

# The Right to Refuse: NJ Law Gives Workers the Freedom to Tune Out

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**By:** Janelle Edwards-Stewart, Christopher Scales

Last month, Governor Phil Murphy signed into law A4429, which extends the prohibition against certain employer-mandated meetings. Previously, New Jersey prohibited employers from requiring employees to attend employer-sponsored meetings regarding political or religious matters. Now, there is an additional topic about which a mandated meeting is impermissible.

## **Background**

In recent years, employer-mandated meetings, often referred to as “Captive Audience” meetings, began to raise concerns among organized labor groups. Many believed that these meetings could be used to corral employees and dissuade them from discussing potential unionization. That is no longer a possibility. Effective December 2, 2025, the definition of “political matters” within the New Jersey Employer Political Communications Restrictions Act will include an “employee’s decision to join or support” a “labor organization or association”. This means that employers can no longer mandate meetings or hold a “captive audience” of employees to address the topic of unionization.

## **Employee Protections Unpacked**

This prohibition also comes with broad employee protections. Employers cannot fire, threaten, or otherwise discipline employees for refusing to participate in an employer-sponsored meeting discussing unionization. If they do, employees have the right to bring a private civil action against the employer. Available legal remedies in such an action can include reinstatement, payment of lost wages and benefits, and attorneys’ fees. Additionally, a court may award punitive damages and impose financial penalties, starting at \$1,000 for the first violation and increasing to \$5,000 for each subsequent violation.

## **Beyond the Garden State**

New Jersey is not the only state looking to bolster workers’ rights in this arena. Last year, Illinois Governor J.B. Pritzker signed Senate Bill 3649, commonly referred to as the “Worker Freedom of Speech Act”, which prohibits employers from intimidating, retaliating, and disciplining employees for refusing to participate in employer-mandated meetings discussing “religious or political matters.” Before Illinois, New York adopted similar legislation in 2023.

While certain states continue to seek ways to increase employee protections, opponents of captive audience legislation have raised concerns over whether such restrictions present an improper prohibition on employer speech and violate federal labor laws. Earlier this month, a federal court in Illinois dismissed such a challenge to the Illinois captive audience law on procedural grounds. California and Connecticut face similar challenges to their respective captive audience laws.

At the tail-end of the Biden Administration, the National Labor Relations Board (NLRB) voted 3-1 to prohibit mandatory meetings in which an employer can present anti-union views, arguing that such meetings violated the National Labor

Relations Act.<sup>1</sup> New Jersey's new law makes this NLRB decision permanent. Nevertheless, with the return of the Trump Administration, the longevity of such meeting prohibitions at the federal level is uncertain.

### **The Law's Limits**

While New Jersey employers will soon be unable to require employees to attend meetings on political topics, including unionization, there is no prohibition on making these meetings voluntary. To this end, employers must provide employees with notice that their refusal to attend any meeting that will include political, or more specifically union-related, discussion will not result in any adverse employment action. Additionally, employer-sponsored meetings for all other purposes continue to be lawful. For example, employers can require employees to attend meetings or discussions regarding information needed for their job duties; prevention of workplace harassment or discrimination; and, in the case of higher education, coursework, symposia, research, publication, and academic programs at the institution.

### **Action Items**

While New Jersey's captive audience law may still face legal scrutiny, it is wise for employers to brief their leaders on the new law and review their handbooks, policies, and meeting/training schedules to ensure that any mandatory engagements do not include discussions of political, including unionization, or religious activities.

Finally, we recommend that employers provide written notice of employees' ability to "opt out" of employer-sponsored meetings discussing political or religious activities. This notice should appear in one or more common areas and be made accessible to remote employees **before December 2, 2025**.

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<sup>1</sup> Amazon.com Services LLC, Case No. 29-CA-280153, et. seq.