



Colorado and Washington Likely to Join Growing List of States Banning Captive Audience Meetings: 5 Steps Employers Can Take to Comply

Insights

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Colorado and Washington will likely become the latest states to ban employers from holding mandatory meetings with employees concerning religious or political matters. Such employer-sponsored meetings, known as “captive audience meetings,” require employee attendance under threat of discharge, discipline, or some other penalty, and concern religious or political matters – including whether employees should join a union. If the proposed legislation is enacted, Colorado and Washington would join a growing list of states that ban captive audience meetings. What are the key points employers need to know about these state bills? And given the broader movement of captive audience bans, what are five steps employers can take to comply? **[Editor's Note: While the Washington bill passed and takes effect on June 6, the Colorado bill was vetoed by the Governor and will not become law.]**

Colorado

Democrats recently introduced a bill that carries some of the steepest employer penalties in the nation for conducting improper captive audience meetings or retaliating against employees who refuse to participate in them. They include:

- Actual damages, including back and front pay (if an employee does not seek reinstatement), or \$10,000 (whichever amount is greater);
- \$10,000 in additional penalties if the employer has engaged in similar violations within the previous six months;
- Equitable relief, including reinstatement; and
- Attorneys' fees and costs.

Certain communications and meetings are expressly excluded from the proposed captive audience ban. Employers would be permitted to:

- Communicate information as required by law or as necessary for employees to perform their job duties; and
- Engage in “casual conversations” with employees if participation is not mandatory.

While the bill is in its infancy, Colorado continues to pass employee-friendly bills with Democrats enjoying a “trifecta” in Colorado.

[Editor’s Note: Gov. Jared Polis vetoed the Colorado bill on May 17.]

Washington

Washington is much closer to officially enacting its ban on captive audience meetings. The state legislature just passed the “Employee Free Choice Act,” which is almost certain to be signed into law by Democratic Governor Jay Inslee. **[Editor’s Note: Governor Inslee signed this into law on March 28. The law takes effect on June 6, 2024.]**

In addition to simply refraining from requiring attendance at such meetings, employers would also be required to post a state-drafted notice of employee rights provided under the act.

Employees who claim they were forced to attend a captive audience meeting may file a claim in state superior court within 90 days of the alleged violation. If the employee is successful, the court can award the employee injunctive relief, reinstatement, back pay, and any other benefits it deems appropriate.

NLRB Weighs In

In 2022, the National Labor Relations Board’s top prosecutor issued a memo claiming that captive audience meetings violate the National Labor Relations Act. As a result, NLRB’s regional offices have been pursuing unfair labor practice charges against employers in an effort to secure a reversal of longstanding precedent supporting an employer’s right to hold mandatory group meetings. This issue has been teed up in at least one case which has been fully briefed to the NLRB since October 2023.

While the NLRB has not yet ruled on the issue, we anticipate that it may depart from established precedent and find that captive audience meetings violate the NLRA (especially given the Board’s current construction).

5 Steps Employers Can Take to Comply

Captive audience laws are in effect (Connecticut, Maine, Minnesota, New York, and Oregon) and under consideration (Alaska, California, Illinois, Maryland, Massachusetts, Oregon, Rhode Island, Vermont, and Washington) across the country. If you are in one of these states or convene nationwide meetings with employees concerning union representation, you should act quickly to comply with applicable state laws and consider taking the following five steps:

1. **Collaborate with internal stakeholders and labor counsel** to tailor an appropriate compliance strategy around the unique aspects of your workplace.

2. **Train your front-line supervisors** on the applicable legal parameters of captive audience laws.
3. **Update your employee handbook and policies** to clarify that meetings concerning religious or political matters are voluntary and there are no benefits or punishments for either participating or not participating in such meetings.
4. **Be clear and upfront to employees** about the purpose of your meeting if it will concern religious or political matters and expressly state that the meeting is voluntary.
5. **Explore suitable ways to document** the voluntary nature of your employees' attendance and participation in captive audience meetings.

Conclusion

Fisher Phillips will continue to monitor workplace law developments and provide additional insights as needed. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information and invitations to our webinars. If you have further questions, contact your Fisher Phillips attorney, the authors of this Insight, any attorney in our [Denver](#) or [Seattle](#) offices, or any attorney in our [Labor Relations Group](#).

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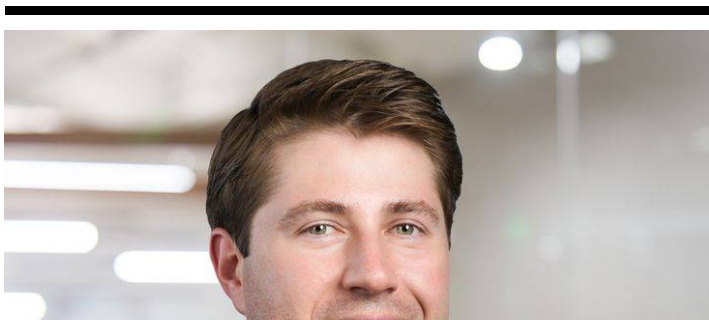


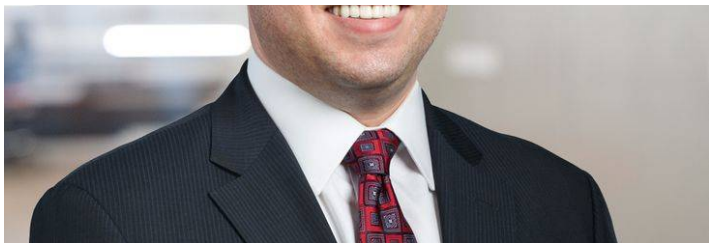
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