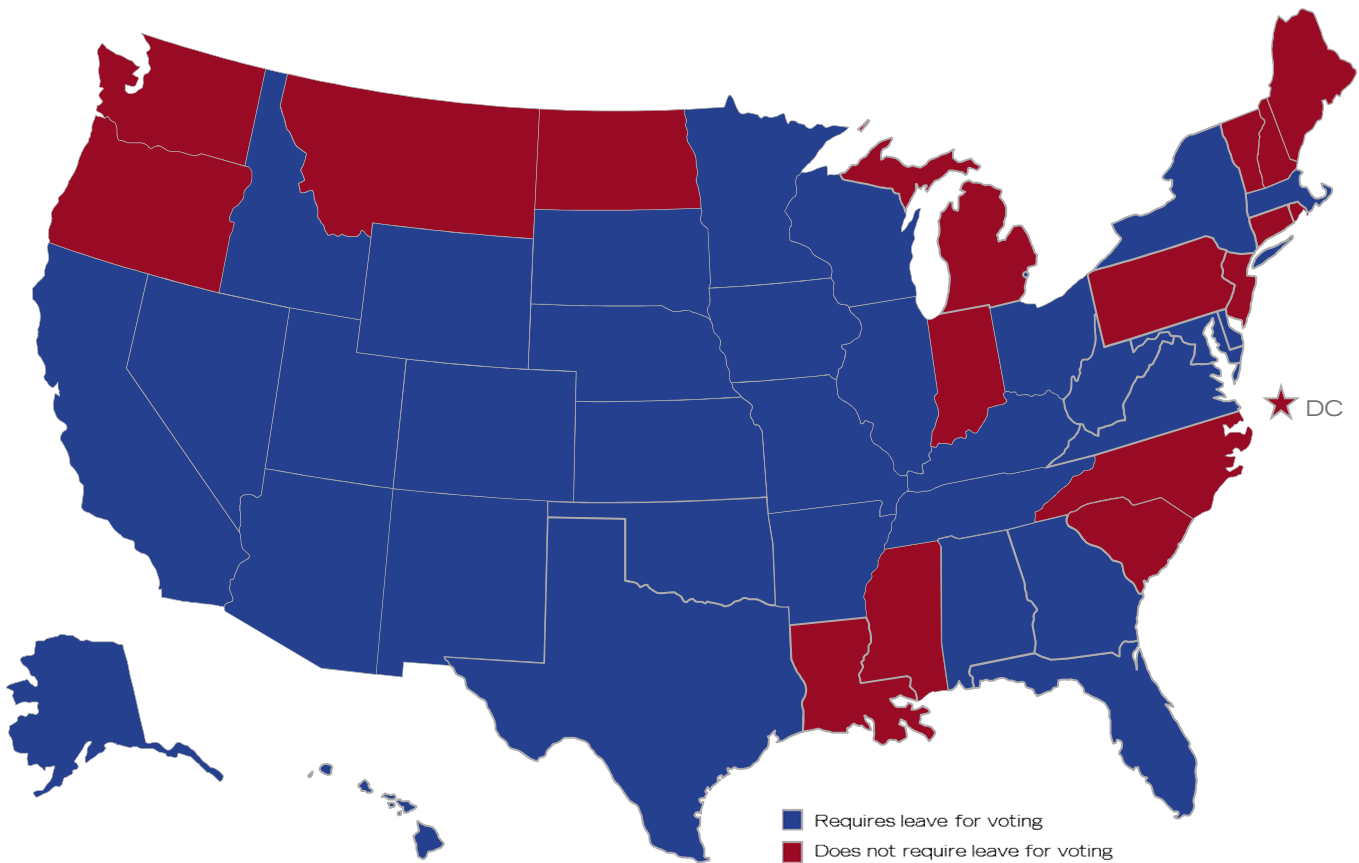




Employer's Guide to State Voting Laws



See the end of this document for tips on managing political discussions in the workplace.

Alabama



Leave required: – YES

Rights: Up to one hour specified by employer to vote in municipal, county, state, or federal primary or election.

Restrictions: Employee must give reasonable notice to employer; leave requirement does not apply if employee's work hours begin at least two hours before polls open or end at least one hour before they close. Employee must be qualified and registered to vote.

(source: Ala. Code Section 17-1-5)



Alaska

Leave required: – YES

Rights: Paid leave of as much time as needed to allow voting.

Restrictions: Employee is not eligible if he or she has two consecutive non-working hours after polls open or before they close.

(source: AS 15.15.100)



Arizona

Leave required: – YES

Rights: Leave of up to three hours between opening or closing of polls, and start or end of shift. Any time off that occurs during normal work hours must be paid.

