

EMPLOYER GUIDE TO ELECTION DAY 2025: WHAT'S AT STAKE + 4 KEY COMPLIANCE CONSIDERATIONS

Insights
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The 2025 election season may have slipped under your radar, which is no surprise given it's an off-year election – wedged between last year's nationwide showdown and the 2026 midterms just around the corner. However, this Election Day will bring a few key state and local races and trigger important workplace compliance considerations. Here's your guide to what's on the ballot this November 4 and your key rights and responsibilities as an employer.

What's at Stake?

Voters across the country will decide important state and local elections this November. Some of the key races to watch include:

- gubernatorial elections in New Jersey and Virginia;
- retention elections for three members of the Supreme Court of Pennsylvania; and
- the mayoral election in New York City; and
- a statewide race in Georgia for two seats on the Public Service Commission

Dozens of statewide ballot measures among at least six states will also be considered by voters – including the high-profile [Prop 50 in California](#), which, if approved, would replace the state's current congressional district maps with legislatively drawn maps in 2026 through 2030. [Unlike 2024](#), none of the statewide ballot measures this year

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directly impact workplace law issues – though there are a few local ballot initiatives worth noting in this context:

- **Portland, Maine.** A citizen’s initiative seeks to gradually raise the city’s minimum hourly wage from the current \$15.50 to \$20 by the year 2029. To learn more, check out our [FP deep dive on the Portland initiative](#), as well as our recent coverage of other [minimum wage hikes coming to Maine in 2026](#). [Ed. Note: Portland voters passed a ballot initiative on Nov. 4 that gradually increases the city’s hourly minimum wage to \$19 by 2028. Read more [here](#).]
- **Olympia, Washington.** Voters will decide whether to approve a “Workers’ Bill of Rights” [initiative](#), which would, among other things, require certain large employers to pay each employee at least \$20 per hour starting January 1 and create a “workplace safety plan to protect workers and consumers in the event of violence or natural disaster.” [Ed. Note: It appears that Olympia’s initiative will fail. While ballots are still being counted as of Nov. 6, [election results](#) so far show that roughly 56% of voters rejected the measure.]

4 Key Compliance Considerations During Election Season

1. Voting Leave Laws and Poll Worker Protections

While there is no federal law providing workers with time off to vote, state and local laws can vary significantly. So, as you review and potentially revise your voting leave policies this fall, you’ll want to consider the following questions:

- Are you required you to provide voting leave to employees? If so, what are the parameters?
- Do you have to pay employees for the time they take to vote during work hours?
- Can you set specific hours or a time limit for employees to take such leave?
- Can you require employees to give advance notice if they intend to take voting leave?
- Do you have to provide notice to employees about their right to take voting leave?
- Do any local ordinances impact your voting leave policy?



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- Do you want to provide more flexibility than what's required by law?

In addition, some states require employers to allow employees to take time off for other election-related activities, such as to serve as poll workers.

2. State Bans on Mandatory Meetings to Discuss Politics

You may want to conduct employee meetings to address various "political" issues (or even compel employees to attend), but you must be cautious of doing so in any state that bans so-called "captive audience" meetings.

Some states prohibit employers from requiring employee attendance or participation in employer-sponsored meetings or otherwise requiring them to listen or receive communications regarding employer opinions on "religious" or "political" matters under threat of discharge, discipline, or some other penalty.

States that have enacted such bans include:

- Alaska
- California
- Connecticut
- Illinois
- Maine
- Minnesota
- Rhode Island (the latest state to do so – the [new law](#) took effect on July 2)
- New York
- Oregon
- Vermont
- Washington

Similar measures have been introduced in the legislatures of other states, including:

- New Mexico

Chicago

New York

Portland, OR

Baltimore

Boston

Denver

Columbia

Pittsburgh

Philadelphia

Atlanta

McLean

- Maryland
- Massachusetts

However, a federal court recently [struck down California's captive audience ban](#) (which just took effect this year) based on federal preemption grounds, and similar legal challenges to bans in several other states are ongoing.

