

The Legal Implications of Witnessing at Work

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by David C. Gibbs, Jr., President of The Christian Law Association
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Just how much can you talk about Jesus Christ on the job? Is it legally permissible for managers to mention Bible verses when conversing with clients, or to pray for their employees? At what point does witnessing constitute harassment ... or does it ever?

If you've ever wondered "Will I get into trouble for witnessing at work?" you are not alone. Realizing that full-time American workers spend an average of 8.3 hours a day on the job, many believers recognize that their workplaces provide an obvious venue for sharing the gospel. But, such Christians are facing increasing opposition from employers for engaging in such witnessing activities.

Often company officials do not understand their employees' religious rights, and sometimes they wrongfully discipline them for activities that are entirely appropriate. Far too often, employers mistakenly treat religious speech like sexual harassment and create a "zero tolerance" policy for religion that is similar to policies for sexual harassment. Religious speech and sexual harassment are worlds apart, though. Religious speech enjoys both constitutional and statutory protections that have never been granted for sexual harassment.

More and more, Christians are being told that religion has no place in the workplace. Some employees have even been terminated for exercising their right to religious expression. Here are a few examples:

- A state university department supervisor faced disciplinary action for violating the university's "harassment" policy. Human Resources personnel informed him that because he was a supervisor, he could never talk about religion to another employee. This interpretation of the law was incorrect.
- An employee of a large retail establishment in Illinois frequently shared her faith with coworkers. Because this employee knew the laws regarding religious speech, she always made a point to ask her coworkers to tell her if they did not want to discuss religion. None of her colleagues ever complained to her, yet she was terminated for violating the store's "harassment policy."
- The employer of a Florida man warned him to cease all voluntary religious discussions with coworkers. Employees who consistently violated the company's profanity policy, however, were not disciplined.

As these individuals learned, one key to being an effective witness in the workplace is to understand exactly what your rights are. Some important questions to consider are:

- When does sharing your faith constitute harassment?
- Are there greater restrictions on religious expression for supervisors?

- Does it matter if you are witnessing to your company's customers or to your coworkers?
- Do the laws vary depending on whether you are employed in the private sector or by the government?

Religious Discussions with Coworkers

Title VII Civil Rights Act of 1964 provides general rules for all private workplaces employing fifteen or more people. It stipulates that a company that allows employees to engage in non-work related conversations, such as those about politics, family, sports or other such topics, may not prohibit voluntary religious discussions between employees either. The water cooler and employee lunchroom are a type of public forum where citizens share ideas and interact at a variety of levels. In informal settings, such as break rooms or hallways, and at times when workers voluntarily interact about non-work issues, employees may discuss their religious views or voluntarily pray together. The same rules apply as would to any other private conversation.

Other employees may not stop religious exchanges simply because they overhear a religious conversation. For example, at a large retail store in Indiana, an employee and several coworkers met informally and as privately as possible each day for a brief word of prayer before clocking in for work. They asked God to bless their supervisors and colleagues and prayed for other needs. One day, company management asked the group to stop because another employee had been offended when she saw them quietly praying. The employee contacted Christian attorneys who informed store management that another worker's offense at this quiet religious activity did not justify prohibiting it. If the workers had been discussing the previous night's TV programming, no question would have been raised.

Despite clear legal protections, Christian employees often face discipline for sharing their faith. Incredibly, some employers will allow non-Christian religious expression yet forbid religious expression from Christians. For example, an employee was disciplined for sharing his Christian perspective on suicide and salvation with a coworker who had just expressed his belief in reincarnation and stated that he was contemplating suicide. The Christian was fired for sharing the hope of life found in Jesus Christ and for pleading with his coworker not to commit suicide!

Limits on Religious Discussions with Coworkers

While Christian employees have broad rights to express their faith to coworkers, there are two legal limitations.

