



Speech, Safety, and the Law: When Politics Enter the Workforce

Ben Buchwalter and Ryan Malhan

January 28, 2026

Agenda

- Overview of Laws Against Discrimination, Harassment & Workplace Political Speech
- Trump Admin Actions
- Recent Workplace Political Topics
 - Key Takeaways
 - ICE Warnings / DLS
 - Abortion & Healthcare
 - Trans Rights
- When Personal Beliefs Conflict
- Employee Speech & DEI Policies
- Company Statements on Current Events

Workplace Political Discourse in the News

Employment Commission Chair Recasts Workplace Discrimination in Trump's Image

Andrea Lucas, the chair of the Equal Employment Opportunity Commission, has said she wants to undo years of what she describes as activist excess around labor law.



Minneapolis hotel worker fired over 'doxxing' of ICE agents

An independently owned Marriott hotel in Bloomington, Minnesota, fired an employee for leaking the names, emails and images of ICE agents.

 **Jessica Guynn**
USA TODAY

Jan. 9, 2026 | Updated Jan. 10, 2026, 2:24 p.m. ET

Washington Post Opinion Writer Says Firing Violated Labor Agreement

The company fired Karen Attiah this month for her social media posts related to Charlie Kirk's assassination.

 Listen to this article - 2:11 min [Learn more](#)

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Workplace Political Speech Standards

- Cal. Labor Code § 1101
 - Prohibits forbidding employees from engaging in politics or controlling employees' political activities.
- Cal. Labor Code §§ 1103, 1104
 - Employers who violate these provisions are guilty of a misdemeanor
 - In all prosecutions, employers are responsible for the acts of the employer's managers, officers, agents, and employees
- N.Y. Labor Code § 201-d
 - Prohibits employers from discriminating against an individual because of their political activities "outside of working hours, off of the employer's premises and without use of the employer's equipment or other property, if such activities are legal"

Discrimination, Harassment & Retaliation Standards

- Federal Civil Rights Act of 1964
- California Fair Employment and Housing Act
 - Harassment = unwelcome conduct, based on a protected characteristic, that interferes with job performance OR creates an intimidating, hostile, or offensive work environment.
 - Failure to prevent
- New York Human Rights Law
- New York City Administrative Code (§ 8-107)
- Whistleblower Retaliation (Cal. Lab. Code § 1102.5)
 - Protected activity

Trump Admin Actions

- Trump EO: “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”
 - Orders “all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities
- Trump EO: “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”
 - Federal agencies to enforce laws governing “sex-based rights . . . to protect men and women as biologically distinct sexes,” and “to remove all statements . . . promoting gender ideology
- Trump EO: “Additional Measures to Combat Anti-Semitism”
 - EEOC “Promises” to Hold Campus Workplace Harassment Accountable
 - “The EEOC is committed to partnering with the Department of Justice,” along with other federal agency partners in the Trump Administration, “to stamp out the scourge of anti-Semitism on campus workplaces.”

Trump Admin Actions

- Trump EO: “Improving Oversight of Federal Grantmaking”
 - Changes the criteria for discretionary grant funding and adds additional oversight to the grantmaking process to ensure that federal grant recipients do not “compromise public safety or promote anti-American values.”
 - Prohibits discretionary grant funding for organizations that promote “racial preferences,” acknowledge non-binary or transgender individuals, or support undocumented immigrants.
- Trump EO: “Ending Radical Indoctrination in K-12 Schooling”
 - Prohibits the teaching of specific ideologies deemed divisive or politically motivated. The action argues that public school curricula should avoid promoting concepts such as systemic racism and “gender ideology.”
- Trump EO: “Reforming Accreditation to Strengthen Higher Education”
 - Seeks to reform higher education accreditation by prioritizing academic excellence, measurable outcomes, and institutional accountability while targeting what it describes as unlawful DEI practices embedded in accrediting standards.

Key Takeaways

- Social media!
- Free speech / First Amendment perception
- Legal claims often not about speech
 - Discrimination
 - Retaliation
- Shifting Expectations – Biden era vs. Trump era vs. What's next.
- State-specific differences
- **What have you seen?**

Hilton Worker Fired After Warning Guests of ICE Activity

- Key Facts:
 - A Dallas valet worker employed by Towne Park (a third-party contractor for Hilton) posted a TikTok video warning that ICE agents were staying at the Hilton Anatole.
 - The video went viral; after refusing a manager's request to delete it, she was terminated the same day for violating Towne Park's social media and business conduct policies.
- Legal Considerations:
 - First Amendment does not apply to private employers.
 - At-will employment generally allows termination for off-duty speech.
 - California exception: Labor Code §§ 1101–1102 protect lawful political activity outside work.

