

## Say 'Cheese': Pros and Cons of Using Employee Photos

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Employee photos are often used on company recruiting sites, in annual reports and to promote an organization's products and services. But that doesn't mean that every employee welcomes such opportunities.

"Pictures help us transform from a faceless company to people that customers can relate to," said James Dunworth of ECigaretteDirect in the U.K. "The personal service that we as a small company offer to customers is one advantage that we have over large companies. Photos of our staff reinforce this."

"We find that showing photos of our staff gives our company an approachable brand personality," agreed Andrew Fingerma, vice president of marketing for Photoshelter Inc., a photo storage service. Thus, the company "takes and uses pictures of employees very liberally," displaying photos of staff on the company's website, Facebook page and blog. "We've even created a website that's full of company event photos, including our summer barbecue," he told *SHRM Online*.

Quick Left, Inc., a 12-employee Boulder, Colo., web development company, believes in "showing potential clients that we have personality," said Tara Anderson Calihman, vice president of communications. That's why the company's home page features photos of its developers that flip to a second pose when visitors to the web page "mouse over" each image.

Nevertheless, Arash Afshar, a photographer and social media and marketing consultant in San Diego, said he generally tells his clients not to use employee photos. "First-hand experience has shown me that it can create an incredibly awkward situation if an employee is fired or leaves the company for some other reason," which can result in emergency photo doctoring, he said. "Beyond that, it makes your business look smaller. It's better to stay professional."

Moreover, it's hard to predict with perfect certainty the kinds of issues that might arise when using employee photos.

"A lot of the laws relating to social media type issues are in their infancy, and if a novel issue relating to the use of those photographs does materialize, what employer wants to be the test case?" said Lori B. Rassas, author of *Employment Law: A Guide to Hiring, Managing, and Firing for Employers and Employees* (Wolters Kluwer Law & Business, 2010). "There is a difference between a company website, a Facebook page and other snail-mail marketing materials."

## **Other Uses of Photos**

"We take employee pictures during their first week of work," said Andrea Ballard, SPHR, director of HR and administration for Peterson Sullivan LLP, a Seattle-based accounting firm. "The pictures are on our intranet, where we have an employee list. New employees have told us that they couldn't survive without the list of people and pictures. ... [It] gives people a quick and easy way to figure out who someone is."

"I photograph all employees," said Dennis Cudd, a construction manager. "It is not uncommon for me to have 30 to 80 people working for me in an operational hotel," he told *SHRM Online*. "If a guest or hotel employee claims that one of my guys was harassing or stealing, it is not practical for a 19-year-old house maid to go through a lineup and confront her harasser. So that's when I bring out the mug shot."

Timothy G. Wiedman, PHR, assistant professor of management and human resources at Doane College in Crete, Neb., said he projected images of employees during his former employer's annual meeting. "People like seeing their face on the big screen," he said. "We also put hard copies of the photos on a wall in our training room, creating a collage. After several years, we had photos covering the entire wall. When new hires were being trained in that room, we were sending a positive message about the importance of our people."

Similarly, small photos of Carnegie Observatories' 60 employees are posted in an administrative building hallway. "When the idea was first proposed, I thought it was useless. But it turns out that people like to have their pictures there, and visitors and old-timers alike stop and look at the board," said Scott Rubel, project manager.

Rubel snaps the photos of new employees within a week or so of employment, while giving them a tour and explanation of emergency procedures. "Sometimes the person will want to wait a day or two for a better-dressed opportunity," he said. "A few people preferred to supply their own photographs, which is fine."

## **Reluctant Models**

Sometimes, employees react unfavorably when asked to submit to a photo.

"People sometimes grumble a bit," Ballard said, even though they are given a day's notice to be ready. "We've never had any employee refuse or really push back," she told *SHRM Online*, though she acknowledged that this could be because they are new employees and don't want to rock the boat. "Or it may be because they can see that every single person who works here has their picture posted. It would be much more conspicuous to be absent than to have your picture displayed," she said.