Restrictions: Employee must request time in advance. Requirement applies only if there are fewer than three consecutive hours between opening of polls and start of employee's shift, or fewer than three consecutive hours between closing of polls and end of employee's shift.

(source: A.R.S. 16-402)



Arkansas

Leave required: – YES

Rights: Employer must schedule employees' work hours to allow time to vote.

Restrictions: Not applicable.

(source: Ark. Code Ann. 7-1-102)



California

Leave required: – YES

Rights: Paid leave of up to two hours if not enough time before or after work. Employer must post notice of voting leave rights at least 10 days before election.

Restrictions: Voting time must be taken at beginning or end of shift. Employee must request leave at least two working days in advance.

(source: Cal. Elec. Code 14000, 14001)



Colorado

Leave required: – YES

Rights: No adverse action against employee who takes time off to vote. Up to two hours of paid leave for employees who don't have at least three hours of non-working time to vote.

Restrictions: Employee must be registered voter to be eligible. Employer may specify hours to be taken, but they must be at beginning or end of shift if employee requests.

(source: C.R.S. 1-7-102, 31-10-603)



Connecticut

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable.



Delaware

Leave required: – YES

Rights: Employees must be allowed time off to serve as election officers or in similar capacities.

Restrictions: Employees must have vacation time available and not hold a "critical need position." Exceptions also apply to employers with 20 or fewer employees.

(source: Del. Code 4709)



District of Columbia

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable.



Florida

Leave required: – YES

Rights: No discharge or threat of discharge of employee who votes in state or local election, or who refuses to vote. Some local ordinances require unpaid time off.

Restrictions: Not applicable.

(source: FSA 104.081)



Georgia

Leave required: – YES

Rights: Up to two hours of unpaid leave for voting if employee's shift starts less than two hours after opening or less than two hours before closing of polls.

Restrictions: Employee must provide reasonable notice. Employer may specify hours that employee takes off to vote.

(source: O.C.G.A. 21-2-404)



Hawaii

Leave required: – YES

Rights: Up to two hours' paid leave, excluding break and meal periods, between opening and closing of polls if employee does not have two consecutive non-working hours while polls are open. Employer may not change employee's normal schedule to avoid providing paid time off. .

Restrictions: If employer verifies that employee took time off and did not actually vote, employee may make appropriate deduction from pay.

(source: HRS 11-95)



Idaho

Leave required: – YES

Rights: Illegal to threaten discharge or influence an employee's vote.

Restrictions: Not applicable.

(source: Idaho Code 18-2319)



Illinois

Leave required: – YES

Rights: Up to two hours' leave if work hours begin less than two hours after opening of polls and end less than two hours before closing of polls. Illegal to penalize employees who take time off to vote.

Restrictions: Employee must request time off before election day. Employer may select the time taken for voting.

(source: 10 ILCS 5/7-42; 10 ILCS 5/17-15)



Indiana

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable.



Iowa

Leave required: – YES

Rights: Paid time off of up to three hours for employees who do not have three consecutive non-working hours while polls are open.

Restrictions: Employer may request written applications before election day. Employer may designate time to be taken.

(source: Iowa Code 49.109)



Kansas

Leave required: – YES

Rights: Paid leave of up to two hours if not enough time before work. Time may not include employee's regular meal period. Unlawful to intentionally obstruct employee in exercise of voting rights or impose penalty.

Restrictions: Employer may select the time taken for voting, apart from restriction on scheduling voting time during meal periods.

(source: Kan. Stat. Ann. 25-418)



Kentucky

Leave required: – YES

Rights: Minimum of four hours' leave (unclear whether paid or unpaid) to vote or cast absentee ballot. Election officers must be given entire day for training or to serve. Unlawful to penalize employee for taking reasonable time off to vote unless they fail to vote by their own fault.

Restrictions: Employee must apply for time off before election day. Employer may select the time taken for voting.

(sources: *KRS 118.035; Ky. Const. 148*)



Louisiana

Leave required: – NO

Rights: Illegal to discriminate against employees based on their political beliefs or participation, or to try to influence their beliefs or participation through coercion.

Restrictions: Applies only to employers with 20 or more regular employees.

(source: *La. Rev. Stat. Ann. 23:961-962*)



Maine

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable.



Maryland

Leave required: – YES

Rights: Paid time off for voting for employees who do not have two continuous non-working hours when polls are open.

Restrictions: Employer may require proof of voting or attempt to vote.

(source: *Del. Code 4709*)



Massachusetts

Leave required: – YES

Rights: Mercantile, manufacturing, and mechanical establishments must let employees have time off upon request to vote for two hours after opening of polls in employees' districts.

