

New Labor Laws for 2015

Get ready for some new employment laws to take effect in 2015. From paid sick leave requirements to labor contractor liability to “abusive conduct” training, we provide a brief look at staying on the right side of the law.

Paid Sick Leave

This new law becomes effective on **July 15, 2015**, making California the second state requiring employers to provide paid sick leave. Titled, *The Healthy Workplaces, Healthy Families Act of 2014*, the law applies to employees - exempt and non-exempt - who work in California 30 days or more in a year. It requires most public and private sector employers to provide employees with at least three paid sick days per year for a personal illness, a family member's health condition, or a leave related to domestic violence, sexual assault, or stalking.

Downey Brand LLP, CAWG's legal counsel, says California employers should also be mindful of these additional provisions in the law.

Accrual: An employee must accrue paid sick days at the rate of at least one hour per every 30 hours worked, beginning on the first day of work or July 1, 2015. Employers can limit accrual to six days, or 48 hours (based on six 8 hour days), per year.

Carryover: Accrued sick days carry over to the following year of employment, but employers may limit an employee's use of paid sick days to three days, or 24 hours (based on three 8 hour days), per year of employment.

Using Sick Leave: Employees will be entitled to use accrued sick time beginning on the 90th day of employment. Employees may use paid sick leave in minimum increments of two hours or more.

Notification & Recordkeeping: Employers must provide employees with a written notice that sets forth the amount of paid sick leave available. Additionally, employers must display a poster in a conspicuous place telling employees about their sick leave rights. Employers must also maintain records of the hours worked and the paid sick days accrued and used by each employee.

Employers that currently have sick leave policies may have to expand them to cover all employees. Downey Brand recommends that employers review their existing leave policies and practices to ensure they are in compliance when the new law takes effect on **July 1, 2015**.

Labor Contractor Liability

This new law increases the liability on employers who contract for labor and resulted from AB 1897, CAWG-opposed legislation by Assemblyman Roger Hernandez (D-West Covina). The purpose of the law is to hold employers accountable for failure to pay wages and failure to secure valid workers' compensation coverage when using labor contractors to supply workers. In other words, if the labor contractor fails to pay its employees properly or fails to provide workers' compensation coverage for those employees, the client employer will now be legally responsible.

Employers with more than 25 employees who use at least five employees obtained from labor contractors or staffing companies are subject to the law. The contracted employees are included when determining whether the 25-employee threshold is met.

A contracted employee, who believes he has not been properly paid or has suffered an injury, and there is no workers' compensation policy, may pursue an administrative claim or civil action against the client employer, labor contractor or both. The new law also protects contracted workers who complain about wage and/or work comp violations from retaliation by the client employer or labor contractor.

Downey Brand advises employers using staffing agencies or labor contractors to be careful when selecting either. Be sure to review wage payment policies and ensure that there is clear communication with the contractor regarding the employees' wages and hours of work if the employees are paid through the contractor. When contracting, employers and staffing agencies should include provisions requiring proof of workers' compensation insurance, proper payment of wages and indemnification as appropriate.

Abusive Conduct Training

California law requires all private employers with 50 or more employees to provide sexual harassment training and education to each supervisory employee once every two years. California law also requires these employers to provide at least two hours of sex education training to any supervisory employees within the first six months of the employee assuming a supervisory position. Training may be provided in a classroom setting with an in-person trainer, through "e-learning" programs, and through online seminars.

Starting Jan. 1, 2015, the prevention of "abusive conduct" must now be addressed as a component of this mandatory sexual harassment training. Abusive conduct is defined as "conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests." Abusive conduct "may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance."

The bill does not specify whether the "abusive conduct" training needs to be completed as soon as the law goes into effect or if such training can be delayed until an employer performs its regularly-scheduled sexual harassment training. Downey Brand suggests, at a minimum, employers providing sexual harassment training between now and January 1 should ensure that the training satisfies this impending requirement, and review their training program so as to prepare for these new requirements in 2015.