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Pacific Employers



MANAGEMENT ADVISOR

Summer 2020
 Over 50 Years of Excellence!

WHAT'S NEWS! Full Service Options!!!!

Pacific Employers has been known for over 50 years for its labor relation consultation over the phone. In addition to that of course, includes our monthly seminars, newsletter, e-newsletters, handbooks, safety programs, and many other resources.

Members have always been able to request someone from Pacific Employers to assist them onsite, attend company meetings, hearings, and assist in file and payroll audits among other things for an hourly rate.

Pacific Employers is now offering those hourly requests as full-service options. If you would like more information about how Pacific Employers can assist you on-site contact our office for a customized package catered to your needs. Our full-service options range depending on your needs.

We want to make sure that we continue to be a resource for you as California labor law continues to evolve and the burden on employers widens. We find on-site visits are being requested more often, and those who request them often want more than one meeting. Contact us for more information at (559)733-4256. [PE]

Restaurants: What You Should Know

Have you been craving a date night over candle light that isn't at your own kitchen table? Are you tired of grabbing to-go orders and jetting back home? If so, you may be in luck. Many restaurants have opened up by utilizing outdoor dining even at the cost of doing so in their parking lot. Your favorite Italian spot may look a bit different as many restrictions are still in place. Below are some of the requirements that are in place for Dine-in service.

Requirements and Details:

- Tables must maintain six feet distance.
- All employees must wear face coverings while working
- Employees must abide by the policies set in place by both the organization and the guidelines set by the California Department of Public Health.
- Individuals will need to maintain social distancing requirements
- Additional cleaning and disinfecting may be required by the California Department of Public Health in order to operate.
- Additional signage may be seen in regards to preventing the spread of the virus.
- For now, employers will only be able to serve food via outdoor dining.

Employers should continue to update their policies to meet standards as the requirements evolve and change over time. As standards continue to evolve, consider all of the additional measures businesses are taking in order to serve you. We are all in this together. [PE]



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.

COVID-19 EMPLOYER PLAYBOOK NOW AVAILABLE

On July 24, 2020, the State of California released a "COVID-19 Employer Playbook" to guide employers in planning and preparing for the safe reopening of their businesses. It has guidance from various California agencies to ensure that employers have the tools they need to plan for a safe and clean workplace. This Playbook is not all inclusive and does not have county-specific health orders, nor is it a substitute for existing safety and health-related regulatory requirements such as those from Cal/OSHA, but it does provide good information.

There is so much information out there, and with that includes a lot of misinformation. Pacific Employers has a tab on its website designated specifically to COVID-19, and it has many different links to resources that are not only legitimate, but also provides very useful information. In addition, you can consider the information you find from agencies such as Cal/OSHA, The Center for Disease Control (CDC), and your local Health and Human Services Agency as viable resources as well. [PE]

AS FALL RAPIDLY APPROACHES, HERE ARE SOME WORK FRIENDLY HALLOWEEN COSTUMES

While some may still be working remotely, the fall season brings forth all things pumpkin spice, burnt orange, and throw blankets. With that of course, comes Halloween, which means costumes of all kinds will be prevalent. Aside from the traditional witch hat and broom, here are some fun costume ideas that would be both work appropriate and fun:

- Where's Waldo
- Grease Lightning Costumes
- Skeleton T-Shirt
- Super Hero Cape/Costume
- Carmen San Diego
- Mary Poppins
- Mr. Monopoly
- Colonel Sanders
- Audrey Hepburn
- Clark Kent
- Jackie O
- Cowboy
- Wednesday Addams
- Rosie the Riveter
- Harry Potter
- Mime [PE]

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

2020 W-4 Cheat Sheet Enclosed!

Dave's Report ~David E. Miller~



Safety Considerations on Returning to Work Post COVID-19

Many businesses have reopened, despite the number of COVID-19 cases increasing. Below are some items to consider while operating during this pandemic.

As guidelines continue to change, make sure you frequently check the guidelines set by the Centers for Disease Control (CDC) along with the Occupational Safety and Health Administration (OSHA).

- **Social Distance:** Employers should limit your organization's capacity to allow for social distancing (this would be at least 6 feet apart). Signs can be posted to remind employees and customers alike to keep their distance.
- **Hazard Assessment:** Employers should assess each job description in the organization and determine the employees' potential occupational exposure to the virus.
- **Employee Return Post Illness:** Refer to the CDC for guidance on when an employee can return to work after illness or exposure to COVID-19.
- **Training:** Employers should train employees on the measures required in your organization, and the steps taken to protect employees.

These considerations are not one size fits all, and there are other tangibles to consider when operating your business. [PE]

The Happiest Place on Earth Goes Back and Forth on Reopening Their Parks in California

After months of closed gates and still rides, Disneyland appears to still be uncertain about the right time to reopen. Both the public and employees have expressed mixed feelings, creating a bit of controversy. With restrictions in the state of California by our Governor, it makes it quite difficult to reopen.

After four months of being closed the park was set to reopen on July 17th, 2020. That scheduled reopen never happened as cases of COVID-19 continued to rise in California and across the nation. There were further discussions of reopening after the first week in September, and now, there are hopes of reopening the California parks sometime in December.

One thing we know for certain is once the California parks reopen, it will be much different. The Disneyland website states the restrictions that will be in place to keep the people in the park safe to include limiting the number of people who can enter the park per day, using a new park reservation system.

