



HR's Guide to

EMPLOYEE ACTIVISM AND DE&I

Namely  HR for Humans



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About Namely

Introduction

As a field, HR has always been full of acronyms and industry phrases. But these pithy names and sayings can sometimes make us forget the actual importance of what these acronyms stand for.

And that's a mistake. In fact, the importance of things like DE&I and Employee Activism in the workplace cannot be overstated. And neither can HR's role in both.

In this guide, we'll cover everything from the basics of DE&I and Employee Activism to why they matter in the workplace, what you need to know about the legal and compliance aspects, and what exactly employees expect from you as a leader.

Let's dive in.



What is DE&I?

Before we dive into the guide, it's important to go over and fully understand the basics. Like, to start, what even is DE&I and what does that acronym stand for?

DE&I stands for Diversity, Equity, and Inclusion.

You've likely heard of D&I (diversity and inclusion) in the past. This new-and-improved acronym of DE&I takes D&I one step further by adding the idea of equity to the equation. Equity recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.

Note that equity is different from its very similar sounding neighbor, equality. Equality means each individual or group of people is given the same resources or opportunities, but that does not mean that those individuals will reach an equitable outcome. People from marginalized groups often have more barriers to overcome when accessing resources and opportunities than those from dominant or more privileged groups—which is why leaders have moved toward the use of equity rather than equality in recent years.



The idea of DE&I as a whole broadly encompasses the efforts of a company to create a more welcoming environment for people of marginalized identities. It's a holistic approach to ensure complete belonging in the workplace or any given environment.

DE&I programs can mean many things in a workplace, but they often include things like:

- Unconscious bias trainings
- Inclusive benefits
- Employee resource groups
- Practices to recruit diverse candidates
- Manager & staff trainings
- Pay equity analyses & audits
- Mission statements and values
- Hiring & leadership diversity mandates
- Mentorship & reverse mentorship programs
- Making space diverse voices at the decision table
- Corporate social responsibility
- Partnering with other diverse organizations & suppliers
- And so, so much more.



What is Employee Activism?

Employee activism is different from DE&I, but the two are often very intertwined in the workplace.

Employee activism is actions taken by workers to speak out for or against controversial issues that impact society. This can also mean speaking out for or against their employers on these same topics.

Employee activism has always been a part of HR and the workplace, but it's been on the rise in recent years, with [40 percent of U.S. workers](#) saying they have raised their voices to support or criticize their employers' actions regarding a controversial issue affecting society— with most hoping to gain the attention of other employees (46 percent) and top leaders at their organization (43 percent).

Like DE&I, employee activism can take many forms:

- Walkouts and protests
- Formations of unions
- Petitions
- Affinity groups and ERGs
- Programs to promote action on certain issues
- Charitable giving
- Much more



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Why Do DE&I and Employee Activism Matter in the Workplace?

Diversity, equity, and inclusion along with employee activism have become increasingly important in the HR leadership space. Many employers are aware of the employee activism movement, but may seek to better understand the meaning and reasons behind it. So, why does employee activism matter in the workplace?

Employees feel they have the right to speak up

The majority of employees today feel they have a right to speak up on issues impacting society. With the growing sentiment toward amplifying their collective voices, societal issues can no longer go unnoticed by organizational leaders. In fact, the [vast majority](#) of U.S. employees believe employees are right to speak up about their employers, whether they are in support of the employers (84 percent) or against (75 percent).

And don't expect this to change anytime soon—from tech companies like Google, to giant retailers like Walmart, employees across the country are becoming more empowered to influence organizational policy. They are speaking up about shared concerns that were once avoided topics of discussion, such as human rights violations, cyberbullying, and gun safety.

Employees expect their employers to take a stand

Many employees now expect their employers will take a stand on issues that matter, especially since the pandemic has highlighted certain injustices and inequalities. They are looking to align their values with those of the organization in a time of uncertainty, which creates a sense of inclusion and belonging.

And many companies, including Namely, have [spoken up](#) against the continued racism and violence affecting our communities. This fosters empathy, connectivity, and hope for employees during a time when they're vulnerable—directly impacting employee engagement, morale, and company culture.



Employees will take action outside of work

Fueled by the belief that they can change or advance a societal cause, employees will often take action outside of work. Indeed, [71 percent](#) of employees feel they can make a difference in society. They want to gain the attention of other employees as well as top leaders in their organization to enact social change and create awareness.

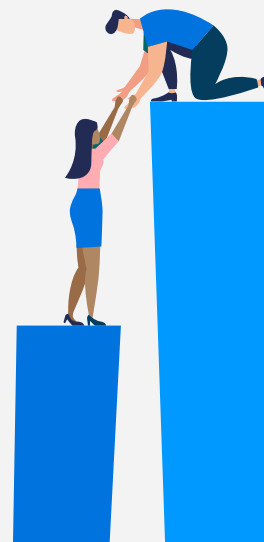
This may involve activism around issues such as voting, racial justice, or environmental protection. It may take the form of protesting, petitioning, rallying on social media, or any other form of social activism. As much as these issues matter to the employee, it's equally important to consider how this will affect their employment and determine the risks that could be associated with these activities.

