

How to prevent presidential debates from becoming disruptive workplace debates

[Politics](#), [President](#)



We just saw the first Presidential debate. No matter what your view, I think we all can agree it was contentious. The feelings of the campaign in general, and the debates in particular, will undeniably leak into workplaces. What do you do? Or better yet, what don't you do?

To help guide you, here are eight questions and answers to help handle political workplace discussions.

1. Don't employees have a First Amendment right to say what they want politically?

No. The First Amendment applies only to restrictions imposed by the government. Private sector employees have no First Amendment rights in the workplace. If you are an entrepreneur, you can prohibit employees from talking politics without worrying about the First Amendment.

There is one exception -- keep in mind some state constitutions, such as California, apply (or may apply) to private sector employees. So a ban in California, for example, is asking for trouble.

Related:

2. Do employees have any rights to express their political views in the workplace, independent of any constitutional right?

Yes, employees covered by the National Labor Relations Act (NLRA) probably would have the right to share their views, including wearing buttons, if the political statement relates to the terms and conditions of employment.

Let me give you two examples -- Vote for Clinton so there is more generous paid parental leave or vote for Trump so that religious rights in the workplace are respected. Keep in mind that supervisors and managers, as defined by the NLRA, are not protected by the NLRA.

3. Can employers discriminate based on message? That is, favor one political view over another?

This may come as a surprise to many but, unlike race, sex or religion, one's political affiliation is not a protected group under federal law and almost all state laws. There are exceptions, such as in the District of Columbia and under a few other local ordinances.

But just because something may be lawful does not make it right. It would be foolish, even if not illegal, to discriminate based on political view point. Do you really want to alienate a large percentage of your employees and customers?

Related:

4. What if what is said in the workplace is discriminatory?

What if someone makes a statement hostile to Mexicans or disparages Evangelical Christians? Employers have more than a right to respond to discriminatory messages in the workplace. They have a legal obligation to do so. Employers can brook bias of no kind -- that includes during this election season.

5. Aren't we better off just banning all political speech, to the extent we can, to avoid disruptions?

No. It's simply not practical. And, it will get even less so as we approach the election. It also is not desirable. Ban political talk and political opponents will agree on one thing -- you, as the employer, have gone too far.

6. Aren't there reasonable restrictions that you can and/or should impose to minimize disruption and/or risk antagonizing customers?

Yes, you probably could have a rule that anyone who interacts with the public not wear a political button or otherwise convey a political message of any kind. I say "probably" and not "absolutely" because the National Labor Relations Board (NLRB) that interprets the NLRA continues to limit what employer can do. But entrepreneurs need to balance the potential legal risk against the business risk of doing nothing.

7. But what if there are disruptions in the workplace?

Some disruptions are inevitable. You absolutely can respond to the disruptions. You are not paying employees to be as dysfunctional as Congress. But focus on the disruption as opposed to the content of the disruption -- unless what is said is discriminatory. There should be both the reality and the appearance of being even handed.

Related:

8. Can you as a leader express your own views?

Yes, there is no question that you can share your views. The question is, how and when? Remember, your power is based on your influence, and your influence may be tarnished if you do not temper your political views.

Better to support a candidate than bash the other side. And, at all costs, avoid the " I don't know how anyone could vote for [fill in the blank]." You are effectively calling those who disagree with you idiots. Not exactly the key to engagement.

This article is not legal advice, should not be construed as applying to specific factual situations or as establishing an attorney-client relationship.