

Election Impact: Upcoming Policies to Consider

December 13, 2022

Today's Webinar Host

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Who We Are



- Artificial Intelligence
- Infrastructure enterprise

- Subject matter expertise
- Knowledge management team
- Case databases

What we do:

Deliver expert guidance in a fraction of time and cost as traditional methods

Simplify the complexity of employment law



PolicySmart™

Create and maintain an up-to-date and legally compliant employee handbook



Navigator Independent Contractor

Remove risk in determining Independent Contractor status



Navigator Overtime

Determine if an employee is exempt or non-exempt



The Reference Center

A Comprehensive Solution for Employment Law and Common HR Compliance Questions



Navigator Onboarding

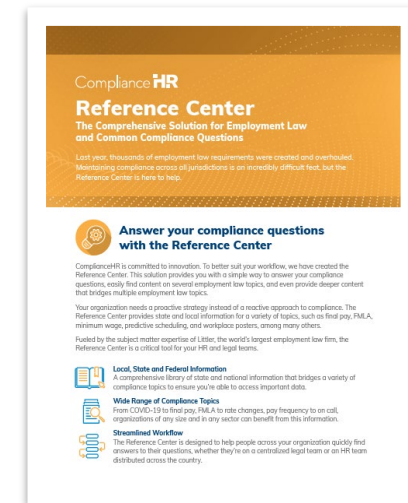
Assemble and produce legally compliant onboarding documents



Navigator Leave

Reduce the risk and administrative burden of leave management

Compliance Essentials



PolicySmart provides you with:

- Federal and state-compliant templates
- Innovative compliance timeline
- Handbook policy checklists
- Automated twice monthly legal update emails

The ComplianceHR Reference Center provides you with:

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- Streamlined workflows
- Wide range of compliance topics
 - COVID-19, final pay, FMLA, rate changes, and more

When coupled, these two solutions provide you with comprehensive compliance program support

Compliance Essentials

Navigator Pay Practices

Requirements for California

An employer must grant voting leave for statewide elections to employees who are eligible to vote and do not have sufficient time outside of working hours to vote.

Election Officials

An employee cannot be suspended or discharged from employment because of absence while serving as an election official.

Amount of Time Off

An employer must provide employees with sufficient leave time for voting. Unless an employer can demonstrate that an employee has sufficient time outside of working hours to vote, the employer must provide time off for voting and causes the least amount of time off from the regular shift.

Paid or Unpaid

An employer must pay an employee for up to 2 hours of time off to vote. An employer shall not require an employee to use accrued paid time off for voting.

Notice Requirements

Employer

At least 10 days before every statewide election, an employer must post a notice to employees and the [Secretary of State's website](#). The notice must be posted at the place of employment, if practicable.

Employee

If the employee is aware of the need for time off on the third working day prior to election day, he or she must provide reasonable notice of the need to have time off to vote.

[Return to Reference Center](#)

Time Off to Vote

The Company encourages all employees to fulfill their civic responsibilities and to vote in official public elections. Most employees' schedules provide sufficient time to vote either before or after working hours.

Any employees who do not have sufficient time outside of working hours to vote in a statewide public election, while the polls are open, may take up to two hours off from work, without loss of pay. Any additional time off will be without pay. Employees must take the time off at the beginning or end of their regular work schedule, whichever allows the greatest amount of free time for voting and the least amount of time off from work, unless mutually agreed otherwise.

Employees must provide at least two working days' notice of the need for leave when, on the third working day prior to the election day, the employee knows or has reason to believe they will need time off to vote on election day. Otherwise, employees must give reasonable notice of the need to have time off to vote.

Election Officer Leave

The Company will not terminate, suspend or otherwise discriminate against employees who miss work to serve as an election officer on Election Day.

Time off under this policy will be unpaid.

The Company asks that employees provide reasonable advance notice of the need for time off to serve as an election official, so that the time off can be scheduled to minimize disruption to normal work schedules.

Proof of having served as an election official may be required.

