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Jack Schaedel,
Esq.

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Recent Changes in California Employment Laws: What You Should Know

By Jack Schaedel

Each year, Sacramento develops new and unique challenges for employers. What may seem novel or unusual to an observer elsewhere in the United States may be adopted throughout the country in the coming years. With that in mind, employers with employees in California should review their policies today and consider updating them in light of recent changes in California law:

Crime Victims/Domestic Violence Victims Leave Laws

Crime Victims Leave: Under California law, employers must provide unpaid time off for an employee who is a victim of a serious or violent felony to attend judicial proceedings related to the crime. "Victim" applies to an employee who is a victim, the immediate family member of a victim, or the child of a registered domestic partner of a victim. If an employee needs time off under these circumstances, the employee must provide the company with a copy of the notice of any scheduled proceeding, unless advanced notice is not feasible. When advanced notice is not feasible, the employee must provide the company with documentation of the judicial proceeding from the court, government agency, district attorney, or prosecuting attorney's office, or the office advocating on behalf of the victim. Although this time off can be unpaid, an employee may

use any available paid time off, including paid sick leave.

Domestic Violence Leave: California employers with 25 or more employees must provide leave to employees who need to take time off from work in connection with seeking relief from domestic violence. Such employees may also need to take time off to obtain medical attention; to obtain services from a domestic violence shelter, program, or rape crisis center; to obtain psychological counseling; or to participate in safety planning as a result of domestic violence. If an employee needs time off for these reasons, the employee must give reasonable notice that he or she needs time off for this purpose. If the employee needs time off immediately or for an emergency, advance notice is not required, but the employee may be required to provide documentation or certification of the purpose of the absence within a reasonable time after the time off. The employee may also utilize accrued paid time off or paid sick leave for this purpose.

Minimum Wage Increases

Effective July 1, 2014, California's minimum wage increased to \$9.00 per hour. Employer handbooks and other policies, including Labor Code Section 2810.5 notices per the Wage Theft Prevention Act, should have this updated information and have been provided to all new hires and current employees whose pay rates have changed. Additionally, the minimum wage increase automatically raises the cost of a missed meal or rest period premium, as well as increases the amount of salary that must be paid to an employee classified as exempt. The minimum wage will increase statewide to \$10.00 per hour on January 1, 2016, and various cities within California [have increased](#) or [are considering increasing the minimum wage locally](#).

Expansion of EEO Protected Categories

California state law, via the Fair Employment and Housing Act ("FEHA"), was amended in 2014 to add "military and veteran status" to the protected anti-discrimination categories. Also, effective January 1, 2015, FEHA was further amended to prohibit discrimination and harassment on the basis of a legally protected classification against individuals who are in an unpaid internship or other unpaid work experience. The law also extends religious belief accommodation requirements to unpaid interns and volunteers.

Changes to Paid Family Leave (employers with 50 or more employees)

Paid Family Leave ("PFL") provides partial wage replacement for employees on protected leave under the California Family Rights Act. Beginning July 1, 2014, California workers became eligible to receive PFL benefits when taking time off of work to care for a seriously ill parent-in-law, grandparent, grandchild, or sibling. Employers subject to the PFL provisions should update their handbooks and policies accordingly.

Whistleblower Protections

Labor Code Section 1102.5 was expanded in 2014 to adopt more stringent protections for whistleblowers from retaliation. Employers cannot discharge, demote, suspend, or discipline an employee who engages in protected activity (providing information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation or noncompliance with a state or federal statute, rule, or regulation). Employers should review their handbooks to ensure that their policies reflect these changes in the law.

Immigration-Related Practices

Employers would also be wise to consider having an immigration law compliance/employment eligibility verification policy in their handbooks. Labor Code Section 1019 makes it unlawful for employers to engage in "unfair immigration-related practices" against any person with the intent of retaliating against the person for exercising any protected rights. Such protected rights may include filing a good faith complaint about a Labor Code or other law violation, seeking information about whether the employer is compliant with the Labor Code or other laws, or informing other people of their potential rights and remedies. It is also unlawful to improperly use E-Verify or threaten to file a police report or contact immigration authorities. Engaging in such conduct within 90 days of the person's exercise of such rights creates an automatic presumption that it was in retaliation.

Affordable Care Act Waiting Period Extended

Effective August 15, 2014, Governor Brown repealed California's 60-day rule for a "waiting period" (the period which must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective). Employers providing health insurance are thus free to have waiting periods of up to 90 days to conform to the Affordable Care Act rule.

Required "Abusive Conduct" Training

Employers with 50 or more employees must already provide sexual harassment training within six months of assuming a supervisory position. Beginning January 1, 2015, such employers must expand the content of training [to include prevention of "abusive conduct."](#)

Paid Sick Leave

As of July 1, 2015, California employees working 30 or more days per year in the state [will accrue paid sick leave](#). The required posters can be found online [here](#). However, if your company has more generous paid time off and/or sick leave policies in place, you may want to create your own notice.

For additional guidance to make sure your paid time off and/or

paid sick leave policy, or any other policy reflecting California law, is compliant, employers should contact legal counsel.

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