Navigating Social Media Criticism and Employee Loyalty in Canadian Workplaces

Introduction

The workplace does not stop at the office door. Social media and public forums have blurred the lines between an employee's private expression and their professional duty of loyalty. The Wentworth-Nord arbitration decision from September 2025 offers a telling example. A Public Works employee responded online to a letter to the mayor, criticizing the department. The city suspended him for two weeks, arguing that he had breached its Code of Ethics and Professional Conduct. The arbitrator disagreed that the discipline was proportionate. Because the remarks were neutral, respectful, and free of insult, the arbitrator reduced the penalty to a written warning, though noting the employee's refusal to engage with management was still a minor fault.

This case crystallizes a challenge HR managers across Canada face every day. How far can employers go in enforcing loyalty on social media without infringing on legitimate employee expression? How do we build workplaces where employees feel safe raising concerns internally, rather than broadcasting them online? The answers lie in balancing legal obligations, cultural realities, and practical HR tools.

Understanding the Duty of Loyalty

The duty of loyalty is well established in Canadian employment law. Employees owe their employers a baseline obligation of fidelity, confidentiality, and not acting in ways that harm the employer's legitimate business interests. In Québec, this is codified in the Civil Code under article 2088, and in other provinces it is recognized in common law. But that duty is not absolute. Courts and arbitrators have long recognized that employees are also citizens with Charter-protected rights to free expression, particularly in the public sector.

The challenge is that the line between citizen speech and employee speech is often murky. Posting on Facebook, commenting on a municipal website, or responding to media coverage may be framed as "personal," yet the public often connects the dots to the individual's employer. Arbitrators weigh factors such as the tone of the comment, whether the employee identified themselves as affiliated with the employer, whether the remarks were insulting or defamatory, and whether the conduct undermined

workplace harmony.

The Wentworth-Nord decision illustrates this balance. The arbitrator recognized that neutral criticism is not disloyalty. But refusal to engage with management about the issue crossed into insubordination. The result was a proportionate sanction — a written warning rather than suspension.

Why HR Cannot Ignore Social Media Risks

The impact of employee posts on social media is amplified compared to private conversations. A negative comment can reach hundreds or thousands in minutes, be screen-captured, and linger online indefinitely. Employers may fear reputational harm, client distrust, or undermined public confidence. Yet, overreaching with discipline can backfire, exposing the employer to grievances, wrongful dismissal claims, or Charter challenges in the public sector.

Research shows that younger workers in particular expect to express themselves online. A 2024 Canadian Internet Use Survey found that over 70 percent of workers aged 18–34 use social platforms daily, with nearly half saying they discuss work-related experiences online at least occasionally. Heavy-handed restrictions on online speech can feel out of step with generational expectations, further eroding loyalty rather than enhancing it.

Building Loyalty from the Inside Out

One of the strongest lessons from Wentworth-Nord is that loyalty is not enforced successfully only by punishment. True loyalty comes from employees feeling respected, engaged, and heard. HR managers can play a proactive role in creating conditions where employees bring concerns internally rather than posting them publicly.

That starts with communication. Employees need to know that feedback is welcome and that raising concerns won't result in retaliation. A policy that simply says "do not criticize the employer online" is hollow if the internal culture discourages employees from raising issues in safer ways.

Consider the example of a Canadian transportation company that faced repeated negative Glassdoor reviews citing poor communication. Instead of threatening discipline, HR created quarterly open forums where employees could ask questions directly to executives. They paired this with anonymous digital surveys. Within a year, the tone of online commentary shifted more positive, as employees felt the company was making genuine efforts to listen.

Policies that Set Clear but Reasonable Boundaries

Canadian case law makes it clear that social media policies must be clear, reasonable, and consistently enforced. A well-drafted policy will not attempt to ban all discussion of the workplace but will set out clear guardrails. Employees should understand they may not disclose confidential information, harass coworkers, or post statements that are defamatory or malicious. At the same time, they should be reassured that respectful expression of personal opinion, especially on matters of public interest, will not automatically trigger discipline.