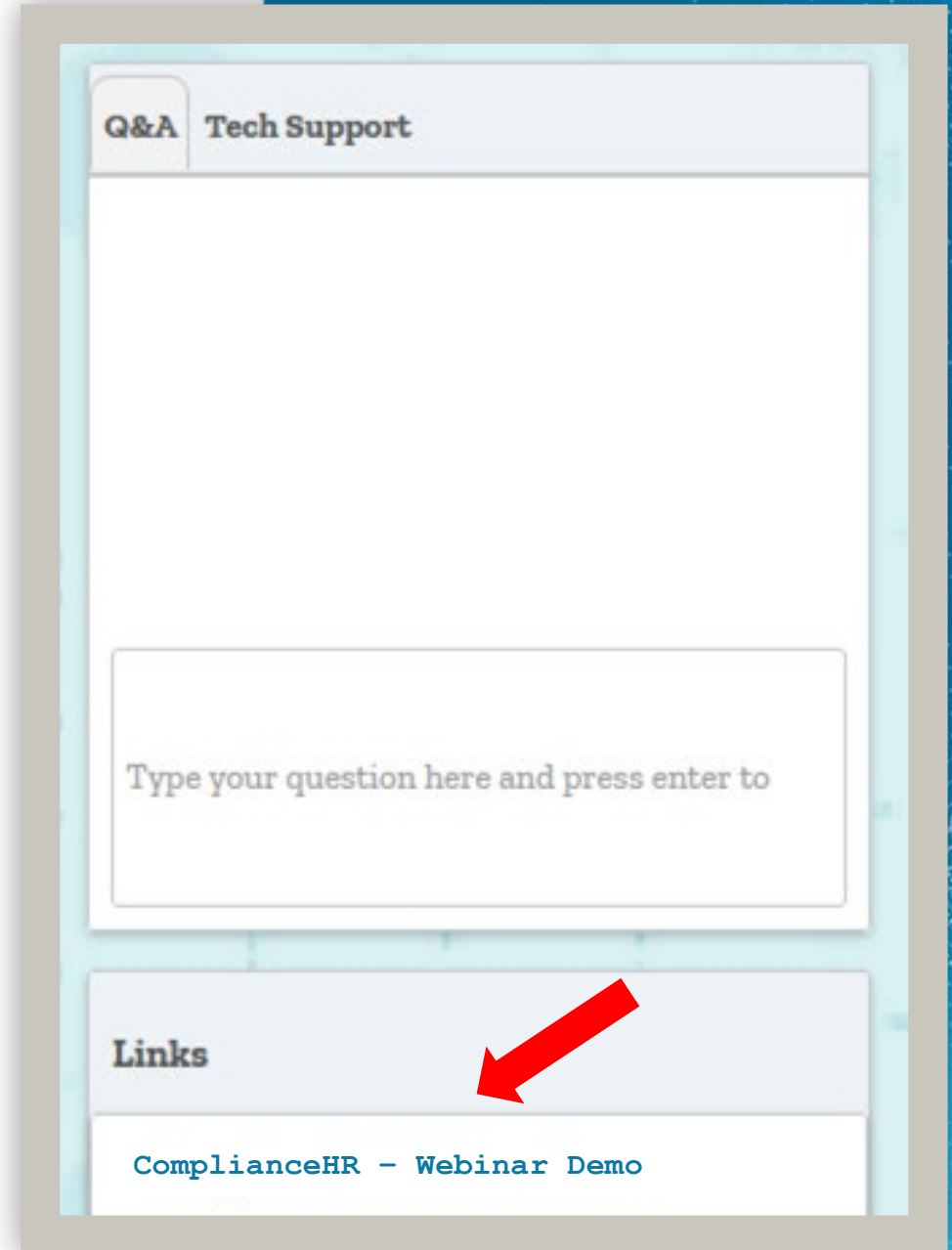


Amy E. Mendenhall October 24, 2019
California law prohibits employers from requiring or requesting that employees bring their mail-in ballot to work or vote by mail-in ballot at work, rather than have time off to vote. The law does not prohibit employers from encouraging employees to vote.

Register for a Navigator Suite Demonstration

Benefits of a custom demonstration:

- Discuss your organization's requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies
- Provide free trial in Navigator Suite sandbox



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Disclaimers

- Lots of information to cover! We won't cover everything.
- Many handbook issues are location-specific
- This webinar does not substitute for advice of counsel! You should not consider this legal advice. If you have specific questions and/or need legal advice, contact counsel

Agenda

- Trends
- Voting Leave
- Election Officer Leave
- Legislative Leave
- Political Opinions/Off Duty Political Conduct
- Is a Policy Necessary?
- Notice requirements



National Trends

November 2020 Election

Total population	Total citizen population	Registered		Voted	
		Total registered	Percent registered (Total)	Total voted	Percent voted (Total)
252,274	231,593	168,308	66.7	154,628	61.3

