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Employment Law Bulletin

September 2016

Back To School – A Refresher on Child-Related Leaves

As the school year begins, employers will be faced with employee requests for time off related to their children. Below is a list of child-related leaves, and the requirements for each type of leave.

School/Licensed Child Care Activities Leave (Employers of 25 or More Employees Working at the Same Location)

A parent of a child attending K-12 or licensed child care may take up to 40 hours off per year:

- to find, enroll or reenroll the employee's child in a school or with a licensed child care provider;
- to participate in activities of the employee's child's school or licensed child care provider (i.e. student-teacher conferences, field trips or classroom activities); or
- to address a *child care provider or school emergency*.

"*Parent*" includes a guardian, stepparent, foster parent, or grandparent of, or a person who stands in *loco parentis* to, a child.

A "*child care provider or school emergency*" means that an employee's child cannot remain in a school or with a child care provider due to one of the following: (i) the school/child care provider has requested that the child be picked up or has an attendance policy that prohibits the child from attending or requires the child to be picked up; (ii) behavioral or discipline problems; (iii) closure or unexpected unavailability of the school/child care provider; or (iv) a natural disaster (i.e., fire, earthquake, or flood). Planned holiday closures do NOT constitute a child care provider or school emergency.

Employees must give reasonable advance notice to the employer unless the time off is to address a child care provider or school emergency, in which case notice must be given as soon as practical.

Employees must be permitted to use accrued available sick leave during the leave. Use of accrued sick leave or vacation/PTO can also be required by the employer. Nonexempt employees without accrued sick leave or vacation/PTO receive the time off without pay. As required by law, exempt employees who take leave may have their sick leave or vacation/PTO banks reduced, but their salary cannot be reduced unless the employee has missed an entire week of work. Employers can require employees to provide documentation of their attendance at the school/child care activity.

Leave to Appear at School Following a Child's Suspension (All Employers)

An employee parent/guardian of a child suspended from school may take time off when requested to appear at school in connection with the child's suspension. Before taking time off, the parent must provide reasonable advance notice to the employer.

Use of Employee Sick Leave to Care For Sick Children and Attend Medical Appointments (All Employers)

While not a leave of absence per se, California law requires all employers to provide employees with paid sick leave which can be used for purposes of the diagnosis, care or treatment of their child with an existing health condition or for preventive care. For purposes of this law, a "child" includes a biological, adoptive, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status. The paid sick leave law permits up to 100% of the employee's sick leave to be used for his/her child— a change from the prior 50% rule set out in the Kin Care law.

Important Announcement for Agriculture Industry Employers:

A new state bill would substantially change the overtime requirements for hourly agricultural employees. Assembly Bill 1066 eliminates the 10-hour daily and 60-hour weekly overtime standards for hourly agricultural employees, and adopts the 8-hour daily/40-hour weekly overtime standards applicable to most other hourly employees in California.

The bill recently passed in both the California State Senate and Assembly, but has not yet been signed by Governor Jerry Brown.

This expansion of overtime pay would start in 2019 for businesses with more than 25 employees, and in 2022 for businesses with 25 or fewer employees. See below for more details and feel free to contact us if you have any questions about how this applies to your business.

AGRICULTURAL BUSINESSES WITH <u>MORE THAN 25 EMPLOYEES</u>		
Effective Date	Overtime pay will commence when an employee works...	Overtime rate
January 1, 2019	>9.5 hours in one work day or >55 hours in one work week	1.5 x regular rate of pay
January 1, 2020	>9 hours in one work day or >50 hours in one work week	1.5 x regular rate of pay
January 1, 2021	>8.5 hours in one work day or >45 hours in one work week	1.5 x regular rate of pay
January 1, 2022	>8 hours in one work day or >40 hours in one work week	1.5 x regular rate of pay

AGRICULTURAL BUSINESSES WITH <u>25 OR FEWER EMPLOYEES</u>		
Effective Date	Overtime pay will commence when an employee works...	Overtime rate
January 1, 2022	>9.5 hours in one work day or >55 hours in one work week	1.5 x regular rate of pay
January 1, 2023	>9 hours in one work day or >50 hours in one work week	1.5 x regular rate of pay
January 1, 2024	>8.5 hours in one work day or >45 hours in one work week	1.5 x regular rate of pay
January 1, 2025	>8 hours in one work day or >40 hours in one work week	1.5 x regular rate of pay

Previous SMT Employment Law Bulletins

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Save-the-Date for SMT's Annual Employment Law Update

January 13, 2017

Morning Seminar 8:30 - 10:30 am

Afternoon Seminar 1:30 – 3:30 pm

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