

Are employees entitled to time off from work to vote?

The 2008 U.S. presidential election has generated significant interest nationally and internationally. A record one in four eligible voters participated in a primary or caucus in the current election cycle^{1/} and some analysts are predicting a record turnout for Election Day on Tuesday, November 4, 2008.

There is no federal law that requires employers to provide time off for an employee to vote. A number of states require an employer to provide time off (paid or unpaid) only when an employee's regular work hours are such that the employee does not have sufficient time, outside of working hours and during the time the polls are open, to vote. Few of the provisions below address whether an employee must take advantage of early or absentee voting options if they are available, or whether an employer can require an employee to vote early to avoid the need for the employee to take time off from work to vote. Notably, very few of the provisions that require an employer to provide employees with time off to vote expressly mandate that the employee provide proof that they used the time off to vote.

Absent specific further guidance on this issue, prudent employers should permit employees to take time off on Election Day to vote if required by the applicable state law.

The chart below provides a state-by-state snapshot of the provisions that govern whether an employer must provide employees with time off to vote. Apart from the provisions set forth in the chart, collective bargaining or other employment agreements may provide certain employees with rights not provided in state law.

State	Controlling Law	Paid?	Must Employee Give Notice?	Does State Require Specific Amount Of Time Off To Vote?	Additional Provisions
<i>Alabama</i>	Ala. Code §17-1-5		Yes (reasonable notice)	"Necessary" time, not to exceed one hour.	<ul style="list-style-type: none"> • Employer may specify when the employee may take time off to vote. • Employer need not provide any time off if

^{1/} *America Goes to the Polls*, A Report on Voter Turnout in the 2008 Presidential Primary, prepared by the Nonprofit Voter Engagement Network.

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					the employee's work hours begin at least two hours after the polls open or end at least one hour prior to the time the polls close.

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<i>Alaska</i>	Alaska Stat. §15.15.100	X	No	As much time “as will enable voting.”	<ul style="list-style-type: none"> • Employer need not provide time off if the polls are open two hours before or after the employee’s regular work shift.
<i>Arizona</i>	Ariz. Rev. Stat. Ann. §16-402	X	Yes	Such time off from work at the beginning or end of their work shift so that they will have three consecutive hours to vote.	<ul style="list-style-type: none"> • Employer need not provide time off if employee has three consecutive hours “between the opening of the polls and the beginning of his regular work shift or between the end of his regular work shift and the closing of the polls.” • Employer may specify when time is taken off.
<i>Arkansas</i>	Ark. Code Ann. §7-1-102		No		<ul style="list-style-type: none"> • Employer must schedule work hours of employees on Election Day so that they have an opportunity to vote.
<i>California</i>	Cal. Elec. Code §§14000-14003	X	Yes (two working days if employee knows or has reason to believe time off will be necessary on the third working day)	“Sufficient time” such that, when combined with the voting time available outside of work, employee will be able to vote. Paid time off not to exceed two hours.	<ul style="list-style-type: none"> • Time off for voting shall be at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless the employee and employer agree on to a different time. • Employers must conspicuously post a notice setting forth these provisions where employees can see it not less than 10 days

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			prior to Election Day)		before every statewide election.
<i>Colorado</i>	Colo. Rev. Stat. §§1-17-102 and 31-10-603	X	Yes	Two hours.	<ul style="list-style-type: none"> Employee does not have to provide time if employee has three or more non-working hours when polls are open. Employer may specify what hours employee has off, but they must be at the beginning or end of a shift if the employee requests it.
<i>Connecticut</i>	None				
<i>Delaware</i>	None				
<i>District of Columbia</i>	None				
<i>Florida</i>	None				
<i>Georgia</i>	Ga. Code Ann. §21-2-204		Yes (reasonable notice)	“Necessary” time off not to exceed two hours.	<ul style="list-style-type: none"> Employer is not required to give the employee time off if the polls are open for a two hour period before or after the employee’s work day. Employer may specify the hours the employee may take off to vote.
<i>Hawaii</i>	Hawaii Rev.	X		Two hours.	<ul style="list-style-type: none"> Employer is not required to give the employee time off if the polls are open for a

