

## Employment Alert: Are Employees Entitled to Time Off from Work to Vote?

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The 2008 U.S. presidential election has generated significant interest nationally and internationally. A record one in four eligible voters participated in a primary or caucus in the current election cycle<sup>1</sup> and some analysts are predicting a record turnout for Election Day on Tuesday, November 4, 2008.

There is no federal law that requires employers to provide time off for an employee to vote. A number of states require an employer to provide time off (paid or unpaid) only when an employee's regular work hours are such that the employee does not have sufficient time, outside of working hours and during the time the polls are open, to vote. Few of the provisions below address whether an employee must take advantage of early or absentee voting options if they are available, or whether an employer can require an employee to vote early to avoid the need for the employee to take time off from work to vote. Notably, very few of the provisions that require an employer to provide employees with time off to vote expressly mandate that the employee provide proof that they used the time off to vote.

Absent specific further guidance on this issue, prudent employers should permit employees to take time off on Election Day to vote if required by the applicable state law.

This chart provides a state-by-state snapshot of the provisions that govern whether an employer must provide employees with time off to vote. Apart from the provisions set forth in the chart, collective bargaining or other employment agreements may provide certain employees with rights not provided in state law.

Download chart outlining state voting leave provisions.

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### Endnotes

<sup>1</sup> *America Goes to the Polls*, A Report on Voter Turnout in the 2008 Presidential Primary, prepared by the Nonprofit Voter Engagement Network.

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*For assistance in this area, please contact one of the attorneys listed below or any member of your Mintz Levin client service team.*

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