Federal Landscape.

Last November, the National Labor Relations Board (NLRB) [is controversial decision](#) upending decades of federal labor law banning mandatory captive audience employee meetings for purposes of discussing union representation. Although that decision retains the force of law today, it remains to be seen whether a newly reconstituted NLRB comprised of a Republican majority will overturn that decision and consequently restore the right of employers to compel attendance at captive audience meetings under federal labor law. This is obviously a situation that bears watching over the months to come.

Read more here: [Trump Names New Labor Board Nominees: Cases That Could Soon Reshape the Law](#)

3. Limitations on Responding to Employee Speech

While private-sector employers are not bound by the First Amendment's free speech protections (which only restrict government action), state and federal laws may potentially limit how you can respond when employees express political opinions at work or off the clock.

- **NLRA.** Under the National Labor Relations Act, employee speech (in union and non-union workplaces alike) that even indirectly relates to employment terms may qualify as protected "concerted activity." This is especially true if the post implicates shared workplace conditions (such as wages, scheduling, or allegations of group discrimination).
- **State Laws.** Several states – including California, New York, and Colorado – have statutes protecting employees from retaliation for lawful off-duty conduct, and Minnesota, Connecticut, Louisiana, South Carolina, and Wyoming are among the states that specifically protect off-duty political activity. These laws may prevent employers from firing or disciplining employees for

expressing their personal views unless those views have a clear, material impact on the business.

- **Antidiscrimination Protections.** Federal antidiscrimination laws don't directly protect political activity or speech, but your workers' activity or speech could trigger these laws if the discussion directly (or perhaps even indirectly) involves age, disability, or other protected classes. In addition, some states broadly prohibit adverse action against an employee based on political expression. Think twice and check with counsel before disciplining any employee for engaging in such a discussion. You'll also want to be consistent in how you address political discussion across all employees so as not to create any appearance of preferential treatment based on a protected characteristic.

Want more? Check out our full guide on how to navigate employee speech in various scenarios: [What Employers Can – and Can't Do About Employee Speech in a Volatile Climate](#).

4. Employer Rights to Support Candidates or Positions

While private employers generally may use company resources to support a political candidate, there are many legal and other considerations you should keep mind.

- **Company Culture.** More than a third of US workers surveyed in 2023 ([Glassdoor survey](#)) said they would consider leaving a job if the company's CEO supported a political candidate they did not agree with, or that they would not apply to open roles at that company in the first place. You should always take your company culture into account before supporting a candidate, and any decision about whether and how your business demonstrates support for a candidate should be made deliberately and with the input of stakeholders and leadership across a broad organizational spectrum.
- **Limitations on Making Voting Recommendations.** Suggesting how employees should vote based on the potential business impacts is a dangerous choice, and a line you should resist crossing. Both state and federal laws impact (or outright prohibit) making voting recommendations to your workers depending on the context. Even in a state where an employer can make recommendations, it is always illegal to coerce an employee to vote a certain way. Because the

line between a recommendation and coercion is a thin one (when someone is dependent on your company for their livelihood), you should always err on the side of caution.

- **Rules Regarding Political Donations.** Each state can set its own rules regarding how state-level political campaigns are funded (whereas [federal law](#) applies in federal elections). This may include, for example, setting limits on contribution amounts (or, in some states, none at all) or banning contributions from certain types of entities. However, even if your business is legally permitted to use company funds to support certain candidates you believe benefit your organization's mission, corporate political donations always come with risk – such as backlash from employees, potential applicants, the general public, your customer base, shareholders, or potential investors. Make sure you understand the potential ramifications of your corporate donations by including your leadership and main stakeholders in an honest conversation before opening your checkbook.

Conclusion

If you have questions, contact your Fisher Phillips attorney, the authors of this FAQ, any attorney in our [Government Relations Practice Group](#), or any attorney in our [Labor Relations Practice Group](#). Make sure you are subscribed to our [Fisher Phillips' Insights System](#) to stay up to speed on the latest developments.