1. An employee must not allow religious discussions to interfere with work. Stated differently, an employer has the right to insist on the employee's full attention during working hours. Therefore, a Christian employee should be careful not to create even the perception that religious discussions are interfering with job performance. Also, it is easier to prove that talking about religion is the reason for discipline if the employee has a good work reputation and a clean record as an excellent, dedicated employee. In one case, a Christian employee's attorney was able to point to the employee's glowing performance evaluations (copies of which he always kept at home)

when management insisted the employee was not a victim of religious discrimination, but rather was being disciplined for poor work performance.

2. If a coworker indicates directly or indirectly that she does not wish to discuss matters of religion, the Christian employee should immediately stop discussing it with her. If the Christian does not stop, he can be disciplined for harassment. This rule is legitimate. Think of this limitation in terms of "the shoe being on the other foot." If a Christian works with a Satanist, that Christian worker has the right to prevent the Satanist from talking to him about occultist practices. This precaution does not mean, however, that every time someone who has asked you not to talk about religion walks into the room, your conversation with others must stop. But, you should be sure not to direct the religious conversation to the employee who has objected. Religious conversations at work should take place privately and voluntarily. In fact, it may be wise to take a conversation elsewhere when a person who has objected comes on the scene, since this type of person would be most likely to press the issue.

Religious Discussions with Customers

Although nothing prevents Christians from discussing faith with coworkers during free time on the job, any employer—public or private—may restrict employee conversations with clients, patients or customers about religion. On the other hand, a business owner may also choose to permit such religious conversations—and many do. The decision regarding religious conversations with clients rests with the private employer and not with the employee.

We recently handled a case in which a California employer terminated an employee for engaging in a religious conversation with a client. The employee had inquired about a mutual acquaintance who happened to be a pastor. The client shared how the pastor encouraged her and her children to attend church and how excited she was to have her children learning about the Bible. A coworker reported this completely voluntary conversation to a supervisor, who fired the Christian. This termination was unlawful, because the Christian employee had never been instructed not to discuss religion with customers, and because it was the client who brought religion into the conversation.

Christian Employers Who Witness

There are no limitations concerning the right of a Christian employer to witness to his customer base. In fact, many Christian employers regularly incorporate witnessing into their business practices. For example, Christian employers may place a gospel tract in outgoing mail and print Bible verses on company invoices, purchase orders or other commercial documents. They may answer the phone with Christian greetings, either on a regular basis or on religious holidays, such as Christmas.

Despite the right Christian employers have to share their faith with customers, federal and state laws regulate the rights of Christian business owners to witness to their employees. Many Christian employers desire to witness to the spiritual needs of their employees, but at the same time, want to comply with employment laws to avoid being sued.

It is important for Christian employers and supervisors to become familiar with their obligations under Title VII law. While Title VII law only applies to government employers and private businesses with fifteen or more employees, companies with fewer than fifteen employees may be subject to state requirements that make it unlawful to discriminate against employees on the basis of religion. Religious organizations, such as churches and ministries, are generally exempt from Title VII religious requirements.

Under Title VII, business owners or supervisors are permitted to communicate their religious beliefs through their company policies and practices provided that 1) they do not give prospective or current employees the perception that employment or advancement requires workers to adopt a certain religious belief, 2) they accommodate employee objections, and 3) they do not require employees to participate in religious worship experiences.

In short, an employer or supervisor may witness to employees so long as he is careful to accommodate employees who object to any of the company's religious practices, and as long as employees are clearly informed that their religious beliefs or non-beliefs play no role in hiring, termination, promotion, or in the terms, conditions or privileges of employment.

As the above examples show, there is growing hostility in modern America to religious speech at work. Despite some employers' desire to create a "religion free workplace," Christians have the right to witness in the workplace—subject to certain limitations. If you face difficulties for sharing your faith in the workplace, contact a Christian attorney who specializes in religious discrimination. Such an attorney can provide information regarding your rights and assist you if you are disciplined or terminated for sharing your faith at work.

David Gibbs is the president of the [Christian Law Association](http://www.ChristianLaw.org), which has provided free legal assistance to thousands of workplace believers. For more information about the legal missionary ministry of the CLA, please call (727) 399-8300 or visit www.ChristianLaw.org

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