

## Updates

November 03, 2022

### Election-Related Leave Reminder

With congressional, state, and local elections fast approaching on November 8, employers should ensure that their supervisors and human resource departments understand applicable election-related leave laws. While there is no federal entitlement to such leave, many states provide some form of election-related leave. Compliance with these laws not only helps avoid liability, but also assists employers' efforts to maintain harmony during a contentious period.

### **Voting Leave**

Currently, 31 states<sup>[1]</sup> (and the District of Columbia and Puerto Rico) require private sector employers to provide time for employees to vote. Many of these states require at least two hours of voting leave; Kentucky is the most generous, requiring that employees receive at least four hours to vote. Terms such as the amount of required leave, whether it is paid, and advance notice required can vary significantly by jurisdiction. Since 2020, the following jurisdictions have added voting leave:

- **Connecticut.** Employees who request leave at least two days in advance are entitled to two hours of unpaid leave to vote.
- **District of Columbia.** Employees who provide "reasonable" advance notice are entitled to at least two hours of paid leave to vote.

### **Election Judge/Officer Leave**

In addition to voting, employees may also seek to be absent on election day to serve as official election judges/officers or poll watchers. Delaware, Illinois, Kentucky, Minnesota, and Virginia require that private sector employees be allowed to serve as election judges or officers. Employers should be careful to note the difference between official election judges/officers, who help administer and/or oversee elections, and "poll watchers," who volunteer on behalf of a certain candidate, party, or other organization. No state currently requires that leave be provided to poll watchers. The provision of leave for poll watching or other campaign activity may implicate federal, state, or local campaign finance law.

### **Additional Reminders**

While most election-related leave laws are made at the state level, employers should confirm that no municipalities or counties in which they operate also provide leave. As with other types of protected leave, employers generally cannot retaliate against employees for taking time off to vote or serve in civic capacity in accordance with applicable law.

Given the variance across jurisdictions regarding election-related leave, and given the possibility of contentious employee interactions around election time, employers should review all applicable election-related leave laws to ensure they are ready for Tuesday.

### **Endnote**

[\[1\]](#) AK, AL, AR, AZ, CA, CO, CT, GA, HI, IA, IL, KS, KY, MA, MD, MN, MO, ND, NE, NM, NV, NY, OH, OK, SD, TN, TX, UT, WV, WI, and WY.

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