

Pacific Employers
 1331 West Center Ave.
 Visalia, CA 93291
 559 733-4256
 (800) 331-2592
 Fax 559 733-8953
 www.pacificemployers.com
 email - peinfo@pacificemployers.com

Return Service Requested



PRESORTED
 STANDARD
 U.S. POSTAGE
PAID
 PERMIT NO. 520

Pacific Employers
 MANAGEMENT ADVISOR

Over 50 Years of Excellence!



Articles in this Newsletter have been extracted from a variety of technical sources and are presented solely as matters of general interest to employers. They are not intended to serve as legal opinions, and should not be deemed a substitute for the advice of proper counsel in appropriate situations.

WAGE STATEMENTS: WHAT YOU NEED TO HAVE ON THEM

Current and former employees can request copies of their wage statements. Employers may see this request as a red flag because it could indicate the intention an employee has to file a claim. You can't ever prevent an employee from filing a claim, but you can have your ducks in a row and be proactive. Below is a list of the items that must be on the employee's itemized wage statement:

- Gross wages earned
- Total hours worked (not required for salaried exempt employees)
- The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis
- All deductions (all deductions made on written orders of the employee may be aggregated and shown as one item)
- Net wages earned
- The inclusive dates of the period for which the employee is paid
- The name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number
- The full and correct name and address of the legal entity that is the employer
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee [PE]

CAL SAVERS

In 2016, California passed legislation that employers who do not offer a retirement plan for employees must participate in a state-run retirement program. This program became known as CalSavers.

The pilot phase of CalSavers launched in 2018 and the phase-in period started in 2020. CalSavers provides an opportunity for employees to defer wages, through payroll deductions by the employer, to a state-run individual retirement savings account program. In order to be exempt from CalSavers, an employer may sponsor a retirement plan for any of its employees; California employees need not be covered by the retirement plan in order for the employer to be exempt, which means the employee can opt-out and as long as it is offered, remain exempt.

Last year, employers with over 100 employees received a small reprieve and had their deadline to adopt a retirement plan and file an exemption or enroll in CalSavers, extended to September 2020. This year though, employers with 50 or more employees still have a deadline of June 30, 2021, and employers with 5 or more employees have a deadline of June 30, 2022.

If you need information, we would love to give you a reference for a private plan to help make you an exempt employer. It allows for more options as well. Please call our office for more information. [PE]

Want Breaking News by E-Mail?
 Just send a note to
 peinfo@pacificemployers.com
 Tell us you want the News by E-Mail!

Pacific Employers

MANAGEMENT ADVISOR

Early Spring 2021
 Over 50 Years of Excellence!



SAFETY REPORT!

Pacific Safety: An Added Branch of Pacific Employers

Pacific Employers has created a new division of the company to help facilitate some needs that members have long requested. Pacific Safety is the new division, and there are a number of things that can be accomplished that Pacific Employers didn't previously offer. For example, Pacific Employers offers full-service HR in addition to its basic membership which includes onsite visits, personnel file audits, employee onboarding and terminations among other things. With the addition of Pacific Safety, we can now facilitate safety meetings, trainings, on-site safety visits to audit compliance, and more.

The additional branch of the company allows for you to have more access to trainings and programs, answers to your safety specific questions, and give you piece of mind by having a trained safety professional provide you with direction on how to make your organization safe and compliant.

Our Safety Packages vary based on frequency of on-site visits, but we have an unlimited over the phone consultation package that mirrors our current base level membership and it is only \$55.00/month.

If you would like more information about adding this to your current membership, please reach out to our office and we would be happy to connect you with someone from the safety division. [PE]

Assembly Bill 1175 (Employers Will Welcome This One With Open Arms)

Currently, Cal/OSHA can walk onsite and ask questions to employees, without an employer receiving prior notice. This certainly makes for a much more stressful chain of events when a random visit does take place. This could all change with new proposed legislation.

Assembly Bill (AB) 1175 was introduced on February 18, 2021, and it would authorize California employers to receive advance notice of an inspection or investigation if the Chief of Cal/OSHA or the chief's representative approves the notice and "advance notice is necessary to ensure availability of essential personnel or access to the site." If passed, this bill would mark a major change in processes and would reduce the likelihood of multiple worksite visits by inspectors who claim to need additional time to interview witnesses, photograph or document processes, and inspect premises.

We think California employers will likely welcome this potential change as an improvement in the coordination of Cal/OSHA inspections and investigations and a more updated approach to inspecting facilities. It would certainly alleviate some stress and pressure on employers. [PE]

Heat Illness Prevention & Supplemental Paid Sick Leave Poster Enclosed!

What's News!!!

Pacific Employers Price Increase!!!

In April, Pacific Employers will have officially been in business for 57 years. A number we take pride in saying. It is through those 57 years, we have done all that we can to assist businesses when they need us most. We have appreciated each and every member over the years.

In 2020 we saw an increase in the number of calls we normally receive on a daily basis. Some days hit record numbers on our call logs. COVID-19 has not been easy on any business, but we want to ensure you have the answers to your questions, and make ourselves available when you need us.