November 2016 Election

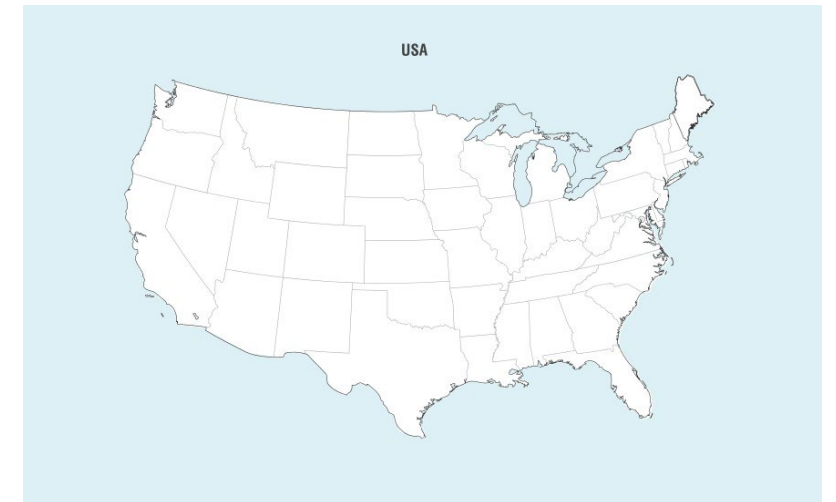
Total Population	Total Citizen Population	Registered		Voted	
		Total registered	Percent registered (Total)	Total voted	Percent voted (Total)
245,502	224,059	157,596	64.2	137,537	56.0

Source: U.S Census Bureau, Voting and Registration Tables, <https://www.census.gov/topics/public-sector/voting/data/tables.html>.

Does not include margin of error data.

State Trends

- Trending toward protections related to voting, elections, and political views
- Policies are becoming the “norm”
- The U.S. population is voting more – and employers have a role!



Voting Leave

- What is it?
 - Generally 2-4 hours of leave to vote. Can be paid or unpaid.
 - State-specific. No federal voting leave law.
 - A lot of leave laws are triggered if an employee cannot vote outside of work due to polling hours
 - States often allow employers to choose times for absence (i.e. the beginning or end of a shift)
 - Notice requirements.
 - Pay required in 23 states. But don't forget about exempt employees!
 - Some states permit paid leave only upon proof of voting (Example: Maryland, Oklahoma, Missouri).
West Virginia and Wyoming: employers deduct wages otherwise payable for time off to vote if there is no proof.

States With Voting Leave

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- District of Columbia
- Georgia
- Illinois
- Iowa
- Kansas
- Kentucky
- Maryland
- Massachusetts
- Minnesota
- Missouri
- Nebraska
- Nevada
- New Mexico
- New York
- North Dakota
- Ohio
- Oklahoma
- South Dakota
- Tennessee
- Texas
- Utah
- West Virginia
- Wisconsin
- Wyoming



States With *Paid* Voting Leave

- Alaska
- Arizona
- California
- Colorado
- District of Columbia
- Illinois
- Iowa
- Kansas
- Maryland
- Minnesota
- Missouri
- Nebraska
- Nevada
- New Mexico
- New York
- Ohio (for salaried)
- Oklahoma
- South Dakota
- Tennessee
- Texas
- Utah
- West Virginia
- Wyoming

PAID

Voting Leave

Some states trending toward mail-in ballots – but don't be fooled! There may still be protections.

Examples:

Kentucky:

4 hours of unpaid leave to request an application for, or execute an absentee ballot during the office of the clerk's normal business hours, *or* to vote on election day.

California:

Up to 2 hours of paid leave for employees who do not have sufficient time outside of working hours to vote at a statewide election. An employer *shall not* require or request that an employee bring their vote by mail ballot to work or vote or cast the employee's vote by mail ballot at work.

Oklahoma:

2 hours paid leave or "sufficient time to cast a ballot" (as long as employee provides proof of voting). For employees who do not have 3 hours before/after work to vote on election day or day of in-person absentee voting.