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	Stat. §11-95				<p>two hour period outside the employee's work hours.</p> <ul style="list-style-type: none"> • Employer may deduct from wages if employee took time off and it is discovered that employee did not vote.
<i>Idaho</i>	None				
<i>Illinois</i>	10 Ill. Comp. Stat. 5/17-15	X	Yes	Two hours.	<ul style="list-style-type: none"> • Employer must permit absence to vote if the employee's working hours begin less than 2 hours after the opening of the polls and end less than 2 hours before the closing of the polls. • Employer may specify when the employee may take time off to vote.
<i>Indiana</i>	None				
<i>Iowa</i>	Iowa Code §49.109	X	Yes (written request)	Such time off so as to allow three consecutive hours of nonworking time to vote when poll are open (combining time outside of work	<ul style="list-style-type: none"> • Employer need not provide time off if employee has three consecutive hours "between the time of the opening and the time of the closing of the polls during which the person is not required to be present at work" • Employer may specify when the employee

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				with time allowed off of work).	may take time off to vote.
<i>Kansas</i>	Kan. Stat. Ann. §25-418	X		Such time off so as to allow two consecutive hours of nonworking time to vote when polls are open (combining time outside of work with time allowed off of work).	
<i>Kentucky</i>	Ky. Rev. Stat. Ann §118.035			Reasonable time, not less than four hours.	<ul style="list-style-type: none"> • Employer may specify when the employee may take time off to vote. • Employee who takes voting leave but does not vote may be subject to disciplinary action. • Employee may take voting leave to request absentee ballot.
<i>Louisiana</i>	None				
<i>Maine</i>	None				
<i>Maryland</i>	Md. Code Ann., Elec. Law §10-	X		Two hours.	<ul style="list-style-type: none"> • Employer need not provide time off if employee has two hours of continuous off-

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	315				<p>duty time during the time that the polls are open.</p> <ul style="list-style-type: none"> • Employer may require proof that employee voted.
<i>Massachusetts</i>	Mass. Gen. Laws ch. 149, §178		Yes	Two hours (applicable to limited set of employees).	<ul style="list-style-type: none"> • Employees in manufacturing, mechanical or mercantile establishments have two hours off after the opening of the polls.
<i>Michigan</i>	None				
<i>Minnesota</i>	Minn. Stat. §204C.04	X		None.	<ul style="list-style-type: none"> • Employees have the right to be absent from work for the purpose of voting during the morning of the day of that election.
<i>Mississippi</i>	None				
<i>Missouri</i>	Mo. Rev. Stat. §115.639	X	Yes	Three hours.	<ul style="list-style-type: none"> • Employer is not required to give the employee time off if the polls are open for a three hour period when employee is not working and when the polls are open.
<i>Montana</i>	None				
<i>Nebraska</i>	Neb. Rev. Stat. §2-922	X	Yes (one day)	Two hours.	<ul style="list-style-type: none"> • Employer must provide time off if employee does not have two consecutive non-working hours when polls are open. • Employer may specify when the employee

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					may take time off to vote.
<i>Nevada</i>	Nev. Rev. Stat. §293.463	X	Yes (one day)	Time “sufficient” to vote. One to three hours as determined by distance from voting place.	<ul style="list-style-type: none"> • Employer must provide time off if it is impractical to vote before or after work • Employer may specify when the employee may take time off to vote.
<i>New Hampshire</i>	None				
<i>New Jersey</i>	None				
<i>New Mexico</i>	N.M. Stat. Ann. §1-12-42	X		Two hours.	<ul style="list-style-type: none"> • Employer must provide time off if employee’s work begins more than two hours after polls open, or ends more than three hours before polls close • Employer may specify when the employee may take time off to vote.
<i>New York</i>	N.Y. Elec. Law §§ 3-110 and 17-118	X	Yes (no less than two days, no more than ten days)	Two hours.	<ul style="list-style-type: none"> • Employer must provide time off if employee does not have sufficient time to vote, defined as four or more consecutive non-work hours when polls are open