We pride ourselves on being the best price for labor relations consultation for the services provided. We have added a more streamlined website with a member portal login, and we have added new staff in order to continue to serve you in a timely manner. We will be increasing our prices to \$85.00/month, effective on your next quarterly bill, and will continue to bill on a quarterly basis. We thank you all for your trust and loyalty with our company, and we will continue to be a resource you can rely on. [PE]



Wage & Hour with COVID-19

The California Department of Industrial Relations (DIR) has updated their frequently asked questions in relation to wage and hour as it pertains to COVID-19. Yes, you guessed it right... Employers will be obligated to pay employees if they are requiring an employee to test for COVID-19. We already know that you cannot require a negative test for an employee to return to work, but some employers have required employees to be tested initially if they are experiencing symptoms of the virus.

According to the DIR, because the employer is requiring an employee to test for the virus, the employer is exercising control over the employee's time which is compensable. The employer would be obligated to pay for the time the employee spent waiting in line to take the test, along with the time spent traveling to a test site. The period of time spent awaiting results however, would not be compensable.

These are the things the employer must consider when creating policies and procedures that would require more time of the employee. Ensuring an employee is paid appropriately in these situations is essential to an organization's well-being in order to eliminate liability. [PE]

"Spring is nature's way of saying,
 'Let's Party!'" — Robin Williams



HR Report

~Tiffany Harris~

The COVID Corner (Since It Doesn't End)

SB 95: Supplemental Paid Sick Leave

Do you have 26 employees or more company wide? If you do, and you're located in California, you're going to want to read this. It isn't a fun read, but a necessary one. Governor Gavin Newsom has signed yet another supplemental paid sick leave bill, and its criteria for provided leave far reach beyond the eligibility requirements for the Families First Coronavirus Response Act that expired December 31st, 2020.

Senate Bill 95, signed by Governor Newsom on March 19th, will require employers to provide supplemental paid sick leave for a number of reasons relating to COVID-19 starting March 29th, and expiring September 30th, 2021. Here's the kicker though, it's retroactive from January 1st, 2021. That means trying to figure out what employees would have been entitled to this pay from the beginning of this year until now. It could be a nightmare for some employers. Keep in mind, we already have a number of reasons employees are being paid for COVID-19 under Cal/OSHA's Temporary Emergency Standard, but the plot continues to thicken.

Below is a list of reasons an employee can take supplemental paid sick leave:

SB 95: Supplemental Paid Sick Leave

Employees will be entitled to up to 80 hours of supplemental paid sick leave for a full-time employee and a two-week equivalent for a part-time employee for these reasons listed:

- Attending an appointment for a COVID-19 Vaccine.
- Being under a government ordered COVID-19 Quarantine, or a health care provider instructed self-quarantine caring for a family member, including parents-in-law, grandparents, grandchildren, and siblings who are under a quarantine order or whom a health care provider has advised to self-quarantine.
- The covered employee or provider "is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework."
- The covered employee or provider is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- The covered employee or provider "is caring for a child ... whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises."

You will have to post a notice to employees of this supplemental paid sick leave, however the state has not yet made the posting available.

A few other things to note about this new leave allowance:

- You cannot require employees exhaust their already required paid sick leave bank, PTO, Vacation, etc., before using this supplemental paid sick leave. If they are taking leave for one of the above listed reasons, you are obligated to provide it.
- You can take a credit for paid time off given to an employee for one of the above listed reasons from January 1st, 2021 until now. If, for example, an employee stayed home because they felt ill and were testing for COVID-19, and you paid them for 24 hours, you could deduct that from the total 80 the employee would be entitled to.
- The available supplemental paid sick leave balance must be posted on the employee's wage statement, as a separate line item. [PE]

Rounding Practices: Friend or Foe?

Non-exempt employees must be paid for all of their work time. We know this to be true. Pay for all time worked, ALWAYS. To simplify timekeeping calculations, many employers have adopted "rounding" practices. They record employees' time in pre-defined increments, such as quarter hours. For Example, Sally reports to work at 9:05 a.m. Her start time would be recorded at 9:00 a.m. She then leaves work at 4:53 p.m., but her end time would be recorded at 5:00 p.m. If rounding does not benefit the employer (in other words, "rounding up" and "rounding down" evens out, or favors employees), California courts have generally accepted this method as the employee is not ever losing a minute of pay, and in fact, could be paid more than their minute for minute of work.

Did you feel a but coming on? Well, you were right. Rounding practices are accepted so long as they benefit the employee, BUT the moment an employee loses out on time worked, the employer is setting themselves up for liability. Can you really ensure an employee will always be given the benefit of your rounding practices? Will the employee's pay always even out or round in favor of the them? These are the questions you MUST ask yourself before implementing rounding practices.

Another question that we hear is: if employers can round work time, can they adopt the same practice with meal periods? According to the California Supreme Court, the answer is "NO." We know the employee MUST be provided with an uninterrupted meal period of at least 30 minutes. Because of this, the employer cannot round a 27 minute meal period to 30 minutes.

