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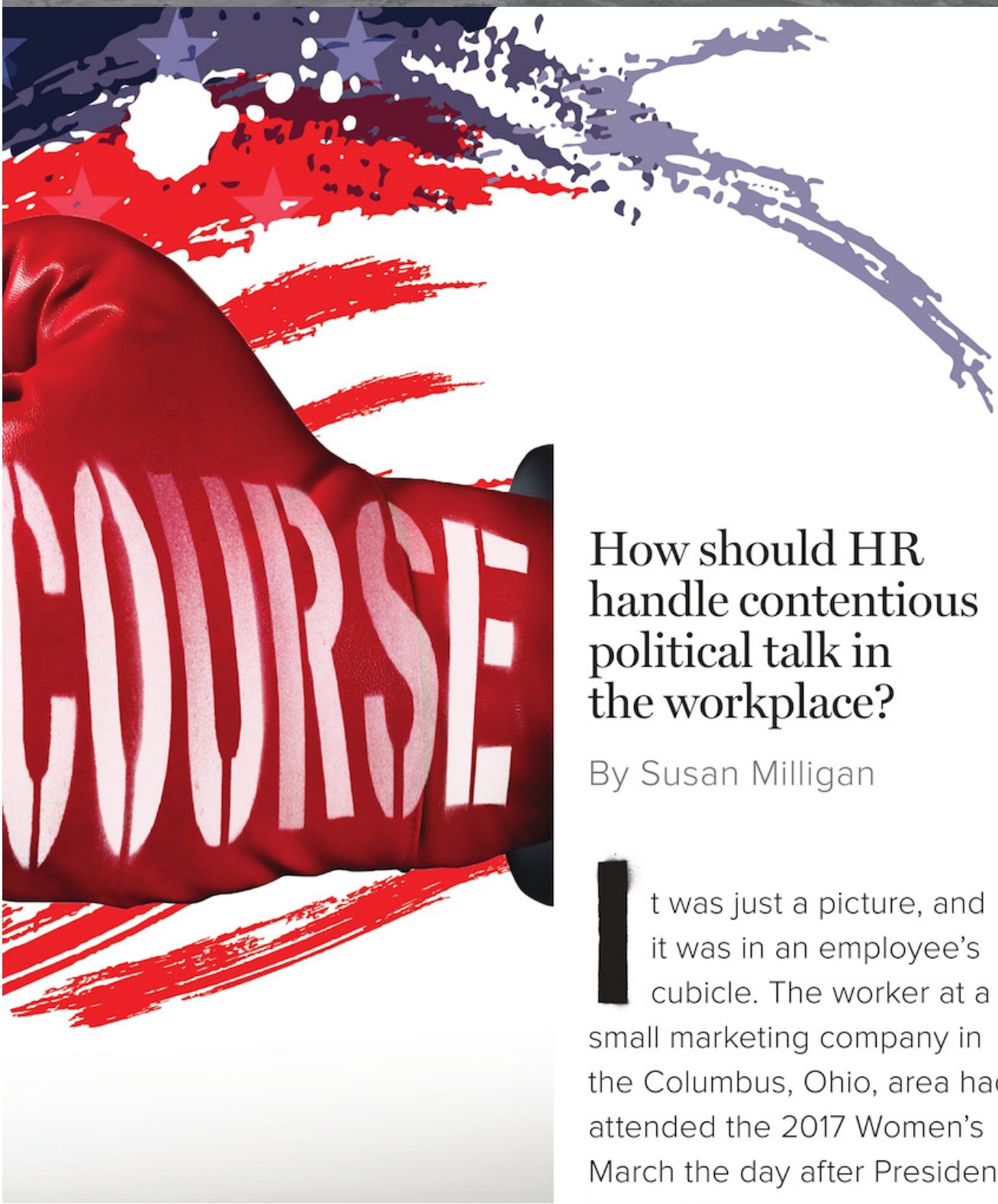
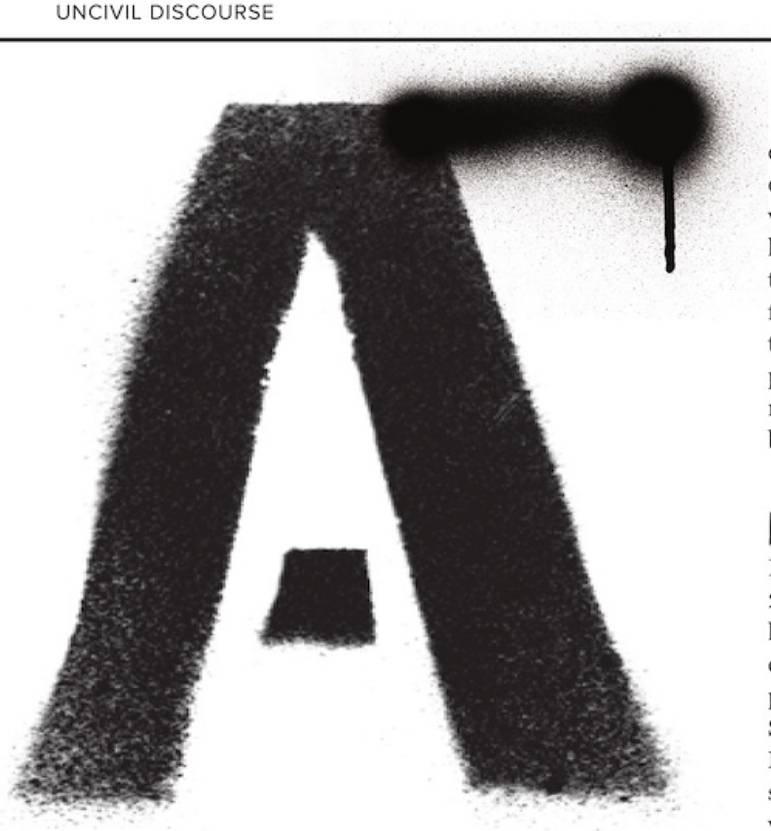


