

Election Countdown:

How to Handle Political Discussions at Work and Other Potential Legal Issues

August 2020



What We'll Cover

- Why you should be concerned with political discussions in the workplace
- What your legal obligations ... and rights are as an employer
- What you can do to prevent political discussions from getting out of control
- What steps you should take to keep the peace and restore productivity in your workplace

Are These Statements Familiar?

- “Every American can own guns. It’s our Second Amendment Right.”
- “Kneeling during the national anthem is a slap in the face to our veterans.”
- “Trump supporters are white and uneducated.”
- “Illegal immigrants are dangerous criminals.”
- “You can’t even compliment a woman today without her accusing you of harassment.”

Stats About Workplace Political Discussion

- 56% of employees say political discussions have become more common in the past four years
- 42% have personally experienced political disagreements in the workplace
- 44% have witnessed or observed political disagreements in the workplace
- 34% say their workplace is not inclusive of differing political views
- 12% have personally experienced political affiliation bias

What You Should Understand

- You will never eliminate all political discussion from the workplace
- Allowing it to go unchecked can affect productivity
- And it can lead to legal issues, including lawsuits

Scenario #1: Harassment

- Coworkers are engaged in a casual political discussion regarding immigration
- New employee walks by and overhears the conversation that shifted into an offensive discussion regarding his national origin
- Title VII of the Civil Rights Act of 1964 prohibits harassment based on national origin

Scenario #2: Discrimination

- Manager calls a female employee a “women’s rights trouble maker” because she has made anti-Republican statements and is active in protests
- Female employee is passed over for a promotion based on the assertion that certain clients may not like her
- Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sex
- State or local laws may also prohibit discrimination based on political affiliations or activities

What Are Your Rights?

Generally private employers have the right to:

- Limit or prohibit political discussions or activities during working hours
- Prohibit solicitations for contributions or support for a political campaign during working hours
- Prohibit the company's name or affiliation in connection with any political or campaign activity

What Are Your Responsibilities?

You have an obligation to:

- Keep the work environment safe and free from hostility
- Keep political discussions from escalating into heated debates
- Take action to prevent conversations from turning into harassment or discrimination

What About Free Speech?

- Employees have a right to freedom of speech but that protection is limited in the workplace
- Private employers are not required to let free speech ring throughout the workplace
- Managers have the right to discipline at-will employees who disrupt the workplace

Put Policies in Place

First, you need to have formal policies that are clearly communicated and acknowledged by all employees:

- Develop an anti-harassment policy that explains that harassment or discrimination on the basis of any protected characteristic will not be tolerated
- Create a formal policy on political expression that details your company's views on political discussions and activities

Politics in the Workplace Policy

Your policy should:

- Discourage political conversations when employees are on the clock
- Forbid political conversations with customers
- Disallow displaying or wearing materials related to a candidate
- Prohibit persuading coworkers to vote for a candidate

Politics in the Workplace Policy (cont.)

- Explain that employees should walk away or change the subject if a conversation gets uncomfortable
- Reinforce your “open door” policy for employees to discuss any concerns with managers
- State that violators of the policy are subject to discipline, up to and including termination
- Take into account any state or local laws

How to Handle a Workplace Political Discussion

- **DO** discipline disruptions, but don't punish perspectives
- **DO** allow employees to discuss political views off the clock as long as the conversation remains civil
- **DO** step in and end workplace arguments before they become bigger problems
- **DO** communicate your company's policy on political expression

How to Handle a Workplace Political Discussion (cont.)

- **DO** implement an open-door approach, encouraging employees to raise concerns as soon as possible
- **DO** be careful when engaging subordinates in political debates
- **DO** adopt and enforce an anti-harassment policy that explains that harassment on the basis of any protected characteristic will not be tolerated
- **DO** be consistent when disciplining employees

How to Handle a Workplace Political Discussion (cont.)

- **DON'T** allow employees to use work time or company resources for political goals
- **DON'T** permit employees to distribute any political literature or materials at work
- **DON'T** let employees make political statements to customers
- **do not** neglect to train supervisors on what to do if they observe inappropriate conduct

Have a Formal Complaint Procedure

- **Step 1:** Employee shares concern with an immediate supervisor
- **Step 2:** Employee submits a written complaint to a manager or HR if the situation can't be resolved in Step 1
- **Step 3:** Manager or HR representative discusses issue with employee and investigates it further, if necessary
- **Step 4:** A decision or resolution is made, which may include counseling and/or disciplining the offending employee

Employee Communications

Remind employees to:

- Excuse themselves from any unwanted political discussions
- Be sensitive to the time and energy they're spending discussing politics on the job
- Leave strong opinions to themselves
- Change the topic if necessary

Employee Communications (cont.)

Remind employees to:

- Speak up if something makes them uncomfortable
- Agree to disagree
- Know and understand the audience
- Be open-minded to others differences
- Review company policy if unsure

Solutions to Protect Your Business



Politics in the Workplace Kit



Exercise Your Right to Vote Posters

Learn more at [HRdirect.com](https://www.HRdirect.com)

Questions

