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10 CALIFORNIA POLICY CENTER, INC.

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 CALIFORNIA POLICY CENTER, INC.

Case No.

15 Plaintiff,

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

16 v.

**ACTION SEEKING STATEWIDE
OR NATIONWIDE RELIEF**

17 LILIA GARCIA-BROWER, *in her official*
capacity as the Labor Commissioner in
18 *the Division of Labor Standards*
Enforcement of the California
19 *Department of Industrial Relations,*

20 Defendant.

21 1. This case is about content-based restrictions on speech imposed by the
22 State of California against employers, in violation of the First and Fourteenth
23 Amendments of the U.S. Constitution and 42 U.S.C. § 1983.
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1 2. The First Amendment protects the free-speech rights of both employees
2 and employers—including an employer’s right to speak to employees about
3 matters of importance to the employer.

4 3. Nonetheless, the State of California has enacted a law, misleadingly titled
5 the “California Worker Freedom from Employer Intimidation Act” (“the Act”),
6 that forbids employers from speaking to their employees about “religious or
7 political matters” if listening or attending a meeting in which such matters are
8 communicated is a condition of their employment—even when such matters are
9 relevant to the employer’s business.

10 4. The Act defines “political matters” broadly to include speech “relating to
11 elections for political office, political parties, legislation, regulation, and the
12 decision to join or support any political party or political or labor organization.”

13 5. Plaintiff California Policy Center, Inc. (“CPC”) is a 501(c)(3) nonprofit
14 organization with a mission to secure a more prosperous future for all Californians.
15 To do this, CPC engages in research and communication related to public policy,
16 primarily focused on the areas of education reform, workplace freedom,
17 government transparency, and governance.

18 6. Before the Act went into effect, CPC regularly conducted mandatory
19 staff meetings at which the organization’s views on issues of legislation,
20 regulation, and the decision to join a labor union, among other things, were
21 discussed.

22 7. But for the Act, CPC would continue its practice of holding such
23 mandatory meetings that include political matters.
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1 8. This restriction on CPC’s ability to speak to its employees about the very
2 subject matter of the organization’s mission violates CPC’s right to free speech
3 under the First Amendment.

4 9. CPC therefore seeks declaratory relief and preliminary and permanent
5 injunctive relief against the Labor Commissioner in the Division of Labor
6 Standards Enforcement of the California Department of Industrial Relations—the
7 government official charged with enforcing the Act—to protect its right to freedom
8 of speech.

9 **PARTIES**

10 10. Plaintiff California Policy Center, Inc. is a 501(c)(3) nonprofit
11 organization incorporated in California, with its office in Tustin, California.

12 11. Defendant Lilia Garcia-Brower is the Labor Commissioner in the
13 Division of Labor Standards Enforcement of the California Department of
14 Industrial Relations and is sued in her official capacity. The Labor Commissioner
15 is tasked with enforcing the California Worker Freedom from Employer
16 Intimidation Act, including investigating an alleged violation, ordering appropriate
17 temporary relief, and issuing citations for violations.

18 **JURISDICTION AND VENUE**

19 12. This case raises claims under the First and Fourteenth Amendments of
20 the U.S. Constitution and 42 U.S.C. § 1983. The Court has subject-matter
21 jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

22 13. Venue is proper because a substantial portion of the events giving rise to
23 the claims occurred in the Central District of California. 28 U.S.C. § 1391(b)(2).
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1 **FACTUAL BACKGROUND**

2 **California’s Ban on Employer Political and Religious Speech**

3 14. California Senate Bill 399 (“SB 399”), referred to herein as “the Act,”
4 adds Chapter 9 to Part 3 of Division 2 of the California Labor Code, commencing
5 with California Labor Code section 1137, was signed into law by Governor Gavin
6 Newsom on September 27, 2024, and became effective January 1, 2025.

7 15. The Act prohibits employers from “subject[ing], or threaten[ing] to
8 subject, an employee to discharge, discrimination, retaliation, or any other adverse
9 action” for refusing to attend meetings or receive communications from the
10 employer where the purpose is to “communicate the employer’s opinion about
11 religious or political matters.” Cal. Lab. Code § 1137(c).

12 16. The Act defines “political matters” as “matters relating to elections for
13 political office, political parties, legislation, regulation, and the decision to join or
14 support any political party or political or labor organization.” Cal. Lab. Code
15 § 1137(b)(3).