Policies should also emphasize proportionality. The Wentworth-Nord arbitrator stressed that a two-week suspension was disproportionate where the conduct was respectful. Employers who over-penalize risk having discipline overturned or reduced. Setting expectations upfront, coupled with a culture of proportionate responses, is

more effective in maintaining trust.

The Role of the Open Door

An "open door" policy is only meaningful if employees actually feel the door is open. Too often, employees who attempt to raise issues internally encounter defensiveness, dismissal, or even reprisal. When that happens, the temptation to air frustrations publicly grows. HR managers need to equip supervisors and managers to respond constructively to criticism. Training should focus on active listening, avoiding retaliation, and viewing criticism as an opportunity to improve rather than a threat.

For example, in one Ontario municipality, a public works crew member complained about equipment shortages in a team meeting. His manager initially brushed it off, but HR intervened to provide coaching. The next time concerns arose, the manager acknowledged them openly, promised follow-up, and reported back within two weeks. Employees noted the shift and became less likely to vent on social media.

Managing Privacy and Remote Work Dynamics

Remote work has added complexity. Employees now use personal devices and networks where monitoring is difficult and invasive. Employers should resist overreaching surveillance of social media, which raises privacy and human rights risks. Instead, focus on clarity of expectations and support systems. If you become aware of a problematic post, assess it carefully against your policy, the tone and content of the remarks, and any legal protections before reacting.

In Québec and other provinces, arbitrators and tribunals consistently look for proportionality and context. Neutral, respectful criticism is rarely grounds for dismissal. Malicious, discriminatory, or confidential-information-laden posts may justify more serious sanctions. HR managers should document the analysis and engage employees in dialogue before deciding discipline.

Termination Scenarios and Minimizing Recourse

In rare cases, social media conduct may contribute to a breakdown of trust that leads to termination. To minimize recourse risk:

- Ensure your policies are clear, up-to-date, and acknowledged by the employee.
- Document instances where the conduct directly undermined legitimate business interests or violated confidentiality.
- Demonstrate attempts to engage with the employee and use proportionate discipline before escalating to termination.
- Pay out statutory wages and entitlements promptly to avoid wage disputes complicating the process.

As seen in InfinityQ and other recent cases, unpaid wages can fuel litigation and cloud the employer's credibility in related disputes.

Lessons from Wentworth-Nord for HR Practice

The arbitrator's decision provides several important lessons for HR:

- Neutral, respectful online criticism does not amount to disloyalty.
- Refusal to engage with management may itself justify discipline, but only at a proportionate level.

- Employers who over-penalize risk having discipline overturned.
- Encouraging internal feedback and creating responsive culture reduces the risk of public airing of grievances.

These lessons apply beyond Québec. Every jurisdiction in Canada applies principles of reasonableness, proportionality, and contextual analysis when assessing discipline for off-duty conduct, including social media posts.

Conclusion

The digital era ensures that employees will continue to voice opinions publicly. HR cannot eliminate that reality. What HR can do is set clear and fair policies, enforce them with proportion, and build a culture where employees choose to bring concerns to the open door rather than the public square. The Wentworth-Nord decision reminds us that overreaction creates more risk than it resolves. Loyalty cannot be commanded; it must be cultivated. By listening, engaging, and treating employees fairly, organizations not only protect their brand but also build the kind of authentic loyalty that keeps doors—and conversations—open.

> **Social Media:** 2-Week Suspension Is Too Harsh a Penalty for Online Criticism of Company
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> A city suspended a Public Works employee for making critical remarks about the department in responding to a letter to the mayor posted on the agency's public internet site. The employee violated his duty of loyalty under our Code of Ethics and Professional Conduct, the city claimed. The union denied the charge, insisting that the employee had been speaking as a citizen and not an employee. The Québec arbitrator came down in the middle. The employee formulated his communication "in a neutral manner, without insult or rudeness." On the other hand, his steadfast refusal to explain or even discuss the matter with management was a discipline-worthy "fault"—albeit only a minor one. So, the arbitrator knocked down the penalty from a 2-week suspension to a written warning [*Union of Workers of the Municipality of Wentworth-Nord – CSN v Municipality of Wentworth-Nord*, 2025 CanLII 96650 (QC SAT), September 15, 2025].