Example: Illinois

Eligibility	Time Off	Paid or Unpaid	Notice Requirements
<p><i>Political Primaries:</i> Employees entitled to vote in a primary (and receives employer's consent).</p> <p><i>General/Special Elections, or Election with State Propositions:</i> An employee who is entitled to vote.</p>	<p><i>Political Primaries:</i> 2 hours, but an employer may specify when leave is taken.</p> <p><i>General/Special Elections, or Election with State Propositions:</i> 2 hours. Generally, the employer can specify when leave may be taken, but an employer must provide 2 hours of leave if the working hours begin less than 2 hours after the polls open or before polls close.</p>	<p><i>Political Primaries:</i> Unspecified.</p> <p><i>General/Special Elections, or Election with State Propositions:</i> Paid. Compensation cannot be reduced and employers cannot penalize employees for taking leave</p>	<p><i>Political Primaries:</i> No notice requirement in the statute, but an employee can only take leave with the employer's consent.</p> <p><i>General/Special Elections, or Election with State Propositions:</i> Employees must apply for leave prior to election day.</p>

Source: 10 Ill. Comp. Stat. 5/17-15 (General/Special Elections or Election with State Propositions; 10 Ill. Comp. Stat. 5/7-42 (Political Primaries)

Example: Missouri

Eligibility	Time Off	Paid or Unpaid	Notice Requirements
Employees who are eligible to vote in a Missouri election, unless the employee has 3 consecutive nonworking hours available while the polls are open to vote.	3 hours. The employer may specify when leave is taken.	Paid. However, leave is unpaid if the employee does not vote during the leave.	Prior to election day.

Source: 10 Ill. Comp. Stat. 5/17-15 (General/Special Elections or Election with State Propositions; 10 Ill. Comp. Stat. 5/7-42 (Political Primaries)

Election Officer/Duty Leave

- Alabama, California, Delaware, Illinois, Kentucky, Minnesota, Nebraska, North Carolina, Ohio, Tennessee (voting tech), Virginia, Wisconsin
- Leave for an employee to serve as an election official or election judge
- Generally, unpaid – but not always (for example, Nebraska)
 - In Nebraska, the leave must be paid, but the employer can deduct compensation paid by the county for the election service.
 - Use of paid leave (example: In Virginia, employers may require use of sick leave or vacation time)
- May have employer counts, notice requirement, or other requirements.
- Depending on state, employee cannot lose job status, seniority, pay, and/or benefits due to legislative leave.
- May take on multiple forms of leave, depending on position. Example:
 - Connecticut: includes candidates, member elects, or members of the General Assembly. For employers with >25 employees, also requires employers to provide a personal leave of absence for not more than 2 consecutive terms of office for employees who leave employment to accept a full-time elective municipal or state office.

Legislative Leave

- Connecticut, Iowa, Maine, Minnesota, Nevada, Oregon, South Dakota, Texas, Vermont, West Virginia
- Leave for an employee to serve in the legislature, serve as a delegate or public official, or serve on a committee, board, etc. Depends on the state.
- Generally, unpaid
- May have employer counts, notice requirement, or other requirements.
- Depending on state, employee cannot lose job status, seniority, pay, and/or benefits due to legislative leave.
- Example:
 - Connecticut: includes candidates, member elects, or members of the General Assembly. For employers with >25 employees, also requires employers to provide a personal leave of absence for not more than 2 consecutive terms of office for employees who leave employment to accept a full-time elective municipal or state office.

Political Opinions/Off-Duty Political Conduct

- Off-duty, lawful political activity is protected in the following states. Example: California, Connecticut, Colorado, Louisiana, Minnesota, Missouri, Nebraska, Nevada, New York, South Carolina, Utah.
 - Certain exceptions (for example, Connecticut – off-duty conduct that substantially or materially interferes with business interests)
- Discrimination based on political opinion prohibited in some jurisdictions. Example: District of Columbia
- Federal crime to interfere with an individual's vote for federal candidates
- Federal crime to coerce individual to cast a ballot in a specific way
- Do not provide rewards or benefits to influence employee votes!

Is a Policy Necessary?

- No, but often recommended (especially if pay is involved or the leave affects other forms of paid time off)
- Can help provide clarity of the process
- May be morale-boosting in places where voting leave is not required - but remember: don't tell employees how to vote!
- Cons:
 - More pages in handbook
 - May create situation of disproportionate absences

Notice Requirements

- Some states require employers to post notice regarding time off to vote:
 - California
 - At least 10 days before every state election
 - Must post a notice of the right to receive up to two hours of paid time off to vote
 - Place where employees can see the notice coming and going
 - District of Columbia
 - Must post and maintain a notice that will be developed by the District of Columbia Board of Elections.
 - Must be posted in a conspicuous place in the workplace and include an easy-to-understand description of the provisions of the Leave to Vote Amendment Act of 2020.
 - New York
 - Conspicuous notice of employee voting rights
 - Not less than 10 working days before every election
 - Notice be kept posted until the close of the polls on election day
 - Consider keeping an election leave posting as part of regular compliance posters

