

# Election Year Special Report: Politics in the Workplace

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Presented by Mike Porter

February 26, 2024





# ***THE RUNDOWN***



- Heating Up – Campaign Season Under Way
- Trudy About Town: Public Employee Collective Bargaining Act Rules
- Our Country, Our Constitution: First Amendment Rules
- The Wrap



# Don't Be a Loser, Follow the Rules[er]



**LaVonne Griffin-Valade**  
Oregon Secretary of State

## Restrictions on Political Advocacy by Public Employees

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[Restrictions on Political Campaigning](#)



# Don't Be a Loser, Follow the Rules[er]

- ORS 260.432 restricts a public employee from engaging in certain political activities during working hours or otherwise acting in the public employee's official capacity
- Prohibited activities, promoting/opposing:
  - Any political activity
  - Election of a person to public office
  - Filing of an initiative
  - Referendum or recall petition (including gathering signatures)
  - A measure or recall of a public office holder



# Don't Be a Loser, Follow the Rules[er]

- What are working hours?
- Hourly – on the clock
- Exempt – acting in official capacity



A public employee who, on their own computer on the weekend, drafts a press release about how a measure might affect their agency, and signs the document with their title, is acting in their official capacity.

→ Salaried employees have the right to participate in political activity on their own time. An employee would not be on the job solely because they may be subject to a call back to duty at any time.



# Don't Be a Loser, Follow the Rules[er]

- Other issues:
  - Campaign Signs
  - Union bulletin boards



A teacher, while not on the job (before or after work or during lunch), may place information about his candidacy for a local office in the boxes of the other teachers at the school so long as any other candidate who asked would be allowed to distribute materials into the boxes.

- Political buttons and clothing



# Don't Be a Loser, Follow the Rules[er]

- Material produced by governing bodies
  - Governing body may produce factual information but not advocacy material
  - Any public employee who authors or drafts material containing advocacy material – may be liable





## Tuesday Topic —Takeaways

- General rule – a public employer may not take action against an employee because of an employee’s exercise of PECBA-protected rights or interfere with their exercise of protected rights
- **Question: What is the relationship between PECBA rights and free speech?**





# Speech as an Employee

- *Garcetti*: Speech can be restricted if it owes its existence to the employee's job.
- *Pickering*: Speech can be restricted if it substantially disrupts operations.
- *Kennedy*: Personal private speech is protected by the First Amendment.





# First Amendment Rules: Forums



## Public Forums

Time, place, and manner restrictions – no viewpoint or content restrictions – i.e., an area designated for speech



## Limited Public Forums

No viewpoint restrictions – content limited to purposes of the forum – i.e., school board meeting



## Nonpublic Forums

e.g. – classrooms, spirit rallies, talent shows



# Challenges

- Social Media
- Controversial Topics
- Classroom Displays
- Personal Displays





# Role of Human Resources

1. Education
2. Policy awareness
3. Thoughtful evaluation of circumstances that arise
4. Support for other administrators – especially high level that can get pulled into political issues
5. Communication support