

One Minute Memo®



National Strikes and Boycott Activities Planned for February 16 & 17 (And Beyond)

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Seyfarth Synopsis: Several organizations are planning nationwide strike and boycott activities on February 16-17 to oppose Trump Administration and Republican policies. Employers impacted by these activities should be mindful of employees' rights before responding.

Several labor and activist groups are calling for national general strikes and boycotts this week to protest policies enacted and proposed by the new Trump Administration and the Republican Congress.

Thursday, February 16: A Day Without Immigrants. The first action, "A Day Without Immigrants," is currently scheduled for this Thursday, February 16. The campaign, promoted in Spanish and English, has been spread through [Facebook](#), fliers, and word of mouth and calls on immigrants and their supporters "not to go to work, open businesses, shop, eat in restaurants, buy gas, go to classes, or send children to school." While the campaign originally focused on the Washington D.C. area, the campaign is expected to spread nationwide. A similar action in Milwaukee, Wisconsin this past Monday, February 13 drew [thousands of protesters](#).

Friday, February 17: National General Strike. Then, on Friday, February 17, a group called [Strike4Democracy](#) has called for a national general strike and plans on "over 100 strike actions across the United States, and beyond." The campaign calls for participants to forgo work on Friday and, instead "plan or take part in an event in your community" and "occupy public space with positive messages of resistance and solidarity."

The organizers do not plan on stopping there. They intend to use Friday's national general strike to "build towards a series of mass strikes," with another mass strike planned on March 8, 2017, another on May 1, 2017 (May Day), and "a heightening resistance throughout the summer."

So, what does this mean for employers?

While these general strikes and those planned for the future could wreak havoc on an employer's operations -- as employees fail to report to work or leave shifts early -- the National Labor Relations Act provides protection for employees who engage in political advocacy that relates specifically to job concerns and to other workplace issues.

Employers have the right to enforce "neutrally applied work rules" to restrict employees from leaving work for political

activities unrelated to workplace concerns. As discussed above, whether an employee's actions are protected or unprotected turns on whether the employee's absence relates to activity directed at "terms and conditions of employment" which the employer controls or to workplace concerns that affect all employees. If the absence is due to political activity totally unrelated to workplace concerns, employees could be subject to discipline, although discipline is not necessarily the prudent course to take.

Given the myriad issues to be addressed in these strikes, from immigration reform to minimum wage laws to worker's rights, employers may be hard pressed to show that employees who participate in these strikes in lieu of working have engaged in unprotected activity. Employers could find themselves in further "hot water" with the NLRB if they discipline employees for absenteeism or tardiness related to the employees' political activities.

If your company is affected by any of the strike activity this week or in the months ahead, contact your Seyfarth attorney or other experienced labor counsel before you take action.

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