



"Hey Boss, Can I Take Paid Time Off to Vote?"

Time is of the essence for employers to provide notice to their workforce about the right to take paid time off to vote on Election Day, November 3, 2020. Notice must be posted on or before **Saturday, October 24, 2020**.

Under California Elections Code Section 14000, all public and private employers in California, regardless of size, are required to provide two (2) hours of paid time off for employees to vote, *if* the employee does not have sufficient time outside of working hours to vote in the state-wide election. Here is what employers need to know:

- Employers may require employees to give advance notice of at least two (2) working days to arrange for time off to vote.
- Employers may require the time off to vote to be taken at the beginning or end of the employee's shift - whichever allows the employee the most time to vote and the least time away from work.
- Employers are only required to pay a maximum of two (2) hours for the employee to vote. If an employee takes more than two (2) hours off to vote, the additional time is unpaid.

Further, in light of COVID-19, Governor Gavin Newsom recently issued two executive orders that impact employee voting rights. The first order requires each county's election officials to send all registered voters vote-by-mail ballots. The second order requires counties to provide early polling locations at least three (3) days prior to Election Day. Adherence to this new legislation is in addition to the requirements that employers must follow under the Elections Code.

In particular, California Elections Code Section 14001 requires employers to post notice to all employees, advising them of their ability to take paid time off to vote. For your reference, the notice can be found on the

Secretary of State's website and/or here: [Time Off to Vote Notice](#). The notice must: (1) be posted **at least 10 days before the election**, or no later than **October 24, 2020** and (2) must be conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work. For instance, employers whose employees work on site can place the notice at the entry and/or exit of the place of business. Comparably, employers with a remote workforce (common during these COVID-19 times) can provide notice by alternate methods of communication, such as email or the company intranet.

Together, the laws are in place to (1) ensure that every vote is counted and (2) provide all workers an opportunity to vote *if* they do not have time to vote outside of working hours. That said, if an employee has sufficient time outside of working hours to vote, then the employee is not entitled to additional time off to vote. Indeed, employees will have a hard time claiming that they do not have enough time outside of working hours to vote if they are registered in one of the fifteen California counties that participate in the Voter's Choice Act (VCA). Initially only 5 counties participated in the VCA. However, due to COVID-19, 10 more counties, including Los Angeles, adopted and implemented the VCA. For a list of counties participating in VCA, [click here](#).

Under the VCA, starting 10 calendar days before the election, registered voters have the option to go to any voting center in the county and cast their in-person ballot, as opposed to being tied to a single voting location. Additionally, designated ballot drop-off locations are available to voters to return their ballot, postage free.

It goes without saying that employers are prohibited from retaliating against an employee based on their political beliefs and/or political activities and must never intimidate an employee into voting for a particular candidate or ballot measure.

If you have any questions regarding voting requirements and obligations, please contact PB&W's Employment Law Department for further guidance and assistance.

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