How should HR handle contentious political talk in the workplace?

By Susan Milligan

It was just a picture, and it was in an employee's cubicle. The worker at a small marketing company in the Columbus, Ohio, area had attended the 2017 Women's March the day after President

Donald Trump was sworn in, and when she returned she placed a photo on her desk of a boy holding a sign that read "Stop White Supremacy." Who could have a problem with that?



An employee who worked in IT, apparently. He had to do some work in the cubicle, saw the photo and went to a baffled HR manager, saying he was offended by it. "Don't you know 'white supremacy' is code for 'Trump'?" the IT worker asked the HR manager, who asked to be identified only as Amy. He told her he wanted to put up his own sign that read "Deport All Illegals."

Amy was dumbfounded and in a quandary over how to keep peace in the office. "I thought, 'Isn't white supremacy a bad thing?' " she says. "He saw the photo as a direct [challenge] to his conservative views."

Businesses have faced the impact of this polarization on an institutional basis, as well: Film companies, for example, threatened to boycott states that passed severe abortion restrictions, while college sports leagues have threatened boycotts of states with "bathroom bills" that are exclusive of transgender individuals. Chick-fil-A took heat for contributing to charities opposed to LGBTQ rights (although the company changed its policy last November). And Hobby Lobby was sued for refusing on religious grounds to provide coverage for birth control via its health care plan for employees.

POLITICALLY POLARIZED

People's political views—especially after the divisive 2016 election and continuing with the impeachment hearings and the 2020 presidential campaign—are "so entrenched. I find that a lot of individuals don't respect people who don't share their beliefs," says Julie Moore, SHRM-SCP, an employment attorney with Wellesley, Mass.-based Employment Practices Group. "I've never seen it so divisive as it is right now. I've seen people who've really had to avoid conversations [with co-workers] because their political views are so diametrically opposite. It leads to bullying in the workplace."

