

Election Season Heats Up—In the Office, Too

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The polls are close, the debates are getting heated, and even Sesame Street has become politicized during the 2012 election season. It's no wonder then that political polarization is seeping into the workplace, too: According to [a CareerBuilder survey](#) published earlier this year, 36 percent of the 7,000 U.S. employees polled reported discussing politics in the workplace, and 23 percent of those that do so also report fighting about it.

So what can, and should, employers do about the political speech of employees in the workplace? Employment law attorney Kelly Kolb says the first rule of thumb is that if the discourse is civil, let it be. "You want an informed electorate," says Kolb, a partner at Fowler White Boggs in Fort Lauderdale, "but if they can't talk like adults, shut it down."

In contrast to the public sector—where political speech by employees is subject to First Amendment protections—corporate employers can choose to restrict employee talk about elections. "Once you're in a private workplace, that free speech right no longer applies," says Deborah Weinstein, founder of The Weinstein Firm, an employment law specialist in Philadelphia.

Weinstein notes a few important exceptions. For starters, if employers allow employees to solicit support for causes in the workplace, they cannot specifically prohibit employees from soliciting support for union issues, or issues related to employment conditions. "You've kind of opened the door," Weinstein says.

But it's also important to note that harassment can't be left unchecked. If employers allow employees to talk politics, they also have to protect employees from harassment, says Weinstein.

Kolb agrees. For example, he says, comments by employees that implicate the president's race or stance on issues like gay rights and immigration, "potentially could be interpreted as anti a number of protected classes."

If political conversations become disruptive, Kolb says, an employer can generally use the

company's standing anti-harassment and [anti-bullying policies](#) to curb the behavior. "Political discussion is great, but if it's perceived as offensive, an employer has to take it seriously and investigate it like they would any other complaint."

Political speech by employers themselves has also garnered media attention recently—with stories about [Mitt Romney's conference call with business owners](#) about how their employees should vote; a packet distributed to [Koch Industries employees](#), encouraging them to vote for Romney; and a mass email sent by time-share mogul David Siegel to his employees, [encouraging them to vote for Romney](#) by implying that they'll be out of work if Obama wins.

Weinstein urges caution there, too. "Employers should tread extremely lightly when it comes to requiring employees to subscribe to certain political views," says Weinstein. "Scare tactics and forcing employees to vote for a particular candidate may violate federal law prohibiting intimidation of voters."

And remember, notes Kolb, come November 7, (civil) office life has to carry on. "Ultimately, after the election day, they have to continue to work together," he says.