

Question

While I was away on vacation, my boss got on my computer and started E-mailing a former employee, acting as me. She sent E-mails to this person using my E-mail address, signed my name and started making accusations about his past performance. I was very upset with my boss and find this very unethical. I know as a company owner she has every right to view my E-mails, but is it legal to try to pass herself off as me?

Answer

Several federal and state laws address privacy issues in the workplace. Employers can be subject to claims of having placed an employee in a "false light," or giving unreasonable publicity to that employee's personal life if they disseminate information obtained through voice-mail or email access. Common law causes of action involving intrusion into the personal privacy rights of individuals include appropriation of the name and likeness of another; unreasonable publicity given to another's private life; unreasonable intrusion upon the seclusion of another; and publicity that unreasonably places a person in a false light before the public.

The Electronic Communications Privacy Act gives an employer who maintains email and/or voice-mail systems the right to access these systems, unless the systems are provided by an outside entity.

The Omnibus Control and Safe Streets Act regulates the interception of wire, electronic, and oral communications. The act prohibits intentional interception of any communication through the use of any electronic, mechanical, or other device. The act does not prohibit interception of communications by telephone or related equipment being used in the ordinary course of business.

Additionally, California places criminal sanctions on persons who engage in wiretapping or various related activities.

Your boss's actions are not only unethical, they may be unlawful. You may want to share this information with her or your HR Department before it goes any further.