Avoiding the creation of a toxic work environment should be HR's primary goal, say workplace culture experts, and that can be tough. "I've had people get into fights" at work over political differences, says Gregory A. Hearing, a management-side employment lawyer based in Tampa, Fla., who serves on the Executive Council of the Labor and Employment Law Section of The Florida Bar. "They just bait each other."

A Society for Human Resource Management (SHRM) poll conducted last October found that 42

But how would other workers or visitors to the company react to a sign mentioning "illegals"?

In the end, Amy went to a senior manager who she knew had conservative views, and that person talked to the IT worker, making him feel less alone.

This is the new world HR is facing, as the country's stark political polarization seeps into the workplace. And it has gone far beyond setting rules about whether employees should be permitted to wear T-shirts or buttons supporting political candidates. It's much more personal, with people feeling threatened about not just their choice of candidate but their very value systems. The impeachment of the president by the House of Representatives and his ensuing acquittal by the Senate has served only to deepen the schism, with the country divided almost entirely along party lines.

percent of employees have had a "political disagreement" at work, and 12 percent have experienced political affiliation bias. Calls to the SHRM HR Knowledge Center about dealing with political talk at work jumped to 900 in 2019 from 310 in 2017. A majority (56 percent) of those responding to the SHRM study said the discussion of politics in the office has become more common in the past four years.

And if it feels like political divisions have gotten wider and behavior nastier and more personal, that's because they have. A Public Religion Research Institute (PRRI) study from 2019 found that 82 percent of Republicans believe the Democratic Party has been taken over by socialists. (By a similar margin, Democrats think their party is just trying to make capitalism work.) Meanwhile, 80 percent of Democrats believe the

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Republican Party is being controlled by racists. (But 94 percent of Republicans disagree, saying their party is just trying to protect America's values.)

Not only do many Americans dislike a person who identifies with the other political party, but they wouldn't want their kids to marry one, either. An earlier PRRI study found that 45 percent of Democrats would be unhappy if their son or daughter married a Republican, and 35 percent of Republicans wouldn't be happy if their child married a Democrat.

TENSIONS RUN HIGH

In the current environment, seemingly innocuous events can cause problems, as Carolyn Johnson-Evans, manager of HR at the Portland (Oregon) Children's

'YOU CANNOT LEGISLATE WHAT PEOPLE THINK. YOU *CAN* LEGISLATE HOW PEOPLE BEHAVE IN PARTICULAR CIRCUMSTANCES.'

MARK MARSEN

HOW HR CAN HEAD OFF PROBLEMS

As an HR consultant, Phyllis G. Hartman has dealt with some sticky situations. There was the bank president who was a supporter

based HR outsourcing firm, prepared an e-mail for a client CEO to distribute, spelling out the company's policy that everyone's opinions are

ing one candidate or another, employees can feel intimidated or worry they'll be treated differently if they disagree. So manag-

of President Trump—unlike many of the bank's workers. Then there was the township where some of the people in the office were elected, which meant they were inclined by their very jobs to be political.


Phyllis G. Hartman, SHRM-SCP

How should an HR professional navigate such workplace situations and keep them from becoming toxic?

"I ask the audience, 'How many of you agree respect is important at work?' We get into a discussion and people [see] that a good, respectful culture means that we're all successful."

Just getting things out in the open helps, HR specialists say, since it can lift the tension and make people realize that there are co-workers who see things differently—and that's OK.

What's not OK is using "disagreement" as a shield for harassment or an inability to work cooperatively with others. Insperity, a Houston-Museum, learned. Around the time of Martin Luther King Jr. Day last year, an employee wrote a King quote on a whiteboard in a common area. "Their supervisor came in and erased it and said, 'You can't be putting political statements up at work,'" Johnson-Evans recalls. The employee, upset, came to HR for help.

"I don't view [King] as a political person," she says. But, in her HR role, she has to step back and see issues through a politicized lens and from all sides. The resolution was a technical one: The employee was told that the whiteboard, which was in the break room, was intended for the employer to communicate information to workers and not for employees to communicate with each other.