CEOs and Leaders also have opinions

In addition to employee involvement, company leaders often have strong opinions and want to engage the organization in ways that promote advocacy and progress. These leaders must carefully navigate the waters of their personal philosophies and collaborate with HR to support their endeavors.

They should have a well-thought out process for determining the company's stand on social issues that have an impact on business decisions. If possible, leaders should turn to their [Employee Resource Groups](#) (ERGs) for guidance and knowledge.

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Employee Rights

Activism & Employment Status

What happens if employees decide to take action outside of work? Should that impact their employment status? Are they risking their jobs by participating in a protest or posting their political views on social media? There is potential for ambiguity around these questions, so let's dive a bit deeper into activism and employment status.

It Depends on the Situation

Many variables come into play when an employee participates in political or social activism. For instance, if you were to see an employee protesting or wearing something provocative on social media, how should you react?

There are several ways to respond, but here are the most important considerations to keep in mind when understanding the employee's status:

- What do they do and where do they work?
- Are they "at will" employees?
- Are they in a state with protections?
- How does it affect the company's public perception?
- Does it go against your company's values?
- Does the First Amendment right apply?
- Meeting Job Requirements



The nature of the job and meeting its requirements are a key component of any scenario involving employee activism. For example, it may become problematic if an employee misses work to protest, and doesn't abide by company policies with regard to their working hours. If their political activity interferes with their job performance, they could be disciplined for failure to complete their tasks or absenteeism. Employees should be protesting or participating in activism on their own time.

“At Will” Employment

Employment lawyers caution employers about disciplinary actions toward employees for activism outside the workplace. Still, many private companies have the right to terminate employees “at will,” which means an employer may dismiss an employee for any reason, and without warning, as long as the reason is not illegal. Likewise, an employee is permitted to leave a job at any time for any or no reason with no adverse legal consequences.

State Protection

While most states do not, there are certain states that protect an employee's right to participate in political activity, including California, Colorado, Louisiana, and New York. For instance, in California, it is not legal for employers to ask about arrests that do not lead to conviction. In the majority of cases, if someone were to get arrested at a protest, their employer would not be able to inquire about it. But if there was evidence of the employee behaving in a violent manner, disciplinary action could be taken.

Public Perception

In general, there will be a stronger case for disciplinary action if the employee's behavior exhibits a negative pattern of behavior that's harmful to the reputation of the company. The worse the behavior, the more likely it is for the employer to get involved and protect the needs of the organization.

With regard to company brand and reputation, leaders must equally consider the consequences of suppressing an employee's political expression, such as the public's perception and backlash from communities affected by the political cause. The decision to fire an employee for their political stance could also lead to a fearful or unhappy employee population.



Company Values

Although most employers will not discipline employees for peacefully protesting outside of work hours, there are exceptions that may necessitate action, such as when an employee's behavior goes against the company's values.

It's important to note that an employer has the right to terminate or discipline the employee if they engage in behavior that violates the company's discrimination or conduct policies. Workplace discrimination is strictly prohibited by Title VII of the Civil Rights Act. In fact, if a company is made aware of discriminatory off-duty conduct and does not address it appropriately, and a similar situation occurs in the future, the company may be legally liable for creating a hostile work environment.

First Amendment Right

Employers should be aware of the federal and state laws that protect workers' speech in certain situations. The First Amendment guarantees the right to free speech and protection from intrusion by the federal government. Therefore, government employees do have some First Amendment protections, but employees working for private companies do not have the same rights.

When it comes to private companies, employee speech matters in the workplace and even when participating in protests, because they are perceived as representatives of the company. The First Amendment rights do not apply, and employers have a wide range of ways to prohibit speech that could be offensive to other employees, or negatively affect the company's value or reputation.



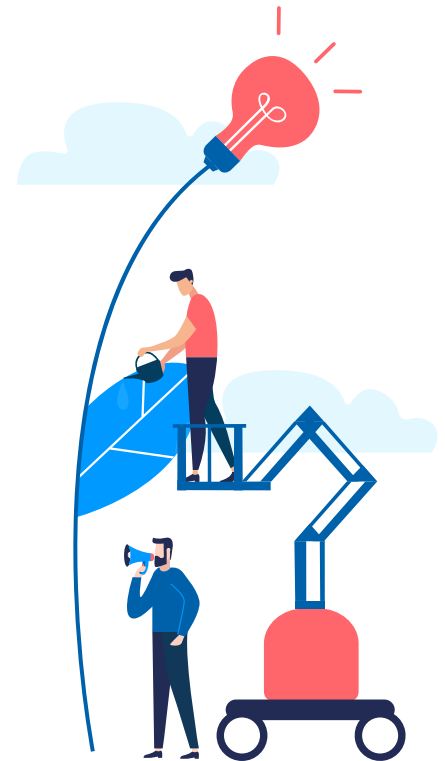
What is HR's role?

