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CAN YOU BE FIRED FOR YOUR POLITICAL VIEWS?

In an era of intense political polarization, conversations about politics often spill over from social media feeds into the workplace. This can lead to a tricky question for both employees and employers: Can you be fired for your political views? The answer isn't a simple yes or no. It largely depends on where you live, who you work for, and the specific nature of your political expression.

The wrongful termination attorneys at Barrett & Farahany will explore the legal landscape surrounding political speech in the workplace. We will cover the concept of “at-will” employment, explain how protections differ between private and public sector jobs, and outline what you can do if you believe you were wrongfully terminated. Understanding your rights is the first step in

protecting your career and livelihood.



Understanding At-Will Employment

Most states in the U.S. follow the “at-will” employment doctrine. This means that, in the absence of a contract stating otherwise, either the employer or the employee can terminate the employment relationship at any time, for any reason, or for no reason at all. The key exception is that an employer cannot fire an employee for an illegal reason, such as discrimination based on race, religion, gender, or disability.

For private-sector employees, this doctrine has significant implications. Political affiliation is not a federally protected characteristic. This means that in most at-will states, employers can legally fire employees for their political views. However, several states and some cities have enacted laws that offer specific protections.

When Political Speech Isn’t Protected

Even when some level of protection exists, there are situations where an employer can legally fire an employee for political expression. The context of your speech — the time, place, and manner — is critical.

Private-Sector Employees

For those working in the private sector, legal protections often arise when political speech intersects with other protected rights.

- **Connection to Working Conditions:** The National Labor Relations Act (NLRA)

protects the right of non-supervisory employees to engage in “protected concerted activity.” This can include discussing how political issues relate to wages, benefits, or workplace safety. If your political discussion is tied to improving your terms of employment, it may be protected.

- **Overlap with Protected Characteristics:** If your termination for political expression is intertwined with a protected characteristic like race or religion, it could form the basis of a discrimination claim. For instance, firing an employee for participating in a Black Lives Matter protest could be interpreted as racial discrimination, as the movement is closely tied to issues of racial justice.
- **Inconsistent Enforcement:** If an employer fires an employee for expressing one political viewpoint while tolerating others, it could be evidence of discrimination. This suggests the firing was not about a neutral company policy but was instead targeting a specific belief.

However, your employer can likely fire you if your actions:

- **Violate Company Policy:** Using company resources for political campaigning or wearing prohibited attire can be grounds for termination.
- **Damage the Company’s Reputation:** Off-duty conduct, especially on social media, that harms your employer’s business interests, can lead to being fired.
- **Create a Hostile Work Environment:** If your political speech is threatening, abusive, or creates a hostile atmosphere for your colleagues, it is not protected.

Public-Sector Employees

Government employees generally have stronger First Amendment protections than their private-sector counterparts. However, these rights are not unlimited. For speech to be protected, it typically must be on a matter of “public concern.” The court then balances the employee’s free speech rights against the government’s interest in maintaining an efficient and orderly workplace.

A public employee can still be fired if their political speech impairs their job performance, disrupts workplace relationships, or undermines the agency’s mission. Furthermore, the Civil Service Reform Act of 1978 protects federal employees from discrimination based on their political affiliation...

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