The heightened political tension can have an effect on both individual health and workplace productivity. An American Psychological Association survey conducted in 2017 found that 26 percent of people said political debates at work had them feeling tense (a notable in-

to be respected and that doing so is the only way to build trust among co-workers.

While HR can hardly have Aretha Franklin's iconic song "Respect" playing on a loop, there are some actions HR and legal experts advise:

- Establish office policies and hold training sessions on showing respect to co-workers, but don't focus specifically on politics, which can have the effect of fueling conflict.
- Make what constitutes an "opinion" and what rises to the level of harassing another worker clear—admittedly a tough task, given that some of the rhetoric and social media postings of elected officials would run afoul of anti-discrimination laws, notes Galen G. Medley, assistant general counsel and human resources consultant for Engage PEO.
- Set an example at the top. If the boss talks openly about supporters should stay mum. "Don't use social media to discuss politics. Period," advises Stephen Paskoff, owner and CEO of ELI Inc., an Atlanta-based company that provides workplace culture training.
- Consider keeping political programs off the televisions in the office, including those in the break room.
- Steer conversations in meetings away from politics or keep discussion to the more generic aspects of an issue.
- Limit or ban visual displays in the office, such as campaign buttons, bumper stickers and posters.
- Be careful not to run afoul of federal and state laws that protect certain types of speech. The National Labor Relations Board protects workers discussing unionization and workplace conditions, for example, so it's not realistic to outright ban talk of politics at the office, experts say. —S.M.

IT COULD HAPPEN TO YOU

Even if it's not a red team-blue team face-off, incidents can occur at work that cause tension. And HR may need to get involved, if only to de-escalate a conflict before it becomes more serious. Last year an HR professional posted an anecdote on SHRM Connect, SHRM's online member community, about an employee who hung two U.S. flags in the office to commemorate the anniversary of the Sept. 11 attacks. Some co-workers who were born in other countries took offense.

In that case, HR managers suggested the company find a way to include others, perhaps by asking employees to donate flags from their home countries and finding a wall to display them.

SHRM asked HR professionals to weigh in on some hypothetical situations. Their responses:

SITUATION: An employee wears a candidate's campaign button in the office, and a co-worker asks her to remove it because she thinks politi-

crease from the 17 percent who felt that way in a similar study in August 2016), and 21 percent said they felt more cynical and negative at work because of political talk (up from 15 percent the previous August). Perhaps most worrisome for HR is that 40 percent said the divisive political environment had led to at least one negative outcome, whether it was poorer work quality, lower productivity or a negative view of fellow employees.

A survey by Reflektive, a performance management platform, found that 32 percent of U.S. workers said they needed a mental health day after the 2016 election. A higher percentage of Americans in the same study said they might take a day off if Trump were impeached—either to mourn or to celebrate.

"A couple of years ago, we had a very emotional election. Many people felt very strongly on one side or the other," says Phyllis G. Hartman, SHRM-SCP, president of the Pittsburgh HR consulting firm PGHR Consulting. "People sometimes feel, 'Wow, that person's not like me. I can't trust them.' They maybe even treated the individual differently. But that's just a bias based on what party they belong to. It's as bad as if you treat somebody poorly because of the color of their skin or religion."

SEARCHING FOR SOLUTIONS

Do management and HR have an obligation to let people say what they want in the name of free speech? At what point does expressing a political view cross over into harassing or intimidating a co-worker? Can HR prohibit political chatter in the office to avoid discussions that may lead to creating a toxic environment?

While many companies have specific policies, such as prohibitions on using the copier or other office resources for political activity, a study by the Illinois Technology Association found that 79 percent of respondent companies do not have a general policy covering political discussions. But, says Lindsey Perez, the association's vice president of operations, "to think those discussions aren't going to happen is not realistic."

Solutions aren't often simple, as Google has found. After the tech giant was accused of suppressing conservative speech and firing employees who expressed such views, it issued a company policy seeking to quell such conflict.

