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Labor and Employment Update

Employer's Duty to Accommodate Employees Who Wish to Vote

The General Elections are scheduled to take place next Tuesday. Employers should be mindful of the legal safeguards that protect their employees' right to vote.

First, General Election Day is a legal holiday in Puerto Rico. This means that government operations close. Likewise, retail establishments covered by the Puerto Rico Closing Law are required to close for the day.

Employers not required to close and who otherwise remain open on General Election Day are prohibited from preventing their employees from voting. It is their obligation to establish shifts that will allow them to attend their voting center to cast their vote. They must provide each employee with whatever time may be "necessary and reasonable" to do so. Among the factors an employer can consider in determining what is "necessary and reasonable" is the distance between the workplace and the voting center.

It is evident from these requirements that compliance entails an individualized decision, taking into consideration that Puerto Rico voting centers open from 8:00 a.m. to 3:00 p.m., the distance each employee has to travel from work to his or her designated voting center, the employer's regular schedule and its operational needs, among other factors. To minimize impact upon operations, and to ensure compliance with these legal protections, employers should proactively inquire with their employees how much time they will need to vote and create a schedule that meets the "necessary and reasonable" standard.

Any employer who denies an employee his or her right to vote will incur in a misdemeanor. It is also a misdemeanor to coerce an employee into voting in any particular manner or to negate or impede employment of a person because of their political opinion. Finally, it is illegal to discriminate against an employee due to the employee's political affiliation or beliefs and doing so entails liability for double the damages caused by such discrimination.

Our attorneys at Reichard & Escalera are available to assist employers in complying with these legal requirements and wish everyone a peaceful election.

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