INDEPENDENT

Hilton worker fired after warning of ICE activity at the hotel where she worked

Brendan Rascius
Mon, January 12, 2026 at 6:06 a.m. PST
3 min read

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Hilton worker fired after warning of ICE activity at the hotel where she worked

Marriott Employee Fired for “Doxxing” ICE Agents

- Key Facts

- Minneapolis Marriott employee fired for leaking names, emails and images of ICE officials.
- The day before, hundreds of protesters surrounded a different Minneapolis Marriott hotel.
- ICE tweet: “Doxxing ICE officers and agents puts them and their families at enormous risk.”

- Legal Considerations

- Business reason for term: importance of privacy
- Lessened “free speech” rights compared to privacy



U.S. Immigration and Customs Enforcement 
@ICEgov

...

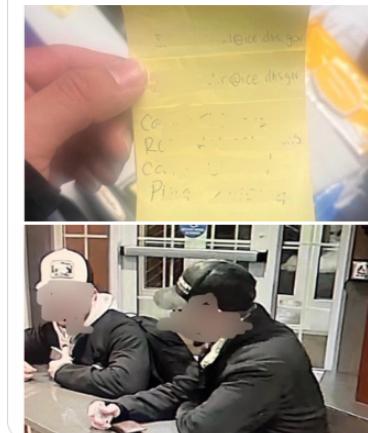
We're glad [@Marriott](#) took immediate action and fired the employee responsible for doxing our officers.

Doxing ICE officers and agents puts them and their families at enormous risk — especially now as they face a 1,300% increase in assaults, a 3,200% increase in car attacks and an 8,000% increase in death threats.



Bill Melugin  [@BillMelugin_](#) · Jan 8

BREAKING: An independently owned Marriott hotel in Bloomington, MN confirms to @FoxNews they have ID'd & fired an employee who doxxed ICE agents by leaking their names, emails, and surveillance images of them as they checked in at the front desk. The images appeared in an [Show more](#)



DHS IT Employee Fired for Criticizing Noem

- Key Facts

- 8-year DHS IT employee caught on video criticizing Kristi Noem during Bumble date.
- “Conduct unbecoming of a federal employee.”
- Date posed as liberal but videoed the conversation as part of O’Keefe Media Group (“OMG”).
- Agreed with date’s statement Noem was “crazy.”
- Claims: (1) First Amendment Violation; (2) Fraudulent Misrepresentation; (3) Tortious Interference with Employment Relationship

- Legal Considerations

- Government action – free speech implicated.
- Comment off duty, with no impact on IT role.
- Entrapment consideration.

Fired DHS worker sues agency after he criticized Noem on alleged fake date

Brandon Wright alleges criticism of the homeland security secretary is protected by the first amendment



© Kristi Noem speaks at DHS headquarters in Washington DC on 15 January 2026. Photograph: Bonnie Cash/UPI/Shutterstock

EEOC Revokes Harassment Guidance Addressing Trans Employees

- 2024 Harassment Guidance included 70+ examples of race, sex, disability, age, etc. harassment
- Addressed trans / non-binary harassment issues:
 - Repeated/intentional use of name or pronoun disclaimed by the employee
 - Denying access to bathroom consistent with gender identity
- EEOC Chair Lucas: “Biological sex is real, and it matters. Sex is binary (male and female) and is immutable.”
- **So, what now?**

Trump's EEOC strikes harassment guidance amid debate over transgender protections

UPDATED JANUARY 23, 2026 · 11:50 AM ET ⓘ

HEARD ON MORNING EDITION



Andrea Hsu



2-Minute Listen

TRANSCRIPT



Transgender Rights & Workplace Issues

- EEOC has dropped several lawsuits on behalf of transgender workers after Trump's January executive order declaring two unchangeable sexes
 - Reversal from 2024 guidance, which specified that deliberately using wrong pronouns and denial of bathroom access constituted harassment
- *State of Texas v. EEOC* (N.D. Tex. May 15, 2025)
 - Struck down EEOC's enforcement guidance on harassment in the workplace, encompassing transgender rights
 - Held that EEOC exceeded its statutory authority by expanding the definition of sex under Title VII "beyond the biological binary"
- As of July 2025: EEOC is processing new transgender discrimination complaints involving hiring, firing and promotion that "fall squarely under" the Supreme Court's *Bostock v. Clayton County* ruling, but harassment claims (e.g., pronoun use, bathroom access) remain deprioritized.

