



## NOT WITHOUT CONSEQUENCES

U.S. employers can fire at will for speech made on or off the clock, says Veronica Nannis, principal and litigation group manager at Joseph Greenwald & Laake P.A.

**In light of Roseanne Barr's firing following her controversial tweets, how can organizations limit what employees post on social media?** The First Amendment of the U.S. Constitution does not apply here because it limits the government's censorship of speech. There is no "freedom of speech" blanket protection while an employee is on the clock for a private employer. Employers can limit speech made at work and on the clock. An employer can proscribe certain speech in the workplace, just as it can mandate a specific dress code. But what many don't realize is that while an employer cannot limit or prevent speech outside the workplace, that speech can still have employment consequences. An employer can fire for speech made outside the workplace and off the clock in most at-will states. "At will means that, absent a contract, certain union protections, legal prohibition, or public policy, an employer can fire for any reason, or no reason at all. In an at-will state, a private employer does not need a reason to fire. So, while an employee can post to social media at will, a private employer can generally fire at will, as well. A few states have some laws that do protect limited out-of-work speech, but these are a small minority. So, speech may be free but it is not without consequences.