"There have only been two office people who don't want their pictures up, which is fine," Rubel said. "They claim they've had stalkers before. It's not compulsory."

"We allowed people to opt out if they wanted to do so, Wiedman said of his photo displays.

Timothy R. Yee, now a registered principal of an Oakland, Calif., investment company, said there was “quite a bit of a ruckus” when a former employer, a bank, planned to post employee photos on an intranet site. “One colleague who was very overweight told me that he did not want to be prejudged based on his photo,” he said. “We want to be valued for what we have done, not what we look like,” he added.

Others fear discrimination. After considering several other options, including caricatures and professional head shots, “the idea was scrapped,” Yee said.

Even mandatory employee ID badges can create issues. One bank employee expressed his dislike of such photos by closing his eyes and puffing out his cheeks, Yee told *SHRM Online*.

Deidre Christiansen said she encountered a few “I don’t like to be photographed types” of employees while snapping mandatory head shots for security badges at a small medical manufacturing company she worked for in 2009.

As for Cudd’s employees, “If they don’t allow themselves to be photographed, they do not get to work.”

### **Accommodating Employees**

When Christiansen was asked to take large employee photos that would be framed and displayed around the 30-person office, she tried to make it a positive experience for all. “I coached them on posture, adjusted lighting a little and dropped a few pounds in [Adobe] Photoshop,” she said, so most people liked the results.

Yet some still declined to be photographed. “The owner of the company was angry that I was unable to get a photo of everyone and later insisted that I complete the task, despite the feelings of the individuals involved,” she told *SHRM Online*. “I asked, they declined—I left it at that.”

Allowing employees to supply their own photos for marketing purposes or business websites is not recommended, according to Christiansen, for artistic and technological reasons.

### **Use of Releases**

“The main risk of using pictures of employees is also one of the easiest to deal with,” said Eric A. Welter, president of Welter Law Firm, P.C. in Herndon, Va. “At least 19 states have statutes on the books that make it unlawful to use the ‘likeness’ of a person for commercial purposes without their prior consent,” he explained. “Obtaining prior written consent from the employee to use any pictures taken during their employment is usually sufficient to prevent any legal risk in this area.

“I might be comfortable with a generic consent form signed at the outset of employment for employee photos on a website,” he added, “but if the company intends to use an employee’s photograph for an advertising campaign, I would want to see a written consent specifically for that use.”

Rassas agreed. If an employer wishes to use photographs, she said, she would advise them to tell the

employee the purpose for which the image will be used and to obtain consent from each employee before proceeding. "I would tell employers to be sure that any consent is truly voluntary," she added. "If a boss asks an employee for permission to use a picture, the inherent imbalance of power might undermine the voluntariness of the consent because the employee would feel obligated to agree.

"I would provide the employee with the right to withdraw their consent for any reason at any time," Rassas added.

"We do not require employees to sign a release," Fingerman said. "We're a small company, under 25 employees, and since photography is a heavy part of our culture, and many of our staff members are professional photographers, there are typically several cameras at every event. When team members prefer not to be photographed, they say so and we oblige."

"I would encourage employers to create an open environment where employees are free to indicate whether or not they would like to be included in company photos," said Lynda Zugec, managing director of The Workforce Consultants, another firm that does not use release forms for employee photos. "We encourage our employees to let us know if they prefer not to be in employee pictures. Although this is a rarity, we certainly respect the privacy of those who would like to remain a little less exposed."

"I wonder in this day and age of LinkedIn, Facebook, et cetera, whether this is as much of an issue," Yee said. "People can find out what you look like without much effort. I just Googled my name and clicked on images and there I am."

Yet Welter encouraged employers to be cautious and respectful.

"If you have an employee that is concerned about their picture appearing in marketing materials, my advice would be to find a different photograph," Welter said. "People have significant and legitimate concerns about their privacy today. I would respect those concerns."

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