Supreme Court – Trans Athletes (2026)

- Supreme Court likely to uphold state bans in Idaho & West Virginia restricting transgender girls/women in female sports teams; Justices questioned whether Title IX covers gender identity and noted Javits Amendment permits sex-based athletic classifications.
- Majority signals state-by-state approach, citing differing state policies and unresolved scientific questions about competitive advantage.
- University of Arkansas rescinds law-dean offer after political officials objected to the candidate's prior support for transgender athletes—prompting academic-freedom protests and claims of political interference in hiring.
- Former SJSU volleyball coach files Title IX retaliation lawsuit, alleging suspension and loss of employment opportunities after raising concerns about a transgender athlete's participation.

Abortion & Workplace Issues

- Travel out-of-state to access abortion services
 - Often framed as medical health services not available in-state
 - Confirm insurance & vendor coverage
 - Outsource to third party fertility services
 - Slack Discussions
- EEOC & Abortion Discrimination
 - PWFA – abortion is “related medical condition” covered under the law
 - 2022-2024 → Pregnancy/abortion discrimination remained EEOC priority
 - PWFA abortion protection challenge allowed to proceed in Feb. 2025
 - Trump Admin requests Court dismiss case challenging mifepristone
- Workplace privacy for abortion information

When Personal Beliefs Conflict – Examples

BUSINESS • DONALD TRUMP

The Major U.S. Companies Scaling Back DEI Efforts as Trump Targets Initiatives

EXCLUSIVE

Intel Ends Funding for HBCU Legal Pipeline Amid Trump Deal

Aug. 28, 2025, 9:22 AM PDT

POLITICS

Pam Bondi Pressured Lawyers to 'Violate Ethical Obligations' to Help Further Trump's Agenda, Complaint Claims

If lawyers did not "zealously pursue the President's political objectives," they were allegedly threatened with discipline

When Personal Beliefs Conflict – ABA Model Rules

- **Rule 1.13 – Organization as Client**
 - If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action . . . that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization . . . then the lawyer shall proceed as is reasonably necessary in the best interest of the organization.
- **Rule 1.2 – Scope of Representation**
 - 1.2(b): lawyer's rep of the client does not constitute an endorsement of the client's political, economic, social or moral views or activities
 - 1.2 (c): lawyer may limit scope of rep if limitation is reasonable under the circumstances and client gives informed consent

When Personal Beliefs Conflict – BIPOC Communities

- Black women disproportionately impacted by the Administration's purge of federal workers.
 - USAID – majority women; 40% racial & ethnic minorities – Mostly eliminated.
 - DOJ – majority men; 2/3 white – 1% staff cut.
- Scaled back diversity initiatives, including pipeline programs.
- Black women are disproportionately affected by declining job opportunities as hiring slows and DEI commitments recede; mid-career women report stalled pipelines and fewer callbacks.
- Steep rise in unemployment for Black women—described as sharp and unique compared with other groups—driven by federal cuts and private-sector losses in professional services.
- Policies erasing Black History
- Impact on LGBTQ+ employees: Rollback of federal protections under Trump-era guidance.

Employee Speech & DEI Policies

- “Illegal DEI”: illegal discrimination & workforce balancing based on protected categories
- Federal & State anti-discrimination laws – Still apply!
- Employees challenging DEI policies (or lack of DEI policies)
- Common considerations
 - Awareness that “DEI” programs may risk federal agency review or individual lawsuits
 - Avoid quotas, set-asides, and policies expressly favoring certain groups
 - “Pipeline” programs (not absent risk)

Company Statements About Current Events

- Employees want to feel proud of employer stance
- NYT: 61% of Millennials want employers to engage in social issues; 49% would quit Co. with contrary values
- Difficult to draw the line – what issues justify response?
 - What precedent are you setting?
 - Consider different or conflicting stakeholders
 - Ensure leadership/Board awareness
- Common: Address issues relevant to company

Where We Stand **Committed to the Integrity of the Rule of Law**

Farella Braun + Martel is proud that it was among the first law firms to join the amicus brief opposing this administration's unlawful retaliation against Perkins Coie and other law firms solely because those firms hired lawyers or represented parties in matters that the president disfavors. The Executive Orders conflict with our nation's foundational principles, the Constitution, and the rule of law. For our system of justice to function effectively, legal professionals must be free to zealously advocate for all their clients—whether they are large or small, wealthy or poor, regardless of political association—without fear of retribution from the government.

Farella's commitment to equal access to justice for all remains unwavering. Everyone deserves an advocate. History will judge this moment as one of great significance for our nearly 250-year-old democracy. We are proud to stand publicly in support of these bedrock principles of our judicial system.

- Karen Kimmey and Holly Sutton
Co-Managing Partners

Questions?



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