Contact

Laura Davis

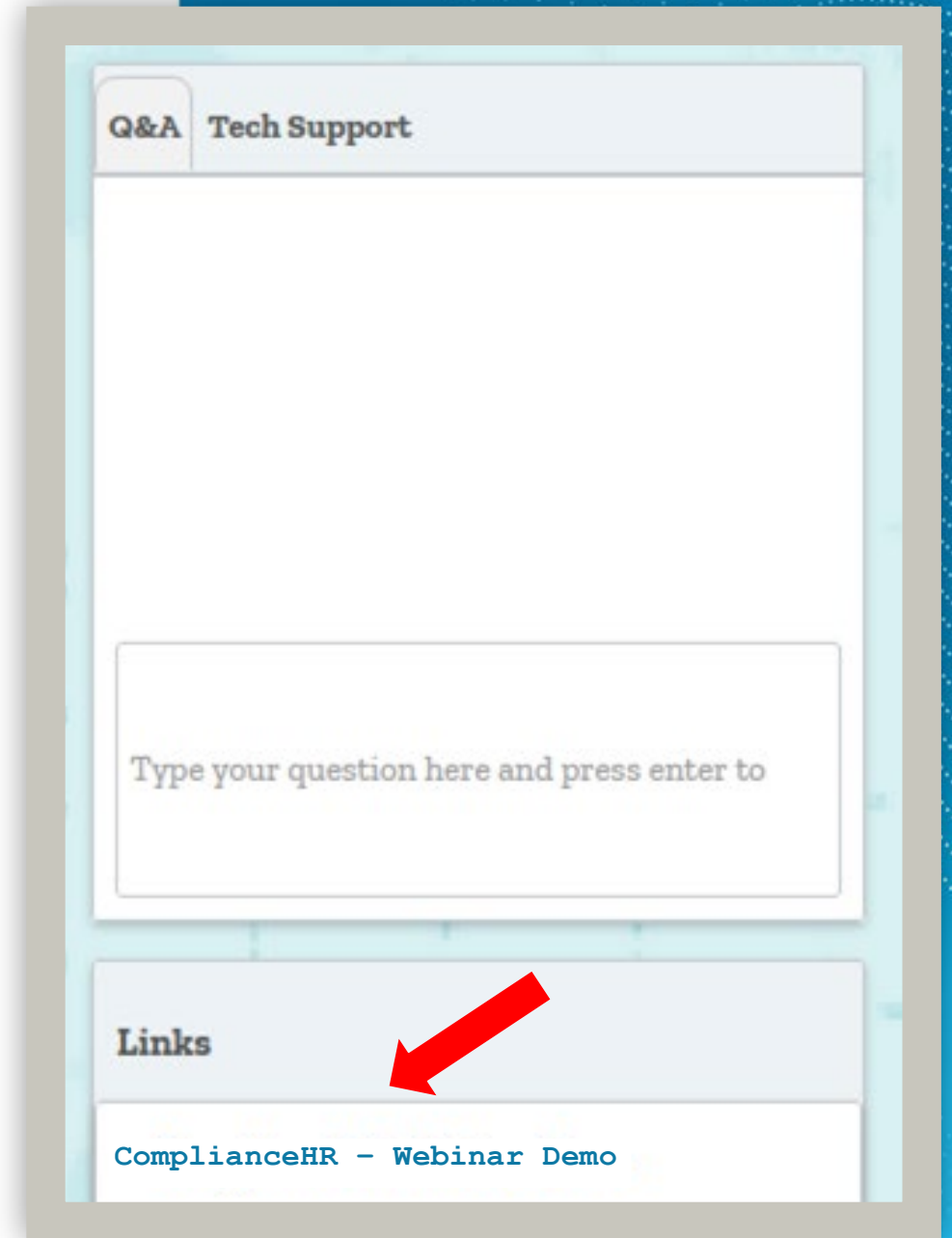
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Last Chance to Register

Benefits of a custom demonstration:

- Discuss your organization's requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies
- Provide free trial in Navigator Suite sandbox



Questions?

Please add any additional questions to the Q&A box

Thank you!

To register for a demonstration of the Navigator Suite, please email demo@compliancehr.com or submit the form on our website: [Compliancehr.com/webinar-demo](https://compliancehr.com/webinar-demo)