

Blog Post

Policing Politics in the Workplace – Keeping the Peace on Election Day and Beyond

November 7, 2022

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With early voting and vote by mail, methods of voting have become easier and more flexible and convenient than ever before—but policing politics in the workplace can be trickier than interpreting a hanging chad! Here’s what employers can do to ensure that a color war of red and blue does not ensue, after navigating through the patchwork of “time off” to vote and other voting leave laws.

R – E – S – P – E – C – T!!

With regard to voting leave and political discourse, respect goes a long way, at the polling place and at the proverbial water cooler. Even after votes have been cast and polling places have closed, it will be up to HR to keep the peace. While it may be tempting to ban political discussions in the office altogether (or let’s be realistic – in emails, tweets, and social media posts), that is not likely feasible and can create even more problems, including in jurisdictions which provide some level of protection as to political speech or affiliation, and under the National Labor Relations Act for those discussions which may relate to workplace conditions.

The better approach is to teach tolerance and respect for differing political views, while keeping watch for behavior that may elevate to bullying, intimidation,

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harassment, or discrimination. Private, non-governmental businesses can regulate speech without infringing the First Amendment (unless those free speech rights are extended by state or local law)— but neutral policies are best. In fact, in some jurisdictions, where there are laws to protect workers from intimidation or discrimination based upon their political opinions or views expressed in the workplace, neutral policies are actually required.

It's often not the words which are spoken but the manner in which they are delivered that crosses the line. Before that counseling slip is issued, companies should make sure that they are regulating conduct and not speech to stay in the clear. Management should also be proactive in diffusing tempers before they flare, by redirecting workers back to productivity goals, if it can be done so delicately. Finally, it may be best to avoid fights over the TV remote in the conference room on Election Day altogether—by keeping it off rather than refereeing the selection of one major network over another for media coverage of the results!

Time Off To Vote

As a reminder, employers are not required by federal law to give employees time off to vote, but voting leave laws vary by state and local law, and typically ensure workers have time off to vote when their work hours do not permit sufficient time to vote during poll hours. Although workers may have several options to exercise their right to vote, including in advance, in the mail, or by absentee ballot, they should not be discouraged from taking time to vote in person on Election Day if businesses can afford to be flexible. Employers should check for voting leave laws where their workers are located, especially to determine if leave is required, how much, and whether paid or unpaid, before responding to a particular request for leave on Election Day. For any questions or concerns about voting leave laws or policing politics in the

workplace, you should consult your Akerman Labor & Employment attorney.

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