

Employment Law Corner

Monthly Report



November 2025

November Updates

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[Religious Accommodation Takes Center Stage in the Workplace](#)

[Age Discrimination In Hiring Is On the Rise—and Congress Has Noticed](#)

[Leaves Are Changing—Not Just Outside!](#)

From Hashtags to Headaches: Managing Politics in the Workplace

With social media making it easier than ever to know someone's opinions, political discussions can feel unavoidable in the workplace. We see it every day with our clients: employers are facing new and increasingly complicated challenges as political conversations spill into work settings. Luckily, we are here to help you foster respectful expressions without crossing legal lines.

Avoidance Isn't an Option

It can feel tempting to ignore this issue, but political expression can impact morale, productivity, and even company reputation. With the spike in social media use and remote working arrangements, it is imperative that you get ahead of this issue and understand the legal boundaries that can come into play. If you fail to set clear policies and expectations up front, then it will be harder to manage issues when they arise.

The Social Media Factor

Social media provides a platform for users to access, share, and discuss political opinions in real time with a large audience and with minimal effort. This immediate access to the public on such a wide scale can result in a singular post or comment spiraling into a crisis. An employee's online presence can be seen as a reflection of the organization. Then backlash can spill into the workplace, especially when profiles list an individual's workplace or when posts go "viral." The result can be devastating, with impacts on your organization's reputation, relationships with customers and clients, and employee retention.

The question is not whether to address political speech and expression, but how.

What's Protected (and What's Not)

Navigating political speech and expression of private employees boils down to the content of the speech.

- **Freedom of Speech:** Boy, is this "right" misunderstood in the private workplace! The First Amendment of the Constitution—which grants the right of

free speech, *applies only to government censorship*, not private censorship. There is no general “right” to free speech at work for private employees, and private employers are free to limit speech in the workplace. The refrain “that violates my free speech” has become a rallying cry in every interaction from work to commerce to social media, but it is first and foremost a prohibition on government limiting speech.

- **National Labor Relations Act:** The NLRA does not allow for censorship of certain speech at work. The Act prohibits employers from disciplining or terminating both union and nonunion employees for engaging in “protected concerted activity.” Employees are engaged in protected concerted activity when they are working together to present an issue to an employer concerning their wages, benefits, or terms and conditions of employment. This protection allows employees to post complaints at their workplace and to share information in any manner, if it falls under protected concerted activity—not libelous, offensive or discriminatory communication. (See below).
- **Anti-Discrimination and Harassment:** Employers can always limit language that has the effect of discriminating against or harassing another employee. Employers can also discipline employees for conduct that violates their anti-discrimination and anti-harassment policies even if the conduct occurred outside the workplace. This means employers are free to take disciplinary action, including termination, for social media posts or comments by an employee that violates the organization’s anti-discrimination and anti-harassment policies.
- **State Laws:** There are various states that protect political affiliation or lawful off-duty conduct. Employers need to be mindful of any applicable state laws that could come into play before taking disciplinary action against an employee for social media activity.

Solution: Striking the Balance

The solution to navigating workplace issues resulting from political activity is proactively setting expectations and boundaries.

- **Establishing Expectations.** Clearly communicate expectations by establishing policies that clarify that political speech made on personal time should not violate your policies, including anti-discrimination, anti-harassment, code of conduct, and social media policies.
- **Stay Neutral.** Acting against one viewpoint but not another will invite claims of discrimination. Apply the same standards and rules to all employees, regardless of their political leanings.
- **Avoiding Blanket Restrictions.** Broadly prohibiting political expression may run afoul of the National Labor Relations Act and applicable state laws on off-duty conduct. Focus your policies and rules on behavior and content that disrupts operations, violates laws, or harms the organization’s reputation.

- **Respect.** Encourage employees to always communicate professionally and respectfully, whether in person or online. Hold all employees to these standards and ensure supervisors and managers are leading by example.

WE CAN HELP: Ready to get ahead in navigating this nuanced area and implementing best practices? We draft and review policies and handbooks day in, day out. Our employment attorneys regularly evaluate workplace issues, develop creative solutions, and implement best practices to keep our clients prepared. Do you have questions and want to learn more about how we can help? [**Contact us.**](#)

We can help! Our **Employment Counsel On-Call Triage Service** is a perfect resource for employers of all sizes looking to receive guidance on employment law and HR-related questions. We work with clients day in, day out to help them navigate complex legal issues and implement best practices. We receive unique questions every day through the **On-Call Service** and are ready to tackle any issue where you need help!

Who We Are:

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That is easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business: **Foley & Foley PC attorneys specialize in Employment and Labor Law in the Public and Private Sectors (foleylawpractice.com).**

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Meet Julia Pomella-Griggs

Julia has experience on a wide range of employment matters in the public, private, and nonprofit sectors. Julia's experience includes counseling clients, drafting and analyzing policies, managing workplace misconduct, and conducting trainings.

For more info, check out her full bio [**here!**](#)