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					<ul style="list-style-type: none"> • Employer must post “conspicuous” notice of these provisions not less than 10 working days before the election • Employees who have sufficient non-working time to vote are not entitled to paid time. • Pay provision applies to weekly, daily, hourly and piece-work earners and hours taken are counted in calculation for overtime purposes
<i>North Carolina</i>	None				
<i>North Dakota</i>	None				
<i>Ohio</i>	Ohio Rev. Code Ann. §3599.06	X		Reasonable amount of time.	
<i>Oklahoma</i>	Okla. Stat. Ann. Tit. 26, §7-101	X (with proof of voting)	Yes (one day)	Up to two hours, or “sufficient time” if more than two hours are required to vote.	<ul style="list-style-type: none"> • Employer is not required to give the employee time off if employee’s work day begins three or more hours after the polls open or ends more than three hours before they close. • Employer may specify when the employee may take time off to vote and employer may designate hours or change the work

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					schedule so that employee will have the required three consecutive non-working hours.
<i>Oregon</i>	None				
<i>Pennsylvania</i>	None				
<i>Puerto Rico</i>	P.R. Laws Ann. Tit. 16, §§3204 and 3237				<ul style="list-style-type: none"> • Election Day is a legal holiday in Puerto Rico • Employers of continuous operations have an affirmative duty to establish shifts that will allow employees to go to the polls between 8 a.m. and 3 p.m.
<i>Rhode Island</i>	None				
<i>South Carolina</i>	None				
<i>South Dakota</i>	S.D. Codified Laws §12-3-5	X			<ul style="list-style-type: none"> • Employee may take time off to vote if the employee has less than two consecutive non-working hours when polls are open • Employer may specify when the employee may take time off to vote.
<i>Tennessee</i>	Tenn. Code Ann. §2-1-106	X	Yes (employee must give notice by	Reasonable period, up to three hours.	<ul style="list-style-type: none"> • Does not apply where the work day begins 3 or more hours after the polls open or ends more than 3 hours before they close

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			12:00 p.m. on the day before the election)		<ul style="list-style-type: none"> Employer may specify when the employee may take time off to vote.
<i>Texas</i>	Tex. Elec. Code Ann. §276.004	X		Reasonable period of time.	<ul style="list-style-type: none"> Employee is allowed a time off if polls are not open two consecutive non-working hours No time off, paid or unpaid, is required if employee is working voluntary overtime.
<i>Utah</i>	Utah Code Ann. §20A-3-103	X	Yes		<ul style="list-style-type: none"> Employer must permit employee to take time off to vote if the employee has less than three consecutive non-working hours when polls are open. Employer may specify when the employee may take time off to vote, but must grant request for leave at the beginning or end of a shift.
<i>Vermont</i>	None				
<i>Virginia</i>	None				
<i>Washington</i>	Wash. Rev. Code §49.28.120	X		Two hours.	<ul style="list-style-type: none"> Employer must permit employee to take time off to vote if the employee has less than 2 consecutive non-working hours when

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					<p>polls are open.</p> <ul style="list-style-type: none"> If the employee's work schedule is announced sufficiently in advance so that employee can obtain an absentee ballot, this provision does not apply.
<i>West Virginia</i>	W.Va. Code §3-1-42	X	Yes (three days prior to election, written request)	Three hours.	<ul style="list-style-type: none"> Employer must permit employee to take time off to vote if the employee has less than 3 consecutive non-working hours when polls are open. Employer may specify when the employee may take time off to vote if the employee works in certain essential industries.
<i>Wisconsin</i>	Wis. Stat. §6.76		Yes	Three hours.	<ul style="list-style-type: none"> Employer may specify when the employee may take time off to vote.
<i>Wyoming</i>	Wyo. Stat. Ann. §22-2-111	X		One hour.	<ul style="list-style-type: none"> Employer must permit employee to take time off to vote if the employee has less than three consecutive non-working hours when polls are open. Employer may specify when the employee may take time off to vote.