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# WORK

## Managing Political Activism in the Workplace

*By John D. Wing*

*Who's accountable when strong political opinions are expressed in the workplace? This is not a time for leading from behind.*

# Managing Political Activism in the Workplace

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***Is it still taboo to talk about politics at work? Can employees be held accountable for stepping over the line when it comes to expressing strong political opinions? Or, for spending part of their work time promoting a certain political platform or ideology?***

Politics, along with sex and religion, were once widely regarded as controversial topics that should be avoided in the workplace. That axiom has flown out the proverbial workplace window. Recent studies by Society for Human Resource Management (SHRM) report 26% of Americans admit to talking and debating politics in the workplace on a regular basis, 42% of all U.S. employees have experienced political disagreements in the workplace, and 12% have experienced direct political affiliation bias.

Several evolving factors have amplified the challenges for employees and employers. Social media, remote work policies, and changing social norms have blurred the lines between the work-

place and "private lives." A 2017 survey by the HR firm Betterworks showed that 87% of employees are reading political social media posts during the workday, 63% have talked to their fellow workers about politics since the 2016 elections, and 37% admitted to talking with their manager or boss about politics. Twenty-nine percent said they have been less productive since the election, and that percentage increases depending on the number of articles read. "This isn't new, it's just amped up" says company culture expert Josh Levine, author of *Great Mondays: How to Design a Company Employees Love*. Levine explains, "You can have civil conversations about politics, but you can't force them on people you work with."

As we have become a more polarized society, civic engagement and political activism has risen. While most employees can maintain and express their beliefs without impacting the workplace, other employees' conduct may interfere with work, productivity, civil rights, morale and even safety. It can be at the least divisive, and at the most, disruptive and damaging to the culture, production, public relations, and financial well-being of a company.

What should employers do—if anything—to quell political debate when it infiltrates the work environment? And what should employers do when discussion moves beyond the debates, casual conversation about a preferred political party/candidates, stance on issues and becomes activism-at-work?

In September of 2019, after the tech giant Google was accused of suppressing speech and firing employees who expressed strong political views, it subsequently crafted a new policy. In general, the new HR policy said that engaging in a heated debate over politics at work was disruptive, was not conducive to performing the work that the employees were hired to do, and they should not spend work time debating non-work related topics. As a result, and in agreement with the National Labor Relations Board, Google soon thereafter posted a list of employees' rights in all of its offices, underscoring workers rights to organize, talk to the press without permission, and discuss wage and labor issues. As a measure of atonement, the company said it would not threaten employees when they requested clarification of acceptable workplace behavior.

**HR managers need to have fair and firm policies in place as this is not a time for leading from behind. If left unchecked, employee behavior can easily become harassment, discrimination, and/or lead to a hostile workplace environment. Rather than a case of bad behavior, it may be illegal behavior.**

Harassment, in the legal sense, is “a word that people throw around a bit too easily” says Jennifer Rodriguez, a labor and employment attorney with the Dallas based law firm Culhane Meadows. The law safeguards people from harassment based on race, age, gender, and sexual orientation. However, it doesn't mean that HR is not within its rights to insist on a mutually respectful environment. After all, she says, “language that's harassing or negatively impacts working relationships will not be tolerated.”

A significant factor in addressing employee political behavior depends on whether the employer is a public or private company. In a private workplace, employers can set their own standards of about what type of speech is acceptable, according to Jay Hornack, adjunct professor at the University of Pittsburgh School of Law and specialist in employee rights. He says First Amendment rights are not “something an employee can enforce against an employer.” Public sector employees, since they work for the government, are protected from retaliation for expressing their views. Moreover, federal law protects employees' right to discuss labor-related issues.

Some jurisdictions have laws protecting employees' political expression. States that protect employees from being retaliated against for engaging in "political activities" include California, Colorado, Louisiana, Minnesota, Missouri, Nebraska, Nevada, South Carolina, Utah, and West Virginia plus the territory of Guam, the cities of Seattle, Washington and Madison, Wisconsin. New Mexico protects employees' rights to express "political opinions." Many states also have laws prohibiting an employer from coercing or restricting employees, or discriminating against them, for their political voting or activities.

When it comes to political expression, HR managers need to be cognizant of the law. Organizations simply can't afford to ignore the political discussion occurring at work. How employers deal with the situations of (un)civil discourse can be complicated. It involves reviewing, assessing and complying with pertinent federal and state laws, communicating and applying established policies, and exercising sound judgment. Employees have a right to their opinions and core values, but they need to be respectful of and act in accordance with policy and procedural protocols established by their employer.

These HR policies and protocols should be contained in the company handbook. Most HR experts agree that creating a culture of mutual

respect and consideration is fundamental. It is the employer's responsibility, alongside their HR department, to define and protect where that begins and ends.

It is incumbent upon the employer to train managers and supervisors as to what they can, and cannot do, when employees engage in political activity that may impact the workplace. The employer must also ensure that such training addresses any state-specific limitations and requirements.

One of the best ways for employers to manage these issues, and remain legally compliant, is to apply work rules and HR policies consistently. For example, if an employer regularly applies an attendance policy which states that employees will be disciplined for unexcused absences, the employer need not refrain from disciplining an employee who skips work to attend a political rally. The line between political speech and protected comments related to terms and conditions of employment should not be subjective. Employers can help ensure that employees' discussions about politics don't get out of hand by neutrally and consistently enforcing work rules and HR policies that prohibit fighting, bullying, harassment or discrimination; that prohibit employees engaging in conduct that is loud, distracting, or that otherwise impinges on productivity.

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