

Case Study: Free Speech in the Workplace

You are the founder and CEO of a company that specializes in online gaming. Things are going quite well and you now have ten employees.

Last week, you happened to notice that one of your newest hires, Guy, had a few religious artifacts -- specifically two small pictures and a 2" tall statue -- decorating his desk. You do not share Guy's religion, but you thought nothing of it and moved on.

Unfortunately, another employee noticed and said something to you. Apparently just seeing the artifacts bothered this person. You told him to relax. As long as Guy isn't forcing his beliefs on other people, you do not see an issue.

That seemed to be the end of it, but the next thing you knew, someone else was fussing about someone else's desk. Apparently another employee, Gal, had a political bumper sticker on her laptop cover as well as a few campaign buttons for a controversial politician hanging on the wall over her desk.

A third employee, Jim, believed that the workplace was not the place to have political discussions so, unlike Gal, did not put any stickers or buttons up. But he posted, on his personal social media account, support for Gal's controversial political candidate and even included a picture taken of himself with the candidate. Many staffers demanded you fire Jim for creating a hostile work environment, even though Jim never discussed or mentioned politics on the job. They knew he held privately held beliefs they found deeply offensive.

Within a month, thanks to the gossip mill, everyone knew who complained about what and people were beginning to resent each other.

Because this is new territory for you, you call your mentor for advice. Did she ever run into something like this? How did she handle it? As luck would have it, she did experience this once, so she is able to offer some advice.

She recommends adopting a policy that prohibits everyone from keeping certain personal items on their desks. This means no:

- Political signs, stickers, buttons, etc.
- Religious symbols or artifacts
- Holiday decorations

Employees may have photos of their families and/or pets on their desks. They are also free to hang up posters or pictures so long as they do not violate the ban.

The benefits, she said, are that it reduces the tension between employees with different belief systems. It also helps them focus on their job more. The drawbacks are that some employees resent the ban and become disgruntled. This can negatively affect their work.

She also explains that even a no-politics or religion workspace is not enough, and you should indeed fire an employee whose activities in his or her personal time so unsettle coworkers as to generate their protest.

You say that you will think about it. Technically, it's your company and you have the right to dictate what they can and cannot have on their desks--you know that the First Amendment is legally only a restriction on government actors, not private individuals or businesses (unless they have made a contractual promise of free speech, which yours has not). Then again, you can't help but wonder if this ban somehow violates the idea of free speech you think your company should promote as a positive social value.

While you see the merit of a workplace where employees do not advertise religious or political views and focus on their work, you are especially uneasy about punishing employees for using free speech off the clock, in their private capacity as citizens. On the other hand, many other employees are very angry and are threatening to quit.

You've had a few days to think about it and now it's time to come up with a decision. Are you going to implement the ban on religious and political messages on desks? Would you consider banning one and not the other? If you did apply the ban, would you apply it only to the workplace, or would you also dictate what employees are allowed to post to their social media or other personal expression in order to create a workplace the other staffers find more comfortable? Is there another course of action that you can take? What would be the consequence if other employers did this?

Use the decision-making process to help you work through this dilemma.