

BLOGS

Archives;Free Speech;Leave;Social Media & Technology

Another Workplace Technology Challenge Election Day

As Election Day approaches, politics and political opinions are likely to be a hot topic of conversation in the workplace. In some cases, this can become a source of tension and conflict among co-workers. This may be especially true this year given the deep political divide that seems to have developed in our country over the past few years. As most human resource professionals know, workplace conflicts can have a detrimental effect on productivity and create legal risk. The best approach to manage this issue is setting the tone at the top as one of respect for different opinions and viewpoints. That message then needs to be clearly communicated to employees.

Political Speech and the Law

Free Speech

In the private workplace, there is no absolute constitutional right to free speech. That right is only guaranteed and applicable in public places and not privately owned businesses. As discussed below, however, this does not mean that employees have no legal rights at all related to political views or opinions.

Off-Duty Conduct

Some states and many local municipalities have enacted laws that provide certain protections to employees during their off-duty hours. These laws may protect an employee from any adverse action by an employer based on their political views or activities during off-duty time. Be sure you understand the local laws and regulations that apply to your workforce.

Labor Laws

The National Labor Relations Act (NLRA) contains many nuances that employers either don't know about or don't understand clearly. An employer can stop employees' political discussions if they are disrupting the work environment by talking about their support for a certain candidate or disparaging the political stances of others. If the political speech is tied to a worker's employment situation, such as supporting a candidate because they believe they will have better work conditions or better pay, that changes things. If employees are talking politics in connection with their conditions of employment, and they aren't disrupting work during normal business hours, that could be a protected activity under the NLRA.



Voting Leave Rights

Many states, including Minnesota, allow employees to take paid time off to vote. Employees have the right to be absent from work for the time necessary to appear at the employees polling place, cast a ballot, and return to work. Generally, an employer may not dock pay, personal leave, or vacation for voting leave. More on voting leave rights can be found in my September 26 blog article.

Social Media

Since the presidential election of 2008, social media use has grown dramatically and is one of trickier challenges that employers face in a presidential election year. In 2012, some employees may communicate via Twitter, Facebook and other social media tools more than they communicate in live conversations.

The legal requirements cited above apply to all types of communication or speech, including social media. Employers need to be reasonable when setting expectations or policies about social media use. When it comes to setting ground rules related to social media and politics, my earlier tone at the top advice applies with equal force. While employers may discipline or fire an employee for disrupting the workplace with political talk, a reasonable and respectful approach to managing political discussions at work will go a long way toward avoiding legal problems.

When the political atmosphere at work starts to heat up, especially during election year, it is always a good idea to seek the advice and input from a lawyer familiar with workplace and employment laws.