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Escaping Politics by Going to Work — As Long As the Boss Isn't Involved

Commentary by
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There are very few places these days where someone can escape the 24/7 election campaign news cycle, social media postings or becoming engaged in political discussions heated or otherwise.



Tandy

Surprising to many people, one of the places in Florida to go to escape may actually be your private workplace. While other states have statutes in place providing guidance for office political discussions, Florida has no state laws addressing the issue with respect to private workplaces.

As a result, private employers in this state are free to limit or eliminate certain political conversations among their employees, and many do to avoid the loss of productivity and focus that often accompanies such discussions or the potential for alienating clients and customers who overhear or are drawn into such discussions.

While it is nearly impossible to ban all discussions which can conceivably relate to politics, private employers can take steps to restrict employee political activity — with the exception of labor issues (usually confined to wages and working conditions) which are covered by federal statutes. Employers may impose limits on the type of subjects discussed and ban the use of company

resources such as computers, telephones, equipment, supplies, etc. in an effort to promote a particular political message.

Private employers may also prohibit employees from using company email accounts and electronic devices to send political statements of support or otherwise, political messages or political cartoons, and to attempt to coerce co-employees into supporting a particular candidate for office.

Moreover, Florida employers can restrict or ban political signs, banners, campaign buttons and shirts containing political messages except for those discussing union, wage or workplace conditions. For example, a generic "Vote for Blake" button could be banned, but "Vote for the candidate who will ensure safe working conditions" may not so long as it does not disrupt work performance.

COMPANY POLICY

Many employers confronted with questions in this area rely upon already established workplace policies restricting use of company property and equipment, policies establishing dress codes and other office policies on civility to support limiting or eliminating political discussion, especially during a heated election season.

A better practice is to have a separate policy that identifies the limitations imposed on employee activity and

speech during working hours; identifies the "safe" topics — working conditions, wages, unions — which may be discussed on breaks or other nonwork periods; and identifies that in all instances the tone of any discussion must be civil and avoid interruption of or distraction from work related tasks.

Similarly, private employers are free to discipline employees who violate these policies and prohibitions on political activities in the workplace. Contrary to what many people think, the First Amendment does not

provide a basis for private employees to speak their mind on every topic they can think of, especially political topics, nor is

there a federal or Florida state constitutional right to engage in political discourse during working hours. And except in narrow circumstances, there is no prohibition on the state or federal level from private employers discharging at-will employees for their political activities.

Contrary to federal and state laws that allow public sector employees to express their political opinions or affiliations without concern for retaliation or reprisal, no such laws specifically protect private employees in the state of Florida.

ESCAPIST PLACE

Unfortunately, all of this does not necessarily mean that one is guaranteed a "political speech free zone" at

the office. While Florida does not prohibit private employers from restricting political discussion between and among its employees, neither does it restrict private employers from sharing their own political views with their employees.

Neither Florida nor federal law prohibits managers and company officials from conversing about their own political views or sharing their views with their subordinates. So long as the private employer is not bullying employees to financially contribute to a particular candidate or interfering with an employee's ability to exercise his or her voting rights, no Florida or federal laws will have been broken.

Moreover, following the U.S. Supreme Court's 2010 decision in *Citizens United v. FEC*, a recent study showed a significant increase in political recruitment activities on behalf of employers seeking to mobilize their workforce toward specific political action. However, such activity is not without risk of alienating employees and potentially sidetracking productivity.

As a result and especially in this animated political season, it may be better off in the long run for both employers and employees to leave politics at home and make the office the place to escape from campaigning.

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