

Littler Lightbulb: Tips for Handling Workplace Issues Related to the Big Game and Other Madness



By: Roger Grandgenett

As we near two heavily followed sporting events—the Super Bowl and the March Madness NCAA basketball tournament—employers may notice flagging focus from employee fans. Because these events are popular and often available via streaming services, employees may be tempted to use work time and company resources to watch the events, place bets, or even take time off from work altogether. Here we examine these three possible areas of concern.

- **Sports Gambling on the Job.** To make popular sporting events more interesting, some employees like to create betting pools or a basketball bracket challenge to share the excitement with colleagues. Even workers who do not normally follow sports can be enticed to gamble, whether to compete for a chance to win, to show support for a hometown or alma mater, or just to be a team player. Despite their popularity, office betting pools can be unlawful, particularly if they involve large sums of money, are organized through the company's email system, or involve offices in multiple states. Although in 2018 the U.S. Supreme Court overturned a law that prohibited state-sanctioned sports gambling,¹ not all states have jumped on the sports betting bandwagon. Even where sports betting is legal, state laws often limit legalized gambling to certain licensed operators or certain sporting events. Thus, employers should be aware of relevant gambling provisions in their state and discourage office betting, if necessary.

To help minimize potential exposure, employers should clearly communicate what behavior is acceptable at work and what is not allowed. Employers may want to create a policy regulating gambling at work, or to reinforce a policy already in place. If disciplinary mechanisms exist for employees engaging in sports betting, now is a good time to remind staff of any consequences and related reporting procedures.

- **Increased Absenteeism.** Because popular events often spark their own watch parties, employers can expect more employees to request time off or to call in sick, especially the day after the Super Bowl and during the early rounds of the NCAA tournament.² One survey conducted last year estimated that 17.2 million workers planned to skip work the Monday after the Super Bowl, and these absences usually were not planned using pre-approved leave time.³ With this in mind, it may be prudent for employers to remind employees of absence or vacation policies, particularly if the office is known to have many sports fans or is in an area associated with a participating team. Supervisors should consider how to handle multiple or last-minute requests for time off and whether to create a plan for prioritizing or moderating these requests. Further, as with any grant of leave time, such policies need to be applied consistently across all requests and in line with company policies and normal practices.

¹ *Murphy v. National Collegiate Athletic Assn.*, 138 S. Ct. 1461 (May 14, 2018).

² Let's not forget the 92nd Academy Awards for the sports-fatigued among us.

³ [The Super Bowl Fever Survey](#), commissioned by The Workforce Institute at Kronos and conducted by The Harris Poll (Jan. 31, 2019).



- **Lost Productivity.** With employees researching teams, filling out brackets, and even live streaming games during work hours, employers are likely to notice a drop in productivity during the March Madness tournament and the days running up to the first games. The “madness” tends to be most problematic for employees with access to the internet and/or smart phones, but can also affect efficiency across an organization through slower network speeds due to increased streaming content, which can tax an organization’s technology infrastructure. In addition, employees may be tempted to click on risky links while visiting unfamiliar sites. To help minimize these issues, employers can reiterate policies regarding computer and internet usage at work and any associated restrictions. Employers can also announce any restrictions on particular internet sites ahead of game time. But if work allows, employers should consider organizing group updates or events to maximize engagement and acknowledge employee interest in popular sporting events, or allow TV viewing in the breakroom during non-work periods.

With thoughtful consideration and a little foresight, employers can manage sporting event fervor and encourage friendly rivalry without unauthorized gambling or loss of productivity. And these spring sporting events will be the perfect practice run before the 2020 Summer Olympics, which is only six months away.

At Littler, we understand that workplace issues can’t wait. With access to more than 1,500 employment attorneys in over 80 offices around the world, our clients don’t have to. We aim to go beyond best practices, creating solutions that help clients navigate a complex business world. What’s distinct about our approach? With deep experience and resources that are local, everywhere, we are fully focused on your business. With a diverse team of the brightest minds, we foster a culture that celebrates original thinking. And with powerful proprietary technology, we disrupt the status quo – delivering groundbreaking innovation that prepares employers not just for what’s happening today, but for what’s likely to happen tomorrow. For over 75 years, our firm has harnessed these strengths to offer fresh perspectives on each matter we advise, litigate, mediate, and negotiate. Because at Littler, we’re fueled by ingenuity and inspired by you.

For more information visit littler.com.