So we've covered the importance of employee activism in the workplace and all of the rights associated with it, but what role should HR play?

The answer is quite simple: **HR should embrace it.**

Since employees feel that they have the right to speak up at work and expect their employers to take a stance, HR teams need to support employee activism. The key to doing so is by being transparent, inclusive, and most importantly, proactive.

Here are some ways your HR team can embrace employee activism:



Clearly state your core values and purpose

Being articulate and transparent about your company's guiding principles is crucial when it comes to employee activism. Every company has core values, but the question is whether your company actually lives by them. Clearly emphasizing your company's values and purpose makes it easier for employees to understand what your company stands for, and hopefully will help them act within those guidelines.

When handling any issues related to employee activism, your HR team should make your core values part of the solution. If a situation does occur and you need to take action, this will also help give clarity to employees and support your team's decisions.

Establish a response protocol

In order for HR teams to remain equitable when it comes to employee activism, they must apply their policies consistently across the board. Companies can't pick and choose where they enforce their attendance policies or monitor off-duty conduct. For instance, if a company condones one employee going to a protest, but has an issue with another employee going to a different protest, that could create problems for the organization. Consistency is essential for companies to maintain a strong balance between having a productive workplace and allowing employees to express their views.

With that said, your HR team should establish a consistent response protocol for employee activism. To make sure this policy is fair and applied equally to all situations, consider creating a response committee. By defining what role each person will play in your committee and how you will get together, you'll be proactive and ready to handle any situation that may come your way.

Find out what's on your employees' minds

Once you clearly state what your company stands for and how it will handle employee activism, it's time to find out what issues are most important to your employees. There are so many causes out there, and you can't just read your employees' minds to figure out which matter most to them.

When trying to learn how your employees feel about certain issues, keep in mind that some may feel uncomfortable sharing their opinions—especially if they're unpopular ones. Make sure you emphasize that employees have the freedom to express how they feel and the responsibility to respect one another's views.

Here are several ways you can encourage your employees to share what's on their mind:

1 Send out surveys

When it's time to send out your next engagement survey, add a few questions related to employee activism. Here are a few examples:

What current issues are most important to you?

Are there any causes that you wish you could speak more about at work?

How can our HR team create more of a safe space for employees to share their views?

If you want to gain as much insight as possible, consider sending out a separate survey to ask your employees these questions. To encourage all employees to fill out the survey, consider giving them the option to submit answers anonymously. This could be an opportunity for employees who may not feel comfortable sharing their views publicly to give feedback.

2 Conduct focus groups

By bringing employees together for small and intimate focus groups, you can encourage them to share what's on their mind in a safe space. If you are looking to have a guided focus group, choose a moderator to prompt questions and keep the conversation going. If you'd like to make it completely employee-driven, you can allow participants to have an open, unguided conversation instead.



3 Host fireside chats

Fireside chats give employees an opportunity to have a casual and informal conversation with your company's leaders. Whether it's with your CEO or a panel of executives, fireside chats enable employees to speak directly to leaders about causes they are passionate about. This can give your leaders direct insight into how employees are feeling, along with ideas of how your company can support them.



4 Use managers to help you understand

In reality, your HR team doesn't have insight into every single employee—which is why it can be helpful to turn to managers across your organization for help. Since managers communicate with their employees on a daily basis, they might be able to gather information that you wouldn't be able to. Encourage them to have open conversations with their teams that enable employees to share what's on their mind. If managers do happen to gain any insight, ask them to help you understand what causes are most important to employees by surfacing these issues. Keep in mind that if the feedback was given to managers in a confidential setting, they should not disclose the identity of the employees sharing their views to stay compliant.

Create safe spaces

Since many employees may not feel comfortable openly expressing their views, it's crucial to create safe spaces at work. One way to create safe spaces is by [establishing ERGs](#). ERGs are employee-led interest groups that raise awareness of issues facing people of a specific demographic, race, religion, or sexual identity.

By encouraging your employees to [start ERGs](#), you may empower them to be more open about their feelings at work. Members of ERGs can share experiences, host events, and serve as a unified voice at your company. Knowing that ERGs are safe spaces, employees can inspire one another and support each other.

Offer educational opportunities

Of course employee activism is about sharing views in the workplace, but it's also about spreading awareness. Whether it's by establishing a mentorship program, offering L&D training, or hosting guest speakers, providing employees with educational opportunities can help them learn about certain causes and get more involved.





About Namely

Distinguished by its intense commitment to diversity, equity, and inclusion, HR technology leader Namely is an employer of choice that helps mid-sized employers and their employees thrive. Delivering and streamlining the complexities of recruiting, onboarding, time & attendance, performance management, benefits administration, compliance, payroll and analytics from a single platform, Namely also offers Managed Payroll and Benefits services. The company further differentiates the client experience through personalized service and easy-to-use applications.

Learn more at [Namely.com](https://www.namely.com) and follow us [@NamelyHR](https://twitter.com/NamelyHR).