

April 28, 2020

**Legal Alert: Reverted New York State Election Law Allows Employees
Up to Two Hours of Paid Time Off to Vote**

At this year's budget meeting, Section 3-110 of the Election Law was restored to the pre-2019 requirements regarding paid voting leave. Namely, employees in New York now have the ability to request up to two hours of paid time off to vote only if they do not have four or more consecutive hours off, before or after their shift, in which they may vote while the polls remain open.

Logistics of Utilizing this Law

In order for employees to be entitled to exercise this right, they must be registered to vote and must notify their employer of their need to take time off to vote at least ten days in advance of the election. The employer may designate whether the time off will be taken at the beginning or end of an employee's shift. The law is silent on whether the employer can request proof that the employee who requested time off to vote actually votes. The law also does not contain any requirement that the time off to vote be in addition to any allotment of paid time off provided by employer's existing policies (e.g., that these two hours be in addition to any allotted time off already available to employees).

Prior Law Regarding Time Off to Vote

Before this reversion took effect, employees in New York had the ability to request up to three hours of paid time off to vote on any election day. All registered voters were able to request up to three hours of time off, regardless of their schedule, without loss of pay to enable the employee to vote in any public election. This amendment brings back the requirement that employees must not have sufficient time before or after work while polls are open to vote.

What nonprofits should do now:

1. Download the New York State Board of Elections' updated model notice conspicuously, when it becomes available, and post it in a place where employees can see it at least 10 working days before any election day.
 - a. If you would like to create your own notice, be sure to include the following information:
 - i. Registered voters may take off up to two hours of paid time off only if they do not have four or more consecutive hours off;
 - ii. Time off for voting shall be at the beginning or end of an employee's working shift, which is up to the employer, unless the employer and employee mutually agree on a time during the employee's shift; and
 - iii. Employees must notify the corporation that he or she requires time off at least ten working days before the date of the election.
2. Keep the notice posted until the close of polls on the Election Day.

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Judith Moldover at (212) 219-1800 ext. 250 or visit our website at www.lawyersalliance.org for further information.

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