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Time Off To Vote On Election Day? Paid Time Off? Possibly.

November 3, 2016

Election day is November 8, 2016 and all polling stations will be open from 7:00 a.m. to 8:00 p.m. Employees who have not yet voted via absentee ballot or early voting who do not have sufficient time outside of their working hours to vote, can qualify to take as much time off as they reasonably need to vote. Typically, Elections Code § 14001 applies to a very limited number of employees. For example, the employee would need to have an hour commute, *and* be scheduled to work a twelve (12) hour starting at 7:00 a.m. in order to qualify. This employee would qualify as he could not reasonably reach his polling station before it opened 7:00 a.m. or closed at 8:00 p.m.

However, this is not a typical election year. The ballot is very long – more than a hundred items. Employer should therefore expect employee to ask for time off on election day due to the long lines at the polls.

So, what are employers to do?

Employee Requirements

In order to receive up to two paid hours of time off to vote, employees who reasonably believe that they will need time off to vote must give notice to their employer and the amount of time off they believe they need prior two (2) days prior to the election.

However, employees can request time off as late as election day. If an employee learns there are two hour lines at her polling place, and she cannot reasonably get to the polls before 7:00 p.m. the employee can ask to leave early to vote, and her employer *may* have to give the employee the time off, without reprisal. Whether or not the employer must give the time off will depend upon an odd test – whether the employee reasonably knew on the third working day prior to the election that s/he would need time off to vote.

Employer Requirements

Employers must give employees notice of his/her rights to take time off to vote by posting a "Time Off To Vote" Notice at least ten (10) days prior to the election. Notices must be placed in each employees' workplace, or where it can be seen by employees as they enter or exist their place a work. Copies of the Notice in English and Spanish are attached.

Recommended Action: To avoid potential workplace disruptions, we recommend:

- Posting the required Notices.
- Speak with employees before the weekend to confirm that the employee does not anticipate a need to take time off to vote.
- If an employee needs time off to vote, try to make adjustments to employee's work schedule now to avoid unscheduled time and/or paid time off.

Should you have questions concerning political speech in the workplace, please contact Doug Wade at (714) 453-9144 or email doug@dmwadelaw.com.

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TIME OFF TO VOTE

**POLLS ARE OPEN FROM 7:00 A.M.
TO 8:00 P.M. EACH ELECTION DAY**

If you are scheduled to be at work during that time and you do not have sufficient time outside of working hours to vote at a statewide election, California law allows you to take up to two hours off to vote, without losing any pay.

You may take as much time as you need to vote, but only two hours of that time will be paid.

Your time off for voting can be only at the beginning or end of your regular work shift, whichever allows the most free time for voting and the least time off from your regular working shift, unless you make another arrangement with your employer.

If three working days before the election you think you will need time off to vote, you must notify your employer at least two working days prior to the election.



NOTICE TO EMPLOYERS REGARDING EMPLOYEE TIME OFF FOR VOTING

State law (California Elections Code section 14001) requires employers to post a notice to their employees advising them of provisions for taking paid leave for the purpose of voting in statewide elections.

A sample of this notice has been printed on the opposite side of this page for your convenience.

This notice must be posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come and go to their place of work, not less than 10 days before every statewide election.

If you have any questions about this notice or other election related information, please contact the Secretary of State's Voter Hotline at (800) 345-VOTE (8683).

Employees are eligible for paid time off for the purpose of voting only if they do not have sufficient time outside of working hours to vote. The intent of the law is to provide an opportunity to vote for workers who would not be able to do so because of their jobs.

Polls are open from 7:00 a.m. to 8:00 p.m. each Election Day.

Employees can be given as much time as they need in order to vote, but only a maximum of two hours is paid.

Employers may require employees to give advance notice that they will need additional time off for voting.

Employers may require time off to be taken only at the beginning or end of the employee's shift.

TIEMPO LIBRE PARA VOTAR

**LAS MESAS DE VOTACIÓN ESTARÁN
ABIERTAS DE LAS 7 DE LA MAÑANA A LAS
8 DE LA NOCHE EL DÍA DE LA ELECCIÓN**

Si tiene que trabajar durante ese periodo y no tiene tiempo suficiente fuera de su horario de trabajo para votar en una elección realizada en todo el estado, la ley de California le permite tomarse hasta dos horas de tiempo libre con goce de sueldo para votar.

Puede tomarse todo el tiempo que necesite para votar, pero solo le pagarán por dos horas.

El tiempo libre para votar solo se puede tomar al comienzo o al final de su turno normal del trabajo, según cuál le dé más tiempo para votar y el menor periodo de ausencia de su turno normal del trabajo, a menos que llegue a un acuerdo distinto con su empleador.

Si a los tres días laborales antes de la elección, cree que necesita tiempo libre para votar, tiene que notificar a su empleador por lo menos dos días laborales antes de la elección.



AVISO A LOS EMPLEADORES SOBRE TIEMPO LIBRE PARA LOS EMPLEADOS PARA VOTAR

La ley estatal (Código de Elecciones de California, sección 14001) exige a los empleadores que den aviso a sus empleados sobre las disposiciones que les permiten tomar tiempo libre con goce de sueldo para votar en elecciones que se celebran en todo el estado.

Para su conveniencia, hemos impreso una muestra de este aviso al dorso de esta página.

Este aviso se tiene que colocar en un lugar visible en el lugar de trabajo, si es factible hacerlo, o de lo contrario en un lugar donde los empleados lo puedan ver cuando lleguen y se vayan del trabajo, por lo menos 10 días antes de la elección a realizarse en todo el estado.

Si tiene alguna pregunta sobre este aviso u otra información electoral, comuníquese con la Línea especial para el votante del Secretario de Estado llamando al (800) 232-VOTA (8682).

Los empleados solo pueden tomar tiempo libre con goce de sueldo para votar si no tienen tiempo suficiente fuera del horario de trabajo para votar. La intención de la ley es brindar una oportunidad para votar a los trabajadores que no pueden hacerlo debido a su trabajo.

Las mesas de votación estarán abiertas de las 7:00 de la mañana a las 8:00 de la noche el día de la elección.

Los empleados pueden tomar el tiempo que necesiten para votar, pero solo recibirán paga por dos horas.

Los empleadores pueden requerir a los empleados que les avisen por adelantado si van a necesitar tiempo libre para votar.

Los empleadores pueden exigir que el tiempo libre se tome solo al principio o al final del turno del empleado.