Restrictions: Employees must be eligible to vote.

(source: *Mass. Gen. Laws ch. 149, Section 178*)



Michigan

Leave required: – NO

Rights: Misdemeanor for employer to discharge or threaten to discharge in attempt to influence employee's vote.

Restrictions: Not applicable

(source: MCL 168.931)



Minnesota

Leave required: – YES

Rights: Paid time off for time required to appear at polling place, cast vote, and return to work on election day. Election judges must receive paid time off to serve.

Restrictions: Employee must be eligible to vote. Employer is entitled to offset pay to election judges by the amount they receive for service. Election judges must provide 20 days' notice and certificate from appointing authority stating hours to be served and compensation.

(source: MSA 204C.04 (voting); MSA 204B.195 (election judges))



Mississippi

Leave required: – NO

Rights: Unlawful for employer to attempt to influence employee's vote or political participation in any manner.

Restrictions: Not applicable.

(source: Miss. Code Ann. 23-15-871)



Missouri

Leave required: – YES

Rights: Paid time off to vote for employees who don't have three consecutive hours between work and opening or closing of polls.

Restrictions: Employer may require application before election day. Employer may choose hours that employee is absent.

(source: RSMo. 115.639)



Montana

Leave required: – NO

Rights: Not applicable..

Restrictions: Not applicable.



Nebraska

Leave required: – YES

Rights: Paid time off to vote for employees who don't have two consecutive non-working hours when polls open.

Restrictions: Pay requirement applies if employee applies before or on election day. Employer may choose hours that employee is absent.

(source: Neb. Rev. Stat. 32-922)



Nevada

Leave required: – YES

Rights: Paid leave for "sufficient time" if voting before or after work is impractical. If distance between polling place and worksite is two miles or less, "sufficient time" is one hour; if more than 2 but less than 10 miles, two hours; if more than 10 miles, three hours.

Restrictions: Employer may choose hours that employee is absent. Employee must be registered to vote. Employee must apply for leave in advance.

(source: NRS 293.463; NAC 284.586)



New Hampshire

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



New Jersey

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



New Mexico

Leave required: – YES

Rights: Paid leave of two hours for employees unless workday begins more than two hours after polls open or ends more than three hours before poll closing time. Qualified voters in elections of Indian nations, tribes, or pueblos are also entitled to this leave.

Restrictions: Employer may choose hours that employee is absent.

(source: NMSA 1978, 1-12-42)



New York

Leave required: – YES

Rights: Paid leave of up to two hours at beginning or end of shift (unless employer and employee mutually agree otherwise); employer may have to grant more than 2 hours leave, but anything above 2 hours can be unpaid; employer must post notice of voting leave rights at least 10 days before every election. Unlawful to refuse to let eligible employee vote, to penalize employee, or to reduce wages. Employer threats or other attempts to influence employee voting are unlawful.

Restrictions: Employee must give notice to employer of need for leave 2-10 days before election. Employee is deemed to have sufficient time to vote without time off work if he/she has 4 consecutive hours outside of work when polls are open. Employer may choose hours that employee is absent.

(source: NY Election Law 3-110, 17-150, 17-166)



North Carolina

Leave required: – MAYBE

Rights: No statute, but terminating an employee for taking time off to vote could be basis for tort action for wrongful discharge.

Restrictions: Not applicable



North Dakota

Leave required: – NO

Rights: Employers are encouraged, but not required, to have policies to allow time off for voting.

Restrictions: Not applicable

(source: NDCC 16.1-01-02.1)



Ohio

Leave required: – YES

Rights: Employees are entitled to "reasonable time" off work to vote. Unlawful for employer to interfere with, discriminate or retaliate against, employees who exercise rights. Unlawful to print statements on pay envelopes or posting threats or notices intended to influence employees' political opinions.

Restrictions: Voting leave can be unpaid unless employee is salaried.

(source: Ohio Rev. Code 3599.05 and 3599.06)



Oklahoma

Leave required: – YES

Rights: Paid leave of up to two hours, or time necessary to allow employee to vote.

Restrictions: Employer may choose hours that employee is absent. No leave entitlement if employee's workday begins at least three hours after polls open or ends at least three hours before polls close. Employees must provide notice at least one day in advance.

(source: Okla. Stat. Tit. 26 Sect. 7-101)



Oregon

Leave required: – NO

Rights: Not applicable

Restrictions: Not applicable



Pennsylvania

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



Rhode Island

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



South Carolina

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



South Dakota

Leave required: – YES

Rights: Paid leave of up to two hours.

Restrictions: Employer may choose hours that employee is absent. No leave entitlement if there are two consecutive hours of open polls when employee is not required to be at work.

