



# Election Leave in New York—What Goes Around Comes Around

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Election Day 2020 is less than three weeks away. Political opinions aside, New York State employers need to be aware of their obligations to workers requesting time off to vote. New York law can be confusing.

Prior to April 2019, New York State Election Law §3-110 stated that if an employee did not have sufficient time to vote outside of working hours, an employer was required to provide two hours of paid time for the employee to vote at the employee's request. "Sufficient time" was deemed to be four (4) consecutive hours while polls were open. Since polls in New York are generally open from 6 am to 9 pm, it would be rare for an employee to need this leave. For example, an employee working from 9 am to 5 pm would have 4 consecutive hours after work while the polls were open.

In 2019, the Legislature, in its infinite wisdom, changed the law to provide that all employees were entitled to request three (3) hours off to vote, with pay, whether or not they had sufficient opportunity to vote. There was no requirement for employees to prove that they actually voted, and the three hours would apply even to part time employees (i.e. an employee scheduled for a 4-hour shift on Election Day could ask for 3 paid hours off.)

In 2020, after a great deal of criticism from businesses and local government employers, as well as an expansion of mail-in voting and early in-person voting, the Legislature did an about-face, and the old rule is back in place: employees may ask for up to 2 hours of paid time off if they do not have 4 consecutive hours off while the polls are open.

One thing has been consistent throughout: all employers are required to post a notice in the workplace regarding these voting rights at least 10 working days before Election Day. Since Election Day 2020 is November 3, the notices must be posted on or before October 20. Don't be late! Information on the posting requirement and a sample poster can be found at <https://www.elections.ny.gov/NYSBOE/elections/TimeOffToVoteNotice.pdf>.

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# Practices

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