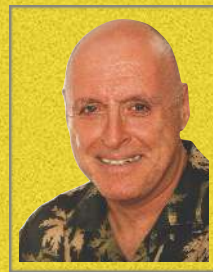


THE EXTRA POINT

BY JERRY ROBERTS



646 Politics and the Workplace

Is it illegal to refuse to hire, or to fire someone based on their political beliefs or non-workplace activities? I'm Jerry Roberts and let's step into the swamp, next on The Extra Point.

These are weird times. Social media is ablaze with angry opinions on politics, race relations, violent protests, and COVID-19. This anger isn't just being generated somewhere else. We see daily reminders of how many Guam citizens feel about these issues.

I raise these questions: could someone's angry posts influence how employers deal with them in terms of hiring, growth opportunities, and even firing? Second question, what does the law have to say?

Let's start with the feds. The U.S. Equal Employment Opportunity Commission enforces federal laws prohibiting employment discrimination, protecting employees and job applicants. This is directly from their website:

- Unfair treatment because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.
- Harassment by managers, co-workers, or others in the workplace with the same factors I just mentioned.

There's more but that covers most of it. You might have noticed there was nothing in there about political beliefs, protests, rioting, and nasty posts on social channels. So, it's okay to refuse employment or cut someone loose if you don't like those activities?

Wouldn't that violate federal law? No. Federal law does not prohibit political discrimination. However, according to nolo.com a website which provides self-help legal products plus connections to attorneys, making decisions based on an employee's political beliefs or

activities might violate state or territorial laws.

Apparently, some states do protect employees from certain types of political discrimination, particularly if that discrimination can be proved to violate a protected trait, like race or religion.

Well, what about the First Amendment of the Constitution? I'm not trying to steal any of Bob Klitzkie's territory here — the First Amendment does protect our political views — but only from actions taken by public employers. Federal, state, or local government workers are protected by the First Amendment and might have a valid legal claim if fired for their political beliefs, depending on the circumstances. However, employees of private companies don't enjoy these types of job protections.

There are a few states which do prohibit employers from making job decisions based on an employee's or applicant's politics. Notably, these are California, New York, and DC. Of course, accusing an employer of these violations and proving the case may be two different things.

Some people have sought my advice over time about this topic, and one thing I've told them is their Facebook account is probably the first place a potential employer will look in order to get a feel for what kind of person is applying for a job.

I used to tell them if they had images of crazy partying or racy, sex-related posts, they should delete those before hitting the job market. I didn't get too much pushback on that. However, if I suggested the same thing today regarding posts on political opinions, or social justice, I think the reluctance would be greater.

(Con't.)

Still, prospective employers may not hire you — not necessarily because of any specific opinion, but perhaps because they would worry about employing someone who they feel could potentially embarrass them, cause headaches.

Politics and the workplace. There's a lot to talk about.

That's The Extra Point. Be responsible and make something good happen today. For 93.3 and the Ray Gibson Show, I'm Jerry Roberts.

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