(source: SDCL 12-3-5)



Tennessee

Leave required: – YES

Rights: Paid leave of up to three hours if work schedule does not permit voting while polls are open.

Restrictions: Employer may choose hours that employee is absent. No leave entitlement if employee's workday begins at least three hours after polls open or ends at least three hours before polls close. Employees must provide notice by noon the day before election day.

(source: TCA 2-1-106)



Texas

Leave required: – YES

Rights: Unlawful for employer to knowingly refuse to let employees leave work to vote, or to penalize or threaten a penalty for going to the polls to vote. Voting time must be paid.

Restrictions: Law does not apply if polls are open for two consecutive non-working hours.

(source: Election Code 276.004)



Utah

Leave required: – YES

Rights: Paid leave of up to two hours; if employee requests leave at beginning or end of work shift, employer is required to grant the request.

Restrictions: Law does not apply if polls are open for three hours of non-working time. Employer may choose hours that employee is absent as long as employee does not request time at beginning or end of shift. Employee must apply for leave before election day.

(source: Utah Code 20A-3-103)



Vermont

Leave required: – NO

Rights: Not applicable.

Restrictions: Not applicable



Virginia

Leave required: – YES

Rights: No leave for voting, but unpaid leave must be granted to employees who serve as "officers of election." No adverse employment action may be taken against employee for serving as officer. If employee serves at least four hours, he or she cannot be required to work on a shift starting at 5 p.m. that day or before 3 a.m. the next day. Employee cannot be required to use sick or vacation time.

Restrictions: Employee who serves as officer of election must give reasonable notice to employer.

(source: Va. Code 24.2-118.1)



Washington

Leave required: – Not applicable.

Rights: Voting in Washington state is done by mail.

Restrictions: Not applicable.

(source: Wash. Rev. Code 49.28.120 repealed in 2013.)



West Virginia

Leave required: – YES

Rights: Paid leave of up to three hours. Employer can adjust work schedules in certain essential industries, or where continuous operations are necessary.

Restrictions: Employee must make written demand for leave at least three days in advance. Employer may deduct from wages if (1) employee has three or more non-working hours while polls are open AND (2) does not vote during that non-working time.

(source: W. Va. Code 3-1-42)



Wisconsin

Leave required: – YES

Rights: Unpaid leave of up to three consecutive hours.

Restrictions: Employer may choose hours that employee is absent. Employee must request time off before election day.

(source: Wis. Stat. 6.76)



Wyoming

Leave required: – YES

Rights: Paid leave of one non-meal hour.

Restrictions: Employer may choose hours that employee is absent. Employee must be eligible to vote. No requirement to provide leave if employee has at least three non-working hours while polls are open.

(source: Wyo. Stat. 22-2-111)



Canada

Leave required: – YES

Rights: Under federal law, paid leave of up to three consecutive hours while polls are open if employee does not have three consecutive non-working hours while polls are open. (Provincial and territorial laws require paid leave of one to four hours.)

Restrictions: Employer may choose hours that employee is absent. Exception for certain employees in transportation industry.

(source: Canada Elections Act and various provincial/territorial laws.)

Some Do's and Don'ts on Politics in the Workplace

Below are some very general tips on managing political discussion in your workplace.

- **DO** be careful about the way you talk to employees about talking politics at work. The NLRB may not let you prohibit political discussions, or even arguments, among non-supervisory employees. At least, not if the subject matter arguably pertains to terms and conditions of employment.
- **DO** encourage employees to avoid political talk that might be considered “harassment” based on race, sex, national origin, or other protected category. Even the NLRB says employers can usually ban this type of “EEO-harassing” speech.
- **DO** be aware that if you allow idle chit-chat about kids, fashion, sports, or the weather when employees are supposed to be getting their work done, you may also have to allow idle political chit-chat when employees are supposed to be getting their work done.
- **DO** consult with applicable state law about voting leave, and comply with it.
- **DO** be aware that, in a handful of states, it is unlawful for an employer to try to influence an employee’s vote. If you operate in one of these states, you should not as an employer overtly endorse or oppose any candidate, referendum, or other initiative.
- **DO** remind employees of your internet, social media, and email policies, but be aware that the NLRB may not let you require non-supervisory employees to be “courteous” or “civil.”
- **DO** encourage your employees to “self-police” political discussions by leaving, or warning their co-workers when the discussion appears to be heading into hostile territory.
- **DON'T** impose a flat ban on all political talk at work.

If you have questions about employee voting rights or managing politics in the workplace, contact your Constangy attorney, or e-mail us at constangyfyi@constangy.com.