"While sharing information and ideas with colleagues helps build community, disrupting the work-

asks her to remove it because she thinks political beliefs should be kept out of the workplace.

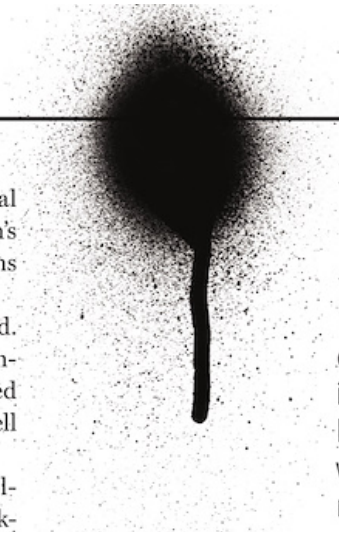
HR RESPONSE: HR should first determine whether political beliefs, affiliation or activity are a protected category in the state or municipality where the business operates, says employment lawyer Julie Moore, SHRM-SCP. If not, a company can set its own policy but must be consistent in applying it. If buttons and stickers are allowed, HR should remind employees to be tolerant and civil.

SITUATION: An employee hangs a small rainbow flag in his cubicle in support of LGBTQ rights. One morning, he arrives at work and the flag is gone.

HR RESPONSE: If it's a one-off episode, HR should assume a benign explanation, such as that it fell and cleaning staff removed it, says Mark Marsen, HR director for Pittsburgh-based Allies for Health + Wellbeing. If there has previously been any anti-LGBTQ animus, HR and the department manager need to have a discussion about inclusion and set clearer expectations. HR should replace the flag with a bigger one at no cost to the employee.

SITUATION: An employee walking home from work sees a group of abortion protesters and recognizes a colleague in the group. The next day, she tells several co-workers what she saw, which prompts the protester to complain to HR.

HR RESPONSE: The protester is free to engage in such activity outside of work, and the employee walking home is also free to discuss it with colleagues, Moore says. HR should monitor the situation to see if it leads to any harassment or inappropriate commentary. HR should also make sure no related conversation at work involves religion, gender, pregnancy or other legally protected categories. —S.M.



26%

of Americans admit to talking politics in the workplace on a regular basis (at least 15 minutes per workweek), according to the latest SHRM research. These discussions, if not

day to have a raging debate over politics or the latest news story does not. Our primary responsibility is to do the work we've each been hired to do, not to spend working time on debates about non-work topics," the policy read.

In September of 2019, as part of an agreement with the National Labor Relations Board, Google issued a list of employee rights, posted in its offices, that underscored workers' rights to organize, talk to the press without prior permission, and discuss wage and labor issues. Further, the company said it would not "threaten employees because they presented workplace diversity issues to us and requested clarifications of permissible workplace behavior."

But situations such as this don't mean employers can't fire workers for objectionable or offensive activity that could be considered political. For example, in 2018, a Virginia woman riding a bicycle was photographed giving the middle finger to the president's motorcade as it passed her. She owned up to it, was fired and lost a subsequent lawsuit for wrongful termination. (She did, however, win election to a county office last November.)

Similarly, the director of a nonprofit in West Virginia who compared then first lady Michelle Obama to an ape on Facebook lost her job. And, after the Unite the Right rally in Charlottesville, Va., that resulted in one death, at least four people were fired for expressing Nazi ideology on social media.

managed transparently and with guidelines for civil discourse, can result in adverse employee experiences for those involved, as well as for bystanders.

THE SOCIAL MEDIA EFFECT

Clearly, HR managers would prefer to address the problem before it gets to the point of somebody's getting fired. But the prevalence of social media—where employees might be blunter and more combative about their political views—makes it a bigger challenge.

