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EMPLOYMENT LAW

NEWSLETTER OF THE EMPLOYMENT & LABOR PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

Manatt Answers Your Questions About Voting Time Off

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As the November 4, 2008 election approaches, employers may have questions about their obligations to provide time off to their employees to vote. Manatt answers those questions and more below:

Do I have to provide time off to my employees to vote in the November 4 election?

Yes. Elections Code Section 14000 requires employers to provide their employees with time off to vote in "statewide" elections, which are defined generally as elections in which all voters in the state have the opportunity to vote on at least one common race or issue.

I am a small employer. Does this requirement apply to me?

Yes, it applies to all employers in California.

Under what circumstances must I grant time off?

Employers must allow an employee to take time off to vote if the employee does not have sufficient time to vote after working hours. Although there is no case law interpreting this requirement, courts have made clear that there is a strong public policy in favor of ensuring that employees have sufficient time to get to their polling places. If you have questions about your employees' time-off requests and whether you must grant them, please contact your counsel for advice.

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How much time off must I provide?

There is no specific amount of time off you must provide. However, employers may require an employee to take the time off either at the beginning or end of his or her shift.

Do I have to pay for the time an employee takes off to vote?

Yes, but only up to two hours must be paid.

Does the employee have to provide any notice of the need to take time off to vote?

Yes. The employee must provide at least two working days' notice that he or she needs the time off, if the employee knows or has reason to know of the need at that time. If circumstances later arise that the employee would not have known about in advance, such as long lines or equipment malfunctions at the employee's polling place, employers should provide the time off.

Do I have to give my employees notice of their right to take time off to vote?

Yes. Employers must post a notice advising their employees of these provisions regarding paid time off for voting in statewide elections. A sample notice can be found on the Secretary of State's website [here](#). The notice must be posted a minimum of ten days before the election, and it must be located in a conspicuous place in the workplace. If you have not posted your notice already, you should post it as soon as possible.

[back to top](#)



Joanna Hooper Ms. Hooper's practice focuses on general litigation as well as labor and employment law. Prior to joining Manatt, Ms. Hooper completed a Fellowship in Higher Education Law in the Office of the Vice President and General Counsel at The Johns Hopkins University, where she assisted with intellectual property litigation, labor and employment disputes, and healthcare matters. She also interned at the Natural Resources Defense Council and the Employment Justice Center.

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