

# Office Politics: An Office Divided

by TYLER J. VOLM of Barran Liebman

As we digest the results of one of the more contentious elections in recent history, employers are wondering how to deal with a politically divided office. Hugs were shared last Wednesday— some in celebration and some out of consolation. In light of what many political pundits are calling a “nation divided,” the following are a few steps employers can take to maintain productivity, reduce office tension, and limit legal exposure.



Remind employees about the company’s anti-harassment/anti-discrimination policy and the prohibition on workplace violence and intimidation.

Every employer, usually in its employee handbook, should maintain a policy that prohibits harassment and discrimination based on one of the many protected classes. While political preference is not a legally-protected class, political discussions often involve topics that are protected classifications including race, national origin, religion, sexual orientation (under many state laws), and more.

The policy should set forth how employees can report instances of harassment and discrimination, and specifically identify the employee or employees to whom the complaint can be made. The policy should contain a safety valve in the event that the person listed as the proper reporting place is also the person doing the alleged harassment or discrimination.

For example, if the employee is instructed to report to their supervisor and the supervisor is also the alleged harasser, the policy should list another person in Human Resources or perhaps the company’s president, to which that employee can bring the complaint. It is also important that the policy set forth the company’s intent to

promptly investigate and adjudicate any reported instances of a policy violation, including discipline in appropriate instances.

Lastly, the policy should also prohibit retaliation against any employee who makes a report in good faith or who participates in any resulting investigation. Educating employees on these policies and reporting procedures can help increase their sense of safety in the workplace.

Employee handbooks also often contain a section prohibiting workplace violence and intimidation, including a prohibition on bringing any weapons into the workplace. While it does assume a worst-case scenario, employers should also review and update their workplace lock-down/evacuation plans, to make sure that employees feel as safe as possible, should something happen. Finally, employers should remind employees that intimidation or harassment towards other employees, even if it occurs after hours or through social media, can still be considered a violation of these prohibitions.

Reaffirm the company’s commitment to its equal employment opportunity policy.

Another policy that should be included in an employee handbook states the employer’s commitment to make all employment decisions without regard to any employee’s status in a protected class. Reaffirming the employer’s commitment to this policy is another way to gently remind employees that certain behavior is off-limits.

Be careful about limiting employee speech, especially with respect to wages and working conditions.

While employers are free to prohibit harassment, discrimination, retaliation, workplace violence, and other forms of disruptions, they must be mindful that political discussions can often involve conversations about pay, perceived income inequality, and desired

changes in working conditions.

These discussions can quickly cross the line into protected concerted activity, which is defined by the National Labor Relations Act as two or more employees taking action for their mutual aid or protection regarding the terms and conditions of their employment. State law also prohibits employers from limiting employees’ rights to discuss their wages.

Also, if employers perceive the potential unionization of their workplace, they should immediately contact their labor law attorney to review permissible and prohibited responses to such a process.

While employers can place certain limitations on solicitation or distribution of materials in the workplace to avoid disruptions, employees are generally free to solicit donations or distribute (non-offensive) materials on their own free time in places like the break room or the parking lot.

Be mindful of changes in law and policy at the state and federal level.

As with any election, there are also changes in the law that employers should monitor and this is especially true with the changing administration at the federal level. Be sure to keep an eye on these changes, as they are likely to affect most workplaces.

It is not an employer’s job to solve every disagreement among their employees. These suggestions are not the answer to all workplace conflicts and will not immediately unify a divided office. Following this advice will reduce tension and potential legal liability.

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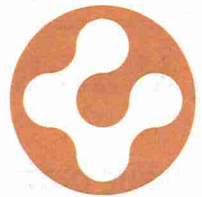
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