



Leave The Political Boxing Gloves At The Office Door

Insights

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We love a good political fight, but dealerships would be well-advised to check the gloves at the office door and instead heed the wisdom offered long ago by Calvin Coolidge: “No man ever listened himself out of a job.” Political speech in the workplace is not without its risks.

Politics And The Workplace Don’t Always Mix Well

Indeed, mixing work and politics can be a very bad career move – not to mention downright dangerous. A CareerBuilder poll of 7,000 full-time workers found that nearly a quarter of politically charged confrontations either end up in bad feelings among co-workers or even physical fights.

It’s no wonder the Society for Human Resource Management reports about 25% of employers have written policies proscribing political activities such as party organizing, soliciting campaign donations, posting political signs, or holding rallies in common areas. Others frown on employees wearing attire festooned with political buttons or slogans. Still, others prohibit workers from using company-sponsored social media to canvass for their favorite causes or candidates.

What Does The Law Say?

When keeping a lid on office politicking, it is important for dealers, managers, and HR personnel to know the law. It is a myth that employees have a constitutional right to free speech on the job, but whatever restrictions you adopt at your dealership must be clearly articulated and consistently enforced.

The First Amendment’s free speech protections do not extend to the private workplace. Certain professional, “non-political” public employees such as police officers, firefighters, and teachers do enjoy long-standing First Amendment protections against being demoted or terminated for supporting political causes or candidates. But for everyone else in the private sector, showing up for work wearing a Donald Trump “Make America Great Again!” baseball cap or a Hillary Clinton “I’m With Her!” t-shirt could elicit that familiar “You’re Fired!” response from the employer. And the law would be on your side; contrary to popular belief, employers can discipline employees for such things.

One exception to this general rule, however, is political activity aimed at improving workplace conditions or wages – even among non-union employees. Here, the National Labor Relations Act (NLRA) gives all workers the right to engage in “concerted activities” for their “mutual aid or protection.”

An example might be workplace campaigning to support a candidate's vow to raise the minimum wage or bar immigrant workers thought to suppress those wages. In other words, any political speech where a direct connection exists between "terms and conditions of employment" and the subject of the campaign. While the distinction between such speech and general political speech may, at times, be blurry, employers need to know it exists, or run the risk of an NLRA charge.

Practical Lessons For Dealers

Even when you choose to permit political discussion and campaigning, you should be mindful that discussing politics cannot be an excuse to harass or bully other employees. Workplace anti-harassment rules should always be kept in mind.

Moreover, political speech concerning a candidate's race, religion, gender, age, or any other "protected status" may result in an increased risk of a discrimination or retaliation claim. Consider a manager, for example, who says that a particular candidate is too old to be president in front of subordinates. An older employee whose employment thereafter is terminated, or who experiences some other adverse employment action, may try to support an age discrimination claim by using the manager's remarks as evidence, arguing they show bias against older employees.

Finally, you should remember that many states have laws that protect employees engaging in lawful off-duty conduct, including political expression. And most states provide employees time off work to vote.

Conclusion

Elections are times of high passions and, in a democracy, mostly healthy ones. We can all hope that, even where the law is silent, cooler heads will prevail around the office watercooler. You should aim to set an example to ensure that your colleagues remember to treat one another with consideration and respect – no matter how much passion they have for, or against, a specific party, cause, or candidate.

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