

JacksonLewis



Calls for Change: Social Justice at Work

Monica Khetarpal

Alison Crane

Jackson Lewis P.C. Chicago

Monica.Khetarpal@jacksonlewis.com

Alison.Crane@jacksonlewis.com

Agenda



How social justice issues are affecting the workplace



Political and social justice speech at work



Strategies for responding to calls for a more inclusive and equitable culture at work.

How Recent Social Movements Have Affected the Workplace?

- Silence and avoidance appeared to be acceptable to employees and employers
- It seemed to benefit all because it limited the difficult and awkward conversations about race, sex, and social issues in the workplace
- Suddenly, something changed
- While this change may have been good for some, it has created a clear divide between some employees and significant climate issues



Why Did This Shift Happen?

- Increased polarization
- Generational difference
- Increased attention to political and social justice issues (on both sides of the aisle)
- Increased comfort with expressing political opinions at work
- Social media



[This Photo](#) by Unknown Author is licensed under [CC BY-SA-NC](#)

Beware...it's a landmine!



Discussion of Hot Button Issues Can Have Legal Consequences

Immigration →
National Origin

Terrorism →
Religion, National
Origin

Police Shootings →
Race

First Female Vice President →
Gender



This Photo by Unknown Author is licensed under [CC BY-SA-NC](#)

General Rules

Public employers

- Does speech relate to a matter of public concern?
- What is the effect of the speech upon the public and public entity?
- Was speech made pursuant to the employee's official duties?

Private sector employers

- While there is no “free speech” right to political expression in the private workplace under the federal constitution, some states provide their own protections.

Areas of Liability

States and local governments with laws protecting employee political speech or activities.

NLRA – for unionized and non unionized employees

Title VII and state anti-discrimination laws

But don't be so afraid of liability that you don't talk about social justice.

How Should You Talk About Social Justice at Work?

Company Level

- Guided by values and culture
- Policies and procedures
- Public statements

Manager Level

- Are teams inclusive
- Is there a culture of reporting
- Are managers enforcing policies/procedures

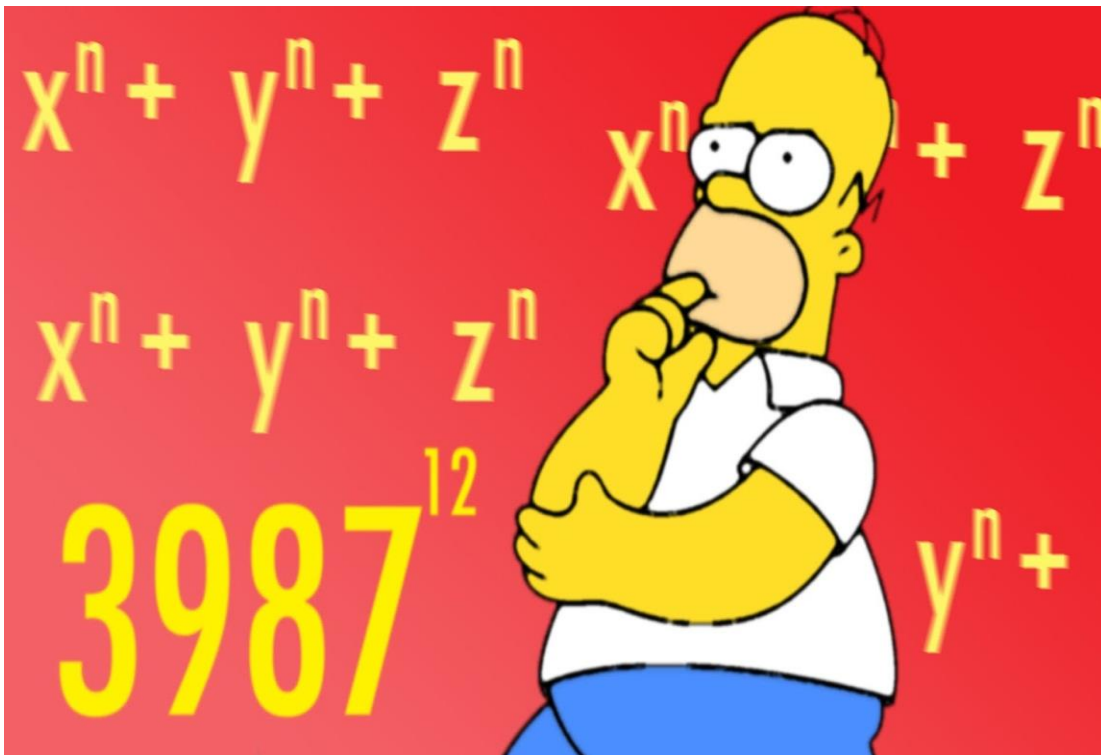
Individual Level

- Constant dialogue not one-off conversations
- Know employees individually
- Be sensitive to individual concerns

What tools are available?

- Metrics
- Climate Surveys
- Training
- Mental health resources

Quantitative: Metrics



This Photo by Unknown Author is licensed under [CC BY](#)

Diversity targets/goals

Voluntary AAP

Analysis of applicants, promotions, retention

Quotas (be careful!)

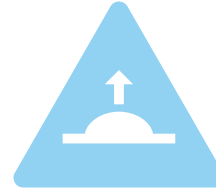
Tip: Make sure you get it right!

Qualitative: Climate Surveys



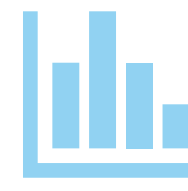
What are they?

Taking the temperature of an organization



When are they useful?

Crisis situations
When something isn't right
Proactively



Methodology

Surveys
Data analysis
Focus groups
interviews

Qualitative: Training

Do not just check a box!

- Intensive EEO
- Unconscious Bias
- Generational
- Inclusion (the “I” in DEI)
- Microaggression
- One-on-one
- Management best practices



[This Photo](#) by Unknown Author is licensed under [CC BY-NC-ND](#)

Qualitative: Other support



[This Photo](#) by Unknown Author is licensed under [CC BY-SA-NC](#)

Expanded mental health services

Access to apps for meditation and yoga

EAP reminders

Resource groups

Sponsoring affinity organizations

Privilege Issues

- ✓ DEI services are a hybrid
- ✓ Define scope in engagement letter
- ✓ Retention through counsel's office
- ✓ For purpose of identifying legal risk
- ✓ Consider separate/verbal reports
- ✓ You may want to waive privilege for favorable outcomes
- ✓ Understand nothing is certain



[This Photo](#) by Unknown Author is licensed under [CC BY-NC](#)

Questions?

JacksonLewis

Thank **you.**