理不知不觉跨入了“以网络为中心”的时代。然而，高效率意味着高风险，“无纸化”办公固然节省了大量成本，也产生了相当数量的劳动纠纷。

高效的 e-HR 系统软件给 HR 工作带来便利的同时又隐藏着哪些法律风险？

模糊的工作时间和地点，旷工、加班、工伤以及劳动关系应如何界定？

开放的言论和信息环境下，企业应如何维护名誉、保护商业秘密，如何妥善处理集体争议？

“总是在线”的生活方式下，劳动规章制度介入员工私人时间的边界在哪里？

这些互联网时代下的新型劳动争议正困扰着每个企业，也不断改变着各位 HR 的传统思维。

为此，江三角律师事务所精心整理编排最新现象及案例，分析网络与新媒体时代下劳动关系管理的新问题，探讨企业人力资源管理工作的新思维，并提供最新的实务对策。

【课程目标】

- 一、通过最新案例介绍，了解新时代下劳动关系的特点和发展趋势；
- 二、通过案件总结归纳，识别 E-HR 及电子证据管理的新型法律风险；
- 三、通过裁判要旨解读，把握员工网络社交行为及隐私管理的方法与尺度；
- 四、通过规章制度比较，掌握网络时代企业特定规章制度条款的设计方式。

【参会对象】

人事总监、人事经理、公司法务、工会干部及其他高级管理人员。

【论坛日程】 Agenda:

08:30--09:00	签到 Reception
09:00--12:00	E-HR（证据）管理及相应规章制度设计（上） Managing E-HR (Evidence) and Designing Employer's Internal Bylaws
10:30--10:45	茶歇 Tea Break
12:00--13:30	午餐 Lunch
13:30--16:30	E-HR（证据）管理及相应规章制度设计（下） Managing E-HR (Evidence) and Designing Employer's Internal Bylaws

