

EMPLOYER UPDATE

Employment Law Updates for 2016



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California Fair Pay Act (SB 358)

California now has one of the toughest equal pay laws in the country. In 2014, a woman working full-time year-round earned an average of 84 cents to every dollar a man earned. This gap increased for women of color. The California Fair Pay Act, requires that women are paid equally for work that is substantially similar to the work of their male colleagues, unless the wage difference is based on: (1) seniority; (2) merit; (3) a system that measures earnings by quantity or quality of production; or, (4) a bona fide factor other than sex, such as education, training, or experience. A female employee shall not face retaliation if she discusses or asks how much her male colleagues are paid. The new law requires that every employer maintain records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by the employer. All of the records shall be kept on file for a period of three years. Employers who violate this law may be liable for the balance of the wages, with interest, and an equal amount as liquidated damages, attorney's fees, and litigation costs.

Our Legal Services

Avoiding costly employment litigation begins with the establishment of effective employee policies and procedures. Our attorneys work with our employer clients to develop and update employment policies and practices focused on each business' particular needs. We draft employee handbooks and keep up to date on evolving State and Federal laws so that we can advise our clients to ensure compliance with workplace matters. In addition, we advise our business clients on handling "problem" employees, internal grievances, leaves of absence, independent contractor/employee distinction issues, disability accommodation, wage and hour matters, and employee severance agreements.

Our attorneys also present seminars on a variety of employment topics, such as Prevention of Sexual Harassment, California's Sick Leave Law, and Family and Pregnancy Leave Laws.

Our employer clients can easily update their employment practices with our Smart Employer Package: One hour initial meeting, preparation of an employee handbook tailored to your business, guidance on how to comply with California's mandatory sick leave law and required employment notices, and a follow-up meeting to answer any questions you may have.

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Healthy Workplace, Healthy Family Act of 2014 (AB 1522)

California's new sick leave law, which calls for mandatory sick leave for almost all employees in California, went into effect on July 1, 2015. The law requires a minimum of 24 hours or three working days, whichever is more for a particular employee, of sick leave per 12 month period. Accrual and carry-over requirements may apply. AB 1522 expands the reasons for which an employee may take sick leave. The law also states specific requirements for notice to

employees, as well as record-keeping by employers. If you have not already reviewed your leave policies for compliance with this new law, we recommend that you contact us immediately to assist you as failure to comply can result in costly fines for employers. In a related update, the Legislature amended California's Kin Care Law (SB 579) to expand the reasons for which an employee can use their sick leave to take time off to care for an ill family member.

Employer's Right to Cure Certain Errors in Itemized Wage Statements (AB 1506)

This amendment provides employers with an opportunity to correct errors in itemized wage statements. Prior to bringing an action for an inaccurate wage statement, an employee is required to give an employer notice and opportunity to cure pay stubs that do not include: (1) the inclusive dates of the applicable pay period; and/or (2) the correct name and address of the legal entity that is the employer. Violations will be deemed cured if the employer provides a compliant, itemized wage statement to each aggrieved employee within 12-months of the employee's notice of the errors.

Expansion of the Family School Partnership Act (SB 579)

An employer who employs 25 or more employees working at the same location shall not discharge or in any way discriminate against an employee who is a "parent" (which term is expanded to include guardians, stepparents, foster parents, or grandparents of, or persons who stand in loco parentis to, a child) of one or more children of the age to attend kindergarten or grades 1 to 12, or a licensed child care provider, for taking off up to 40 hours each year, for the purpose of either of the following child-related activities: (1) to enroll or reenroll their child in school or with a child-care provider; or (2) to address a provider or school emergency. The law generally requires the employee to use existing vacation, personal leave, or compensatory time off for purposes of the planned absence authorized by this section. An employee also may take time off without pay for this purpose to the extent permitted by the employer. An employer is permitted to request verifying documentation from the school or child-care provider.

A Request for a Reasonable Accommodation is a Protected Activity (AB 987)

AB 987 amends California's Fair Employment and Housing Act ("FEHA"), to state that a request for reasonable accommodation based on religion or disability constitutes protected activity. An employer may not retaliate against any employee making such a request. FEHA prohibits harassment and discrimination in employment because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, medical condition, age, pregnancy, or denial of medical and family care leave, and/or retaliation for protesting illegal harassment or discrimination related to one of these categories.

Prohibition of Discrimination Based on Immigration Status (SB 600)

California's Unruh Civil Rights Act provides that all persons within California are entitled to full and equal accommodations in all business establishments regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. SB 600 expands these categories to include citizenship, primary language, and immigration status. Those protections do not require the provision of services or documents in a language other than English, beyond that which is otherwise required by law.

Piece-Rate Compensation Requirements (AB 1513)

AB 1513 (Labor Code § 226.2) requires employers to pay piece-rate employees a separate hourly wage for "nonproductive" time worked as well as separate payment for rest and recovery periods. Hours and pay rates relating to "nonproductive" time and rest and recovery periods must be separately itemized on the employees' paystubs. Employers who pay their employees on a piece-rate basis are strongly encouraged to contact us to discuss the application of this complicated new law.

Restricted on E-Verify (AB 622)

Employers are now prohibited from using the E-Verify system to check the employment authorization status of an existing employee or an applicant who has not received an offer of employment. Employers must also provide the employee any notification issued by the Social Security Administration or the United States Department of Homeland Security containing information specific to the employee's E-Verify case or any tentative non-confirmation notice. There is a \$10,000 penalty for each violation.

If you have questions about this information or any other employment law inquiries, please contact one of our employment law attorneys.

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