16 17. The Act defines “religious matters” as “matters relating to religious
17 affiliation and practice and the decision to join or support any religious
18 organization or association.” Cal. Lab. Code § 1137(b)(4).

19 18. The Act provides several exceptions.

20 19. The Act allows employers to communicate to employees “information
21 that is necessary for those employees to perform their job duties.” Cal. Lab. Code
22 § 1137(g)(2).

1 20. Religious corporations, entities, associations, educational institutions, or
2 societies exempt from the requirements of Title VII of the Civil Rights Act of 1964
3 or employment discrimination protections of state law are exempt from the Act’s
4 ban on mandatory meetings or communications with respect to speech on religious
5 matters to employees who perform work connected with the activities undertaken
6 by that organization. Cal. Lab. Code § 1137(h)(1).

7 21. The Act also exempts political organizations or parties from the ban on
8 mandatory meetings or communications about political matters where the purpose
9 is to communicate the employer’s political tenets or purposes. Cal. Lab. Code
10 § 1137(h)(2).

11 22. The Act exempts an employer from “communicating to its employees
12 any information that the employer is required by law to communicate, but only to
13 the extent of that legal requirement,” Cal. Lab. Code § 1137(g)(1), and from
14 “requiring employees to undergo training to comply with the employer’s legal
15 obligations, including obligations under civil rights laws and occupational safety
16 and health laws,” Cal. Lab. Code § 1137(h)(5).

17 23. The Act allows a “nonprofit, tax-exempt training program requiring a
18 student or instructor to attend classroom instruction, complete fieldwork, or
19 perform community service hours on political or religious matters as it relates to
20 the mission of the training program or sponsor,” Cal. Lab. Code § 1137(h)(4), an
21 “educational institution requiring a student or instructor to attend lectures on
22 political or religious matters that are part of the regular coursework at the
23 institution,” Cal. Lab. Code § 1137(h)(3), and communications by “an institution
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1 of higher education” to “its employees that are part of coursework, any symposia,
2 or an academic program at that institution,” Cal. Lab. Code § 1137(g)(3).

3 24. The Act also allows a public employer to communicate to its employees
4 “any information related to a policy of the public entity or any law or regulation
5 that the public entity is responsible for administering,” Cal. Lab. Code
6 § 1137(g)(4), and to hold a new employee orientation, Cal. Lab. Code
7 § 1137(h)(6).

8 25. The Act provides for enforcement by aggrieved employees, or their
9 exclusive representatives, and by the Labor Commissioner. Cal. Lab. Code
10 § 1137(e), (f).

11 26. Section 1137(f) of the Act allows “any employee who has suffered a
12 violation” of the Act to bring a “civil action in a court of competent jurisdiction for
13 damages caused by that adverse action, including punitive damages.” And “an
14 employee or their exclusive representative may petition the superior court in any
15 county wherein the violation in question is alleged to have occurred, or wherein the
16 person resides or transacts business, for appropriate temporary or preliminary
17 injunctive relief.”

18 27. Even if an aggrieved employee does not bring an action, the Act further
19 empowers the Labor Commissioner to enforce the Act, “including investigating an
20 alleged violation, and ordering appropriate temporary relief to mitigate a violation
21 or maintain the status quo pending the completion of a full investigation or
22 hearing . . . , including issuing a citation against an employer who violates this
23 section and filing a civil action.” Cal. Lab. Code § 1137(e).

1 28. The Act provides that “[i]n addition to any other remedy, an employer
2 who violates this section shall be subject to a civil penalty of five hundred dollars
3 (\$500) per employee for each violation.” Cal. Lab. Code § 1137(d).

4 **Injury to Plaintiff California Policy Center**

5 29. The Act bans CPC from communicating with its employees during
6 mandatory meetings about legislation, regulations, and decisions to join a labor
7 union—even though creating legislative and regulatory proposals is one of CPC’s
8 principal purposes.

9 30. CPC is a research organization that publishes policy research and trains
10 local elected officials on a variety of political topics, including education reform,
11 workplace freedom, government transparency, and constitutional governance.

12 31. Until the Act went into effect, CPC held mandatory staff meetings every
13 week, except holidays, for all staff, with no exceptions made for job title or
14 position.

15 32. CPC also has regularly-scheduled team meetings and holds strategy
16 meetings scheduled as needed that are mandatory for certain staff.

17 33. Before the Act went into effect, CPC held all-staff retreats, and all staff,
18 regardless of position, were required to attend.