"Statistically, there had to be people who voted for both parties" in his own office, says Steve Browne, SHRM-SCP, vice president of human resources for LaRosa's Inc., a regional pizza chain. "I said this once on Twitter and people lost their minds: HR needs to be Switzerland." Browne, a SHRM board member, says he was trying to say that HR should stay as neutral as possible, but "people attacked the metaphor."

"I don't see people making big political stump speeches at the office," Browne adds. "There are people with distinct feelings, but they take it to social media more than to the workplace." But this tendency to turn to Facebook and Twitter can filter into workplace relationships and productivity: A 2017 survey by the HR firm Betterworks found that 87 percent

'I'VE NEVER SEEN IT SO DIVISIVE AS IT IS RIGHT NOW. I'VE SEEN PEOPLE WHO'VE REALLY HAD TO AVOID CONVERSATIONS [WITH CO-WORKERS] BECAUSE THEIR POLITICAL VIEWS ARE SO DIAMETRICALLY OPPOSITE. IT LEADS TO BULLYING IN THE WORKPLACE.'

JULIE MOORE, SHRM-SCP

of employees are reading political social media posts during the workday, and 73 percent have talked with their colleagues about politics since the 2016 elections

"But as co-workers become more comfortable, they begin to blur tier one and tier two in general conversation, especially during election cycles," he says. HR, he

(and 37 percent have talked with their boss or manager about it). A striking 29 percent said they have been less productive since the election, a number that rises to 35 percent for those who read 10 or more political social media posts during the workday.

"This isn't new. It's just amped up," company culture expert Josh Levine, author of *Great Mondays: How to Design a Company Culture Employees Love* (McGraw Hill, 2018), says of the political conflicts at the office. You can have civil discussions about politics, "but you can't force them on people" you work with, he adds.

GETTING PERSONAL

Most employees start co-worker relationships with what Steve Flamisch, press officer at the Rutgers School of Management and Labor Relations, calls "tier one" talk: sports, weather and pop culture.

'WE RESPECT THE DIVERSITY OF OPINION. AT THE END OF THE DAY, WE VALUE WHAT EVERYONE BRINGS TO THIS ORGANIZATION. BUT WE ALSO TIE IT BACK TO THE FACT THAT IF BEHAVIOR DOES NOT FOLLOW OUR POLICIES, THERE WILL BE ACCOUNTABILITY.'

MICHAEL TIMMES

notes, "must make sure employees feel protected and supported by the organizational climate."

So can HR just outright ban political talk and activity in the workplace? Yes and no, say both legal and HR specialists.

Federal law protects employees' right to discuss labor-related issues. Further, many states have laws prohibiting an employer from coercing or influencing employees about—or discriminating against employees for—their political or voting activities, according to Galen G. Medley, assistant general counsel and human resources consultant for Engage PEO in Hollywood, Fla. In a few jurisdictions, political affiliations and political activity are protected categories under their anti-discrimination laws, he notes.

It's not a good idea for HR to crack down on employee conversation, since diversity of thought can be a key ingredient to fostering workplace creativity and new ideas, experts say. But a line can get crossed when what one person sees as political expression is interpreted as harassment or insults by a colleague.

For example, an opinion about immigration or building a wall along the southern U.S. border could easily veer into uncomfortable territory if it's said to a Muslim or Latino colleague. Discussion of gun safety or gun control can also be highly emotional alongside a prevalence of high-profile mass shootings. Someone whose politics or religion dictates that LGBTQ people are not entitled to certain protections can create trouble for themselves if they make hostile comments to LGBTQ co-workers. The political, in many cases, has become very personal, and HR has to handle it all.

Potentially problematic speech "goes to culture, it goes to national origin, it goes to ancestry. It has gone on with sexual orientation for forever," says Mark Marsen, director of human resources for Allies for Health + Wellbeing, which has 46 employees and is based in Pittsburgh. "You cannot legislate what people think. You *can* legislate how people behave in particular circumstances."

