

Summary

Free and Equal Election Clauses in State Constitutions

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Unlike the federal constitution, many state constitutions include provisions that explicitly address fairness and the administration of elections. Although many of these provisions merely lay out general parameters for how that state's elections are to be held, some observers believe that these clauses could provide a viable avenue for challenging a state's redistricting plans as violating their state's constitution. In summary,

30 states have some form of constitutional requirement that elections be "free."

18 of these states further require that elections be either "equal" or "open" in addition to being free.

15 state constitutions also include language that explicitly protects a citizen's right to vote from improper influence or interference by "civil or military" powers.

States and Constitutional Text

Arizona Ariz. Const. art. II, § 21	“All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
Arkansas Ark. Const. art. 3, § 2	“Elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage; nor shall any law be enacted whereby such right shall be impaired or forfeited, except for the commission of a felony, upon lawful conviction thereof.”
California Cal. Const. art. II, § 3	“The Legislature shall define residence and provide for registration and free elections.”
Colorado Colo. Const. art. II, § 5	“All elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
Connecticut Conn. Const. art. VI, § 4	“Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult and other improper conduct.”
Delaware Del. Const. art. I, § 3	“All elections shall be free and equal.”
Idaho Idaho Const. art. I, § 19	“No power, civil or military, shall at any time interfere with or prevent the free and lawful exercise of the right of suffrage.”
Illinois	“All elections shall be free and equal.”

Ill. Const. art.
III, § 3

Indiana “All elections shall be free and equal.”

Ind. Const. art.
2, § 1

Kentucky “All elections shall be free and equal.”

Ky. Const. § 6

Maryland “That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.”

Md. Dec. of R.
art. 7

Massachusetts “All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.”

Mass. Const.
pt. 1, art. IX

Missouri “That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

Mo. Const. art.
I, § 25

Montana “All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

Mont. Const.
art. II, § 13

Nebraska “All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.”

Ne. Const. art.
I, § 22

New Hampshire “All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any

N.H. Const. pt. 1st, art. 11	election.”
New Mexico N.M. Const. art. II, § 8	“All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
North Carolina N.C. Const. art. I, § 10	“All elections shall be free.”
Oklahoma Okl. Const. art. III, § 5	“All elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage, and electors shall, in all cases, except for treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections and while going to and from the same.”
Oregon Ore. Const. art. II, § 1	“All elections shall be free and equal.”
Pennsylvania Pa. Const. art. I, § 5	“Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
South Carolina S.C. Const. art. I, § 5	“All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.”
South Dakota S.D. Const. art. VII, § 1	“Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

Tennessee Tenn. Const. art. I, § 5	“The elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.”
Texas Tex. Const. art. VI, § 2(c)	“The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence in elections from power, bribery, tumult, or other improper practice.”
Utah Utah Const. art. I, § 17	“All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
Vermont Vt. Const. ch. 1, art. 8	“That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.”
Virginia Va. Const. art. I, § 6	“That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed, or deprived of, or damaged in, their property for public uses, without their own consent, or that of their representatives duly elected, or bound by any law to which they have not, in like manner, assented for the public good.”
Washington Wash. Const. art. I, § 19	“All Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”
Wyoming Wyo. Const. art. I, § 27	“Elections shall be open, free and equal, and no power, civil or military, shall at any time interfere to prevent an untrammelled exercise of the right of suffrage.”