19 34. At the mandatory meetings and mandatory retreats, CPC has discussed,
20 among other things, topics such as government financing at the state and local
21 level, legislation that has been proposed or enacted at the state and local level,
22 activities of labor unions in California to restrict worker rights, the rights of public
23 sector workers to opt out of paying union dues, political choices involving
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1 infrastructure for water and power, compensation and pensions paid to public
2 employees, legislation relating to free speech, policy failures by California political
3 leadership, and policy solutions that would lead to individual liberty and prosperity
4 in California.

5 35. The topics discussed during these meetings often include “political
6 matters” as defined by the Act because they relate to “legislation, regulation, and
7 the decision to join or support” a public-sector labor union. Cal. Lab. Code
8 § 1137(b)(3).

9 36. It is important for the functioning of CPC to communicate about political
10 matters—including discussions of legislation and regulations—with its employees
11 and ensure that their employees listen to such communications. Often the most
12 efficient way of doing so is by holding mandatory meetings.

13 37. CPC believes it is important to discuss its work with all its employees,
14 regardless of whether a specific employee is working on a specific topic. Such
15 discussions improve staff morale and team cohesion and enable staffers not
16 working on a specific policy-related matter to express their ideas or new
17 perspective on that matter.

18 38. CPC’s speech does not qualify for one of the several exemptions set forth
19 in the Act. *See* Cal. Lab. Code § 1137(g), (h).

20 39. CPC would continue holding mandatory meetings and retreats during
21 which “political matters” as defined by the Act, including legislation and
22 regulations, are discussed but for the prohibitions set forth in the Act because it
23 fears enforcement of the Act against it. The Act chills CPC’s political speech by
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1 imposing the threat of legal penalties on CPC for speech which it has engaged in
2 regularly and wishes to continue to engage in the future.

3 **COUNT I**

4 **The ban on employer speech to employees about “political matters” in**
5 **SB 399 violates the First Amendment’s guarantee of freedom of speech.**

6 40. The allegations contained in all preceding paragraphs are incorporated
7 herein by reference.

8 41. “[A]bove all else, the First Amendment means that government has no
9 power to restrict expression because of its message, its ideas, its subject matter or
10 its content.” *Police Department of Chicago v. Mosley*, 408 U.S. 92, 95-96 (1972).

11 42. A law is content based if the law “‘on its face’ draws distinctions based
12 on the message a speaker conveys.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163
13 (2015) (quoting *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 563–64 (2011)).

14 43. “Content-based regulations are presumptively invalid” and thus subject to
15 strict scrutiny analysis. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992); *United*
16 *States v. Alvarez*, 567 U.S. 709, 717 (2012) (plurality opinion). Content-based
17 restrictions on political and religious speech warrant such scrutiny because they
18 “are especially likely to be improper attempts to value some forms of speech over
19 others, [and] are particularly susceptible to being used by the government to distort
20 public debate.” *City of Ladue v. Gilleo*, 512 U.S. 43, 60 (1994) (O’Connor, J.,
21 concurring).

22 44. The Act is a content-based regulation because it regulates speech based
23 on its content: an employer is prohibited from communicating political speech or
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1 religious speech to its employees at mandatory meetings or by requiring the
2 employees to listen to such speech.

3 45. To know whether an employer violates the Act, the government must
4 discern the content of the employer's speech.

5 46. Defendant has no compelling governmental interest in prohibiting
6 employers from communicating political or religious matters to employees.

7 47. The Act is not narrowly tailored to serve any purported compelling
8 government interest.

9 48. The Act therefore violates the CPC's First Amendment rights, and CPC
10 is entitled to injunctive relief because it is irreparably harmed and has no adequate
11 remedy at law.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully requests that this Court grant the following
14 relief:

15 A. Enter a judgment declaring that the prohibition on employer speech to
16 employees about "political matters" at mandatory meetings contained in Cal. Lab.
17 Code § 1137 violates the First Amendment to the United States Constitution, both
18 on its face and as applied to Plaintiff California Policy Center.

19 B. Preliminarily and permanently enjoin Defendant from enforcing Cal.
20 Lab. Code § 1137;

21 C. Award Plaintiff its reasonable costs, expenses, and attorneys' fees
22 pursuant to 42 U.S.C. § 1988 and any applicable law; and

23 D. Award Plaintiff any additional relief the Court deems just and proper.
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Dated: February 11, 2025

Respectfully submitted,

CALIFORNIA POLICY CENTER, INC.

By: /s/ Julie Hamill

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* motion for pro hac vice admission pending