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With Election Day approaching, employers should be prepared for questions about voting time leave.

## Pumpkins and Politics: An Overview of State Laws Allowing Employees Time Off to Vote

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As we near the end of October, pumpkins, costumes, and Halloween festivities will be followed shortly by Election Day. Despite having the opportunity to vote early and/or by absentee ballot in various states, employees may still choose to cast their vote on November 2, 2010 in the midterm elections.

On November 2nd, most polls will be open from approximately 7:00 a.m. to 8:00 p.m., but may vary by region. Usually midterm elections have a lower turn out than presidential elections but with our current economic climate and increased focus on what is happening in Washington, D.C., employers should not be surprised by an increase in employees requesting time off to vote in this year's election given this political and financial climate.

What does this mean for employers? It means that employees will ask: *"How can I vote when I work all day?" "Do I have a right to take time off from work to vote?" "How do I take advantage of the law in my state to vote during work hours on Election Day?"*

Depending on the jurisdiction in which the company operates, the answers will vary. Time off to vote is dealt with on a state-by-state basis. So employers must be prepared to answer these questions in every state in which they operate and remember the laws in the majority of states give employees the right to take time off to vote, sometimes with pay, subject to the individual's hours of work and the time when the polls are open.

The key questions that must be addressed and that employers must be prepared to answer are: whether employees are eligible for time off, how much time off employees are permitted, whether employees will be paid for time off, whether employees may be required to provide advance notice of their intention to vote, and whether employees may be disciplined for taking time off. Generally, eligibility to take time off includes all employees entitled to vote who do not have a specific amount of time before or after work while the polls are open to vote. Where time off is permitted, usually 1-3 hours are permitted and employers generally can require the employee to take time off at the beginning or end of their shift. Many states provide for these limited hours to be paid. Most states permit employers to require advance notice of employees' intention to vote; the amount of advance notice that may be required varies from a day before the

elections to three or four days before the need to take time off is realized. No matter what jurisdiction employers operate in, employers should **not** discipline their employees for exercising their right to vote. Most but not all states prevent employers from firing or disciplining employees because they took time off to vote.

For specific state law requirements, please contact your Littler attorney.

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