

The DOs and DON'Ts of Talking to Your Employees About Elections

DO:

- ✓ **Provide information on the various candidates' stances on small business issues, and any other issue that could have an impact on your firm**

Example: Candidate X believes that the lowered tax rates paid by small, pass-through companies—which we are—should be permanent. Candidate Y, however, doesn't support making that provision from the Tax Cuts and Jobs Act permanent which means we'll face a tax increase in 5 years and pay higher taxes than large corporations.

**The Citizens United case gave corporations First Amendment rights, so employers do have some leeway in talking to their employees.*

- ✓ **Invite the Candidates to attend your business and talk with your employees and their families**

Example: Not only will having a Candidate come to your place of business provide more direct information to employees, it can be a great opportunity to get your business some recognition.

- ✓ **Give employees the required time off to vote and encourage them to do so**

**This varies by state, but nearly every state does require at least an hour off to allow employees to vote.*

- ✓ **Educate employees on what certain pieces of legislation mean for your business and to them as your employees**

Example: Our firm, as a subcontractor continues to wait up to 60-90 days for payment from prime contractors, which inhibits our ability to actively seek new business.

- ✓ **Tell employees how to get involved and urge their elected officials to move on issues important to the business**

Example: If everyone wants to take 5 minutes today to urge Senator Smith to support legislation requiring prompt payment for federal contractors and subcontractors, you can visit www.nsba.biz and complete a quick Action Alert on the topic. Or, you can call the Senator's office and urge her support of S. 2893.

- ✓ **Provide information on what it means to be part of the small-business voting bloc**

**Visit www.nsba.biz/vote to download our Voting Poster to display in your employees' common area which offers a great deal of information to employees on this topic.*

DON'T

- × **Overtly coerce or try to influence their opinions on a particular matter or for whom they vote.**

Example: Salary increases will only be viable under a Republican/Democratic administration, so I encourage you to vote for the Republican/Democratic candidate.

**While some states are very lax in what employers can and can't say, others have very strict prohibitions on how much an employer can tie voting for a particular candidate to one's job security.*

- × **Require employees to attend a mandatory meeting where you tell them how to vote**

Example: Ending the weekly mandatory staff meeting with a 20-minute speech on why you support a particular candidate and why your employees should too.

**While this is not illegal in many states, some do have prohibitions against overt campaigning using a captive audience, such as your employees during a mandatory staff meeting. It is generally ok to tell employees how you plan to vote when asked.*

- × **Threaten employees' job security if they don't vote a particular way**

Example: Unless Candidate X is elected, we will be closing this plant down.

**Again, there is some ambiguity in the law here from state to state, but the National Labor Relations Act prohibits employers from threatening employees to close a plant if they unionize. Some labor attorneys believe this could be applied to at-large elections as well. That said, political opinion is not a protected classification the way religion is, so it is unlikely such claims would be accepted in most jurisdictions.*

- × **Encourage employees to contribute to a candidate financially or with their time with the promise of reimbursing them either in cash or other benefits**

**This is a big don't that has landed people in jail.*

- × **Provide incentives to vote—regardless of how they vote.**

**It may seem innocuous enough to offer a cash perk for any employee who can show he/she voted, but this is against the law.*