15:00--15:15

茶歇 Tea Break

【课程大纲】

引言：网络与新媒体时代下劳动关系的特点和发展趋势

一、（被延伸的）工作时间和工作地点管理

（一）正常工作时间、地点管理

- 1、现象案例：开网店、炒股、网上工作认定、电子邮件请假等
- 2、法律实务建议

（二）8 小时以外（被延伸）的工作时间、地点管理

工伤、加班及劳动关系认定

二、E-HR 及电子证据（争议）管理

（一）E-HR 系统法律风险识别

五大模块：招聘管理、劳动合同管理、考勤管理、薪资福利管理、离职管理

（二）新型电子证据类型、证明力、举证与补强方式（电子邮件、企业网盘、新型网络通讯工具聊天记录）

（三）各地电子证据裁审口径比较及实务建议

三、员工（网络）社交行为及隐私管理

（一）员工网络社交行为管理——用工自主权的行使

现象案例：上网管理软件使用、员工不当言行（抱怨诋毁企业等）、散播公司“家务事”等

（二）员工隐私管理——用工自主权的边界

典型案例：偷看员工 E-mail，称其泄密将其解雇

（三）法律分析及实务——用工自主权的合法、合理行使

四、特定规章制度条款设计

（一）具体条款应用

考勤制度：“公司所有员工自××年×月×日起一律使用微博打卡，未打卡的作旷工处理。”——某贸易公司《销售部门管理办法》

劳动纪律：“由于员工违法行为或不良行为给公司形象造成巨大损害的，公司可以视情况予以员工相应的处分直至解除劳动合同。”——某跨国企业《员工手册》

商业秘密：“员工不得将公司的商业秘密以电子邮件的形式占有、传播、出手、使用或允许他人使用。”——某汽车集团劳动规章制度

离职管理：“正式员工辞职必须于离职前一个月递交书面《辞职申请书》。以电子邮件、短信等其他方式申请辞职的，不视为有效申请。”——某民企劳动制度

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（二）规章制度设计实务操作建议

<p>原则：情理、具体、差异、更新、协商</p> <p>各章节具体条款设计：工作时间、工作地点、考勤制度、休息休假、奖惩制度、商业秘密保护、离职手续</p> <p>.....</p>
<p>【讲师介绍】</p> <p>陆敬波---首席合伙人，江三角律师事务所</p> <p>著名劳动法专家，资深执业律师，资深高级培训师。上海江三角律师事务所首席合伙人、主任。陆敬波律师是中国大陆劳动法律师服务市场的先行者和开拓者。早在 2002 年，陆敬波律师就创立了中国第一家劳动法律服务在线平台—“劳动法苑”（laodongfa.com）；2004 年，陆敬波律师创办了中国第一家以劳动人事法律服务为主的律师事务所。在陆敬波律师的带领 下，江三角事务所已成长为中国大陆律师团队规模最大、服务网络最完善的劳动法律服务机构。陆敬波律师受众多大型跨国集团、国内外企业、各政府行政部门聘请担任常年法律顾问、培训讲师，提供各项法律服务。在劳动法专业领域的突出表现为陆敬波律师在业内赢得了很好的口碑和声誉。不论是在律师服务还是培训市场，陆敬波律师都是中国大陆劳动法律服务的标杆性人物。</p> <p>法律实务工作之外，陆敬波律师同样重视劳动法律理论研究，担任上海大学等四所高等院校的兼职教授；先后出版有《维权课堂—劳动者维权实战攻略》、《劳动合同法 HR 应用指南》、《纷争与和谐—劳动争议的预防和处理》、《企业招聘管理法律实务》等专著，再版多次，销量累计达数万册；陆敬波律所主编的期刊《劳动法苑》更是成为企业学习、使用劳动法律的重要资料。</p>
<p>Course Background:</p> <p>Following the development of the internet and new media, the HR management of the enterprises has unconsciously entered into the ‘network-centric’ era. However, high efficiency also means high risks. There is no doubt that ‘paperless office’ reduces costs in a large number, but it can also generate an equal large number of labour disputes.</p> <p>Which are the hidden legal risks when high-efficient e-HR software systems render HR job easier?</p> <p>How to define the unclear working time and place, and absenteeism at work, overtime payment, industrial injury and labour relationships?</p> <p>In an environment where opinions and information are open to the public, how can the enterprises maintain their reputation, protect their trade secrets, and how can they properly deal with collective disputes?</p> <p>In the living mode of ‘always online’, which are the limits imposed when the labour internal rules and regulations issued by the employer intervene with employees’ time for private issues?</p> <p>The new types of labour disputes with which every enterprise is perplexed in the internet era, and the constant changes occurred in the traditional thinking of every HR professional.</p> <p>Therefore, River Delta Law Firm arranges the new phenomena and cases meticulously and systematically; it analyses the new issues arising in the management of the labour relationships in the era of internet and new media; it discusses the new thoughts on the work of enterprise human resource management and it offers the newest practical solutions.</p>
<p>Course Objective:</p> <p>1.Understand the characteristics of the labour relationships in the new era and the</p>

development trends, through the presentation of the most recent cases

2. Identify every link with E-HR and new types of legal risks in the management of electronic evidence, through the summary of judicial cases;

3. Grasp real life skills and dimensional standard on the management of employees' online networking and privacy, through the interpretation of the main ideas of the judgments;

4. Grasp the practical experience in designing employer's specific internal bylaws in the internet era, through the comparison of some employers' internal bylaws.

Subject of Participants:

HR director, HR manager, legal counsel, trade union cadre and other senior management.

Course Outline:

Introduction: The characteristics and development trends of the labour relationships in the era of internet and new media.

1. Management of (Prolonged) working hours and working place

(a) Management of ordinary working time and place

- Real life cases: open online shops, speculate in shares, recognition of work online, apply for leave via email etc.
- Legal and practical advice

(b) Management (prolonged) working hours and place over the statutory eight hours

- Recognition of industrial injury, overtime and labour relationships

2. Management of E-HR and electronic evidences (Disputes)

(a) Identification of legal risks in the E-HR system

- The five parts: recruitment management, labour contract management, attendance management, remuneration and benefits management, departure management

(b) New types of electronic evidence, strength of evidences, evidence presentation and supplement (email, enterprises' net disk, new types of online communication tools and chatting records)

- Recognition of electronic evidences by the judicial organs in different areas, and practical advice

3. Managing employees' (online) networking behaviors and privacy

(a) Managing employees' online networking behaviors-exercise of the employers' self-governance over the employees

- Real life cases: use of the internet management software, employees' misconduct (complain or slander his/her employer etc.), spread the company's "household affairs" etc.

(b) Managing the employees' privacy-the boundaries of employer's self-governance over employees

- Typical cases: after peeping at an employee's email, the management dismissed him/her due to disclosure of trade secret.

(c) Legal analysis and practice-exercise self-governance over the employees legally and reasonably

4. Designing specific provisions in employers' internal bylaws

(a) Application of specific provisions

- Attendance system: "all the employees should use microblog for check-in and check-out as of (Y) (M) (D), it should be deemed as absenteeism at work if there is no attendance record."-Sales Department Management Rule of some trading company

- Labour discipline: "The company may give corresponding penalty even terminate the labour contract at its discretion according to specific situations to those whose delinquent behavior or misconduct brought big damage to the company's reputation."-Employees' Handbook of some multinational company

- Trade secret: "it is prohibited from possessing, spreading, selling, using or allowing any third party to use the Company's trade secrets in the form of email."-internal labour bylaws of some automobile group

- Departure management: "the employees in the qualifying period must submit WRITTEN Resignation Application paper one month in advance for departure. Any other form like email and text message is not effective form for resignation.-some domestic company's labour bylaw

(b) Designing internal bylaws and real life advice

- Principle: reasonable, detailed, differentiated, updated, and negotiated
- Detailed provisions under chapters and sections: working hours, working place, attendance system, rest and leave, reward and penalty system, protection of trade secrets, departure procedures

收费标准及报名方式

For More Information, please contact with...

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收费标准 Charging standard:

Standard Fee/person 一人参会费用	3800 RMB/位
Standard Fee/person 两人参会费用	3500 RMB/位

备注: 全天会议包含上、下午茶歇及午餐

Note: All-day meeting covers morning and afternoon tea break, and lunch.

报名注册请填写以下信息

Please help me fill out following information for registration:

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[参会人姓名] Name	
[职位] Position	
[电话] Phone	
[邮箱] Email	

[手机] Mobile	
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2nd DELEGATE

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[职位] Position	
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