

# What to do now to prepare for Election Day

## Can I prohibit politics at work?

### **The Bottom Line: Yes (with a few caveats) – but do you want to?**

Although there are some exceptions, generally, a private employer can say “no politics” at work. There is no right to free speech in a private workplace. But, it is oftentimes impractical (and can be risky in light of the NLRA) to completely ban all political expression. A total ban can also affect morale. So, what can you do short of an outright ban?

1. Understand the risks of politics at work. Political discussions often involve issues of race, religion, gender, national origin and other protected characteristics and can lead to heightened risk of discrimination, harassment and/or retaliation claims.
2. Remind employees of your policies on civility, respect in the workplace, anti-harassment, anti-discrimination, and social media. Such reminders help make it clear that political discussions also must comply with existing policies.
3. Check to see if you operate in a state that protects political activity or lawful off-duty conduct. (Examples: California, Colorado, Illinois, Louisiana, Missouri). Additionally, some state laws and local laws provide additional protected classes, which may include things like political affiliation.
4. Remember that the National Labor Relations Act (NLRA) protects employees who engage in “concerted activities” for their “mutual aid or protection” related to terms and conditions of employment. These protections apply even to non-unionized employers. For example, employees discussing that a particular candidate pledged to raise the minimum wage may be engaging in protected “concerted activity.”

On October 9th, Jackson Lewis released a 20-minute podcast episode on politics at work that you can listen to [here](#).

## Do I have to give employees time off to vote?

### **The Bottom Line: In 30 states, yes.**

30 states require employers to give workers time off to vote on Election Day, either paid or unpaid. You can read more on time to vote laws and considerations for election season [here](#) and [here](#). Jackson Lewis recently asked employers how they are addressing paid time off for employees to vote on November 3rd—see the results [here](#).

The bottom line,

1. know and comply with the law in the state(s) you operate;
2. know and communicate your internal policy;
3. avoid discouraging or influencing voting; and
4. prepare now for election day staffing and scheduling.