Takeaways: Are rounding practices completely legal when done correctly? Yes the most certainly are. Should you be using them in the workplace? That decision has to be up to you, but unless you have a bullet proof system in place, we wouldn't recommend it. If you didn't sense our discontent with using rounding practices already, let us tell you now, we feel like they are a foe much more than a friend. The way we see it, rounding will either make you lose a little money, because you'll likely be paying an employee more minutes than they worked, or you'll be setting yourself up for liability because you will be underpaying an employee for time worked. We understand the reason you might want to do it, because it makes processing payroll a little cleaner and easier, but we just don't think the risk is worth the reward. [PE]



Human Resources Question with Candice Weaver

THE MONTH'S BEST QUESTION

Requiring a COVID-19 Vaccination to Work

Q: "Can I require my employee to get vaccinated for COVID-19, and can I incentivize them to get it?"

A: This is a two part answer, and this first is: It is not recommended at this point. The second is we would not advise it. Let's talk a little more about why.

Why you shouldn't require an employee to get the COVID-19 Vaccination:

- There is no state mandate that would allow for employers to require vaccination of COVID-19;
- There are proposed mandates in specific states, such as New York, but nothing official yet and nothing established for California.
- The DFEH discusses the allowance of employers requiring it, however there are a number of items that MUST be considered in accommodating those who cannot get the vaccine.

Why you shouldn't incentivize employees to receive the COVID-19 Vaccination:

- An employee could have an adverse reaction to the vaccination, and there's potential liability in that;
- An employee could have a medical condition that prevents or prohibits them from receiving the vaccination; or
- The employee could have religious beliefs or practices that prohibit them from receiving the vaccine.

Understanding the Potential Liability, and Pitfalls

At the end of the day, we understand employers will always weigh the risks vs the rewards when it comes to making decisions for their company. While there may come a time where vaccine mandates are in place, California is not at that point yet. There is still much to be informed of when it comes to the vaccine.

If an employee chose to get the vaccination because you offered to give them a "\$200.00 vaccine bonus to do so" and after receiving their vaccination had some side effects, what could you be facing? Could an employee file a workers compensation claim? Would the employee say they felt obligated by you to receive it, or state they only got it because they needed the money and you were offering it?

In addition, what could an employee who has religious beliefs that prevent them from receiving the vaccination do? They could potentially say it is discriminatory because the incentive to receive the bonus is not an option to them because of their religious beliefs, which therefore takes it off the table for them. The same would go for an employee with a medical condition that prevents them from receiving it.

With the potential liability, it is our opinion that incentivizing employees is not advisable. There are just too many ways things could end in a negative outcome. In time, this school of thought may change, but for now we recommend employers let the decision be entirely up to the employee. [PE]

LABOR SEMINAR SERIES!

Pacific Employers sponsors a seminar series on employee labor relations topics for all employers.

2021 Topic Schedule

♦ **Culture in Organizations** - Increasing morale, effectiveness, and decreasing turnover.

Thursday, April 15th, 2021, 10am - 11:30am

♦ **Equal Employment Fundamentals** - Harassment & Discrimination in the workplace - The seven (7) requirements that must be met by all employers. "The protected classes."

Thursday, May 20th, 2021, 10am - 11:30am

♦ **Wage & Hour and Exempt Status** - Overtime, wage considerations and exemptions.

Thursday, June 17th, 2021, 10 - 11:30am

♦ **Safety in the Workplace** - What do you need to know when an accident happens, or when OSHA walks onto your property?

Thursday, July 15th, 2021, 10 - 11:30am

♦ **Family Leave** - Fed & CA Family Medical Leave, California's Pregnancy Leave, Disability Leave, Sick Leave, Workers' Comp, etc.; Making sense of them.

Thursday, August 19th, 2021, 10am - 11:30am

♦ **COVID-19** - Where are we now? We will be discussing the current state of the pandemic, and some things to take note of in terms of your business and its operations.

Thursday, September 16th, 2021, 10 - 11:30am

♦ **Labor Law Update** - Susan Hatmaker will provide us with the interpretation of recent law changes and how they impact employers

Thursday, October 21st, 2021, 10 - 11:30am

♦ **Customer Service** - How to keep customers happy, and maintain a healthy and happy work atmosphere.

Thursday, November 18th, 2021, 10 - 11:30am

♦ **Favorite Things Table Talk** - The holiday season makes us want to give you the gift of our Favorite HR things. These tools, tips, and tricks may make your daily HR life a little easier.

Thursday, December 16th, 2021, 10am - 11:30am



Dinner for 2 at the *Vintage Press!*

That's right! When a business that you recommend joins Pacific Employers, we treat you to dinner for two at the *Vintage Press*.

SEXUAL HARASSMENT PREVENTION TRAINING WEBINAR

Pacific Employers will be hosting sexual harassment prevention training webinars for employees who need 1 hour of training and supervisors who need 2 hours of training. Call to Reserve a spot and get additional information. Scheduled dates/times are listed below:

Where: Webinar

When: Thursday April 15th From 10:00 AM-12:00 PM
Thursday May 20th From 3:00-5:00PM
Wednesday June 9th From 8:00-10:00AM