For now, it simply says the Disneyland Park, Disney California Adventure Park, and the Hotels of the Disneyland Resort will remain closed until a later date. Some of the events that have already been canceled for the year include Mickey's Not-So-Scary Halloween Party, Oogie Boogie Bash at California Adventure Park. [PE]

"When nothing is sure, everything is possible." – Margaret Atwood



HR Report ~Tiffany Harris~ Importance of Rest Periods

Some Simple Reminders

Yes, I know you've been hearing COVID this and COVID that, but we at Pacific Employers feel it is important to remind you of some basics. Just because a pandemic hits the United States, doesn't mean basic labor laws go out the window. So let's take a short break from COVID-19, and remind you of the importance of rest periods:

All nonexempt employees working in the state of California are required to take a minimum of 10 minutes of rest for every four hours worked or major fraction thereof. What is a major fraction thereof? California defines it as any amount of time greater than two hours. If an employee is only scheduled to work 3.5 hours or less, they are not entitled to a rest period of ten minutes. This 10-minute rest period must be paid and counted as hours worked. No employers are allowed to deduct this time from the employee's wage earned. The 10-minute rest period must be uninterrupted, free of control of the employer, and the employee is free to leave the property. However, the employee must return within the 10-minute rest period.

Assembly Bill 2605 exempts some employees from the requirement of being relieved of all duties during this rest period. The employee is only exempt if all of the following criteria is met:

- The employee is in a safety-sensitive position and required to carry and monitor a communication device, such as a radio, pager, or other form of instant communication, and to respond to emergencies, or is required to remain on employer premises to monitor the premises and respond to emergencies.
- The employee is subject to Industrial Welfare Commission Wage Order No. 1.
- The employee is covered by a valid collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for rest periods for those employees, final and binding arbitration of disputes concerning application of its rest period provisions, premium wage rates for all overtime hours worked, and a regular hourly rate of pay of not less than 30 percent more than the state minimum-wage rate.

If an employer fails to provide the complete 10-minute rest period, the employer owes the employee one hour of pay at the employee's regular rate of pay for each workday the rest period was not provided. [PE]

To Mask, or Not to Mask, Without Question According to Newsom...

As of June 17, everyone in the State of California will be required to wear a face mask while in public. Governor Newsom hopes that this will help prevent further spread of the virus, especially from those who are asymptomatic. California has had over 5,000 deaths from this disease and over 160,000 recorded cases.

Californians MUST wear mask under the following circumstances:

- Inside any indoor public space, or while in line to enter any indoor public space
- Riding or waiting for public transportation (while in a taxi, private car service or ridesharing)

While working on-site or off-site while:

- Interacting in-person with the public
- Working in a space visited by the public, even when the public isn't present
- Working where food is being prepared or packaged for sale or distribution to others
- In any room or enclosed area where other people are present when unable to physically distance (except while with members of your own household or residence)
- Driving or operating any public transportation, taxi, private car service, or ridesharing (Face coverings are highly recommended even when passengers are not present)
- Outdoors in public spaces and less than six feet from others
- While outdoor in public spaces if unable to maintain a six feet distance from other persons (unless those persons are members of the same household or residence)

Exemptions:

- Children aged two and under
- Persons with a medical, mental health, or developmental disability that prevents wearing a face covering
- Persons who are hearing impaired, or persons who are communicating with persons who are hearing impaired if the need to visibly see the mouth is essential for communication
- Persons for whom wearing a face covering would create a risk to the person related to their work or workplace safety, as determined by local, state or federal regulators
- Persons who are receiving services involving their nose or face, the face covering can be temporarily removed to receive the service
- Persons seated at a restaurant or other establishment that offers food or beverages, only while they are eating or drinking, and they must maintain a distance of six feet from patrons not in their household
- Persons who are working outdoors or swimming, walking, hiking, bicycling, or running, when alone or with other household members. Must maintain a distance of six feet from members not in your household
- Persons who are incarcerated (prisons will have their own guidelines)

The California Department of Public Health defines a face covering as follows:

A cloth face covering is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.[PE]



Human Resources Question with Candice Weaver

THE MONTH'S BEST QUESTION

COVID-19 Lawsuits

Q: "Have you heard of any employers being sued over COVID-19 related issues yet?"

A: Yes. In fact, there have already been over 400 COVID-19 related lawsuits against employers.

COVID-19 Lawsuit Examples

- A race discrimination claim by a former employee. The employee claimed the employer did furloughs and terminations as a result of COVID-19, but in doing so targeted African-American Employees.
- Another example is age discrimination. The claim stated an employee whose seniority, experience, and performance were superior to some of his younger co-workers, however he was laid off for COVID-19 related reasons.
- Religious discrimination is another claim made by an employee who stated prior to COVID-19 the employee attended a weekly mosque for community prayer, and once those were shut down due to COVID-19, the employee did prayer at work. The employee was terminated soon after and was not provided with reason.

Other Examples of Current Lawsuits

- Failure to provide leave claims under the FFCRA
- Failure to provide a safe work environment
- Retaliation and whistleblower claims
- Wage and hour claims such as employees having to do extra measures in order to work such as temp checks, surveys and others while remaining off the clock.

What Should You Do To Avoid Potential Litigation

In a time of uncertainty, it is imperative employers take extra precautions to avoid potential litigation. If you are laying off for COVID-19 related issues, you should review the decisions you are making in your layoffs to ensure you are not discriminating or retaliating against any employee. The examples listed above are just a very small sample of the claims that have been made by employees. Consider any claim an employee may make whether it be perceived by the employee or otherwise.

No method of action is ever full proof. Even with the best intentions in mind, an employee can still claim they were discriminated against, or interpreted some form of