

# Politics at Work - What's an Employer to Do?

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Now that the election is behind us, all of your employees have stopped discussing political issues and there is peace and harmony in the universe, right? Ha! If only that were true. With the House switching from one party to another, political discord is likely to ramp up. Is your workplace at risk of becoming a tinderbox as employees debate and defend their political causes and viewpoints? If so, is there anything you can do about it?

Private sector employers can generally limit employee speech in the workplace without running afoul of federal law. (Governmental employers have different constraints, however, imposed by the First Amendment's guarantee of free speech.) But note that some state and local laws protect employees who engage in political activity outside of work.

Employers need to be cautious, however, when disciplining employees for disruptive political expression or activity in the workplace, as doing so may expose the employer to bias claims where there is a connection between an employee's membership in a protected class and the political expression, *e.g.* the immigration debate centers on national origin, a protected class.

Thoughtful employers recognize the need to balance employees' interest in political activity/expression with maintaining a productive, civil, and safe work environment.

So, what's an employer to do?

- Focus on conduct, not content. Where a political conversation in the workplace escalates to a heated debate that becomes disruptive, focus on the disruption to the workplace, not the content of the employees' particular political expressions.
- Be consistent. It may be HR 101, but it's critically important to manage employee misconduct in this area consistently and not favor one employee over another based on the content of their political expression.
- Foster an inclusive, civil workplace culture. Include a discussion about political speech in workplace trainings on civility and inclusiveness, and equip your managers to identify, address and, if necessary, de-escalate these situations.

Taking steps now to address these issues may help avoid “politics as usual” in the workplace.