

Fall Leaves, Football, and Voting Leave

Whether we like it or not the weather is changing, we're being inundated with campaign ads, and Election Day is looming. What do elections have to do with HR you ask? That is besides the obvious fear of wondering what new HR laws the latest crop of legislators have in store for us all. Undoubtedly there will be a move to "simplify" something or other. We all know what that portends. Election Day also requires employers to dust off their voting leave policies. Some of those issues are discussed below.

Do You Have to Provide Time off to Vote?

The right to vote is basic to American democracy. Therefore voting is not only strongly encouraged but is a carefully guarded right. Federal law does not require that private employers provide voting leave. However, most states and even some localities do have such requirements. Therefore it's important to be familiar with the law in your area. Remember that you'll need to review the requirements in every area in which your employees work.

What's Required?

State law differs considerably. A few states don't address the issue. Some provide limited employee protections. Others provide extensive leave requirements.

- **Which elections require leave?** Some states require time off to vote in any election. Others limit this right to primary, general, and special elections and may exclude contests such as local school board contests.
- **How much leave?** Many states require 2-3 consecutive hours of leave, but only if an employee does not have that much time during nonworking hours to cast a vote. Other states are more generous and require leave regardless of whether an employee has time to vote during nonworking hours. In some instances there is no time limit imposed.
- **Must the leave be paid?** States generally require that the leave be paid. Remember that exempt employees (those not subject to overtime) would always need to be paid, as required by the Fair Labor Standards Act. Some states allow employers to alter employees' schedules so that voting time is available before or after work.
- **Must employees provide notice?** Most states require that employees provide their employers notice of their need to take voting leave. However the type of notice required differs greatly. Some simply require "advance notice." Others specify 7, 10, or 1 day's notice. In some instances written notice is required.
- **Can an employer schedule the leave so it minimizes disruptions?** Most state laws allow employers to schedule voting leave. However some states specifically prohibit such leave during lunch hours. Many permit employers to schedule leave at the beginning or end of an employee's shift.
- **Can an employer require proof of voting?** Only a few states require proof of voting. However, an organization could require such proof in its policies if it's not prohibited by state law.
- **Is there a poster required?** Some states have posting requirements that include voting leave.

What's the Impact of New Voting Procedures?

An increasing number of states have lengthened polling hours and instituted practices making it easier to vote. This should make it easier for employees to cast their votes. However, there are many employees working long hours, sometimes 10-12 hour shifts, or who may commute long distances, making it difficult for them to vote.

The Bottom Line.

Since voting is such a valued and important right, employers should remain flexible in interpreting and implementing leave requirements.

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