A MATTER OF RESPECT

Harassment, in the legal sense, is "a word that people throw around a bit too easily," says Jennifer Rodriguez, a labor and employment attorney in the Dallas office of law firm Culhane Meadows. The law, she notes, safeguards people from harassment based only on protected specific classifications such as race, age and gender. However, she adds, that doesn't mean that HR is not within its rights to insist on a mutually

respectful environment. "Language that's harassing or negatively impacts working relationships will not be tolerated" is what Rodriguez suggests as a stated policy. Creating a culture of mutual respect and consideration is the bottom line, say HR experts.

Hartman, who does a good deal of harassment prevention training, calls her approach "It's all about respect" and takes the conversation from there. Danna Hewick, SHRM-SCP, vice president of human resources for Bethesda, Md.-based janitorial service firm USSI, says the company started bolstering its workplace culture efforts several years ago. "That's critical in handling any sort of conflict," she says, "particularly any conflict in the divisive political arena."

The firm employs a number of immigrants, Hewick says, so "we don't have those conversations about walls, whether [walls are] right or wrong. It would be a very sensitive topic in our company. We don't allow [any discussion or conduct] in the office that could be viewed as offensive or harassing or disruptive."

Managers need to be especially careful, says James McDonald Jr., a partner and labor and employment lawyer with Fisher Phillips in Irvine, Calif. If a manager offers an opinion on national policy, such as building a wall along the U.S. border, that could be interpreted as hostile to Latino employees, he says. Even saying one supports "traditional values" could be a loaded statement, McDonald says. "Managers have to be so careful. They're in an authority role."

In the training he conducts, Michael Timmes, senior human resource specialist at Insperity, a Houston-based HR outsourcing service, says he focuses on respect for the work of an individual. He asks the group, "How are we honoring that value?"

By posing that question to an individual, it forces the individual to take a step back and think carefully before saying something to a colleague that could provoke a needless conflict, Timmes says. "We respect the diversity of opinion. At the end of the day, we value what everyone brings to this organization. But we also tie it back to the fact that if behavior does not follow our policies, there will be accountability."

Stephen Paskoff, owner and CEO of ELI Inc., an Atlanta-based company that provides workplace culture training, agrees. "We want people to be careful about what they say, avoid inflammatory issues and not force discussions" with people who aren't interested in having them, Paskoff says. "If you're not willing to have a two-way conversation," he says, your best option is to keep quiet. "If you can't listen, you have nothing to say. Period." Saying nothing, after all, would make things a lot less complicated for HR. HR

KNOW THE LEGAL LANDSCAPE

When it comes to political expression, HR managers need to be cognizant of the law. And it's sometimes murkier than employers—and employees—think.

First, forget (pretty much) about the First Amendment. It only prohibits the government from restricting free speech, notes Jay Hornack, an adjunct professor at the University of Pittsburgh School of Law who specializes in employee rights. "In a private workplace," employers can set their own rules about what speech is acceptable, according to Hornack. First Amendment rights are not "something an employee can enforce against an employer," he says.

Jay Hornack

There are exceptions: Public-sector employees, because they work for the government, are protected from retaliation for expressing certain First Amendment rights (though the courts have been cautious about how far this extends). And the National Labor Relations Act allows private-sector employees to engage in "concerted activities for the purpose of collective bargaining or other mutual aid," meaning they can't be fired for discussing wages, hours or working conditions.

Further, some jurisdictions have laws protecting employees' political expression. According to the *National Law Review*:

- California, Colorado, Guam, Louisiana, Minnesota, Missouri, Nebraska, Nevada, South Carolina, Utah and West Virginia, as well as the cities of Seattle and Madison, Wis., prohibit employers from retaliating against employees for engaging in "political activities."
- New Mexico protects employees' right to express "political opinions."
- Illinois, Iowa, Louisiana, New York, Puerto Rico, Utah, the U.S. Virgin Islands and Washington, D.C., as well as Broward County, Fla., and Urbana, Ill., specifically prohibit employers from discriminating against

employees based on party membership or for engaging in election-related speech and political activities. —S.M.

Susan Milligan is a freelance writer based in Washington, D.C.