

Society for Human Resource Management (SHRM)

Managing Divisive Politics in the Workplace

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February 27, 2017

Prior to the 2016 presidential election, media commentators expected the divisive political atmosphere that had permeated American society to dissipate after the vote. Weeks into President Donald Trump's administration, that is anything but the case. Instead, the manner in which national politics increasingly encroaches on our personal and workplace relationships appears to have become a new normal.

The president's executive order attempting to ban certain refugees and foreign nationals from entering the country is a case in point. The order immediately triggered widespread protests, with opposition demonstrations dominating the news.

Some demonstrations involved employees protesting hand-in-hand with their employers. For example, at several tech and media companies, including Google, employees staged walkouts with employer approval and attended rallies where company leaders spoke.

Other people protested in defiance of their employers, including several professors at Clemson University, who went on a six-day hunger strike in response to what they perceived as the university's inadequate response to the president's order.

Less publicized are the controversies human resource professionals are dealing with day in and day out—a heated break room conversation, an activist distracting co-workers or a manager's social media proclamations. Indeed, a recent study cited by The Washington Post found that, since November, about one-third of workers think their colleagues talk more about politics than about work! What can HR professionals do to foster a cooperative, productive work atmosphere that doesn't squelch individuals' right to have their opinions?

Make Cooperation Key

Find ways to reaffirm a principle that should already serve as a foundation for your organization's policies: The work environment should be a place of mutual respect where employees feel valued by their employer and peers (notwithstanding the National Labor Relations Board [NLRB] general counsel's dislike of the use of the word "respectful"). Employees should also know that the organization expects that conversations and activities not related to work will not detract from what should be the primary focus—work.

An important step in reaffirming these principles may be a message from the organization's leadership, perhaps delivered during an all-hands meeting. That message can reflect the

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organization's appreciation for workers' active citizenship while reminding them to cooperate with one another and not to allow political discussions to distract them or their peers from fulfilling their job duties. It also is an opportunity to remind them that, regardless of the topic, workplace conversations should not be of an uncooperative nature or discriminatory, provided that employees have the right to engage in protected concerted activity.

Importantly, meetings and messages of this type should never aim to influence or control employees' political activity—which is prohibited by some state laws—but should rather reaffirm appropriate workplace behavior and a culture of cooperation without encroaching on employees' rights under the National Labor Relations Act.

Some employers may consider a blanket ban on political conversation in the workplace, but be wary of this. Such a ban is difficult to police and may be overbroad. Employees have a right to discuss matters affecting their working conditions, and the lines between abstract political statements and observations about work often will be blurry.

Besides refocusing employees on the importance of cooperating with one another, building a culture of respect also can help your company respond to employee activism. If employees have an opinion to share, there is usually no reason not to listen. It may be that your organization is in a position and wishes to take public action. If so, still take care to protect the rights of dissenters within the employee ranks from harassment and retaliation. Further, federal election law and the laws of several states prevent employers from providing substantial resources in support of employees' political activities or from imposing their own views. Therefore, consult with counsel when presented with large-scale activism.

And, of course, it is acceptable to disagree with your employees' views, but when you do, make sure you communicate in a manner that demonstrates your respect for their engagement as private citizens.

Review and Enforce Applicable Policies

Second, review your company's applicable policies and be prepared to enforce them. Federal anti-discrimination law does not prohibit discrimination or harassment on the basis of political affiliation (though some state laws do), but the policies you have in place should help you prevent conflict from occurring and resolve it appropriately if it does.

For example, a broad and clear anti-discrimination and anti-retaliation policy will help employees understand what sorts of statements are prohibited in the workplace. In addition, a strong anti-harassment policy should include a clear reporting procedure. The procedure should detail the individual to whom complaints should be directed and be explicit in proscribing retaliation for complaints made in good faith. A description of this procedure and employees' confidence in it should serve as deterrents to conversations turning uncooperative.

Just as important is having an up-to-date social media policy. In recent years, the NLRB has taken a keen interest in these policies, along with others affecting employee communications, even those maintained by nonunion employers. The NLRB has made it clear that employers may not control the social media activity of their employees.

However, you may educate workers on how their activities may be perceived by others and remind them that your anti-discrimination and harassment policies apply even online. You also may wish to advise supervisors to exercise particular caution in their use of social media. While supervisors should be allowed to use digital platforms outside of the workplace, they must be cautious not to alienate employees with their messages.

Address Unique Needs

Third, be sure to consider your unique needs and those of your workers. Labor contracts, local laws and nonprofit status can all affect the way your company may respond to various forms of employee activism.

Once you have determined a strategy, be sure to communicate with your employees. Showing respect for them by making your policies clear can go a long way toward engendering the cooperative spirit you are asking them to show toward one another.

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