

MSF CLIENT ALERT

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VOTING LEAVE REQUIREMENTS

In anticipation of the General Election on November 3, 2020, the following is a reminder of voting requirements in the Tri-state area, including a reminder about New York's voting leave.

October 2020

In April 2020, New York State amended its voting leave law for the second year in a row largely undoing the changes in law enacted last year and reverting to the voting leave entitlements from pre-2019. The following requirements related to voting leave are now in effect:

Paid Time Off to Vote

New York State employees are eligible for up to 2 hours of paid time off to vote if they do not have "sufficient time" to vote. An employee has "sufficient time" to vote if they have 4 consecutive hours to vote either from the opening of the polls to the beginning of their work shift or from the end of a working shift to the closing of the polls. Employers may designate whether an employee who is eligible to take time off to vote will do so at the beginning or end of the working shift unless otherwise mutually agreed.

If an employee is eligible for paid time off to vote, an employer cannot require the employee to use his or her vacation time, personal time or any other form of earned leave time to vote.

The law does not address whether an employer can encourage early voting opportunities that might not interfere with work. Therefore, employers may notify employees about the potential for such early voting opportunities but should not deny eligible employees the ability to take leave to vote on Election Day.

In New York, the polls are open on Election Day from 6:00 a.m. to 9:00 p.m. Therefore, if an employee's shift begins at 10:00 a.m. or later, or an employee's shift ends

at 5:00 p.m. or earlier, the employee has sufficient time to vote and need not be given paid leave to vote.

Employee Notice Requirement

An employee must notify an employer at least 2 working days, but not more than 10 working days, prior to the election for which the employee intends to take paid time off to vote. For employees that work Monday through Friday and plan to take paid time off to vote in the General Election on November 3, 2020, notice must be given between Tuesday October 20, 2020 and Friday October 30, 2020.

Employer Posting Requirement

Employers must conspicuously post a [Notice](#) of these voting leave requirements at the worksite not less than 10 working days prior to every election. For the General Election on November 3, 2020, employers whose worksites are open Monday through Friday must post the Notice on or before Tuesday October 20, 2020 and employers whose worksites are open every day must post the Notice on or before Saturday October 24, 2020.

No Requirements in NJ and CT

New Jersey and Connecticut do not have laws providing employees time off or pay to vote. Employers in those states should determine how to handle requests they may receive for time off to vote, including whether to provide paid or unpaid leave or allow employees to use vacation or personal time. In New Jersey and Connecticut, the polls are open on Election Day from 6:00 a.m. to 8:00 p.m.

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Please contact an attorney in MSF's Employment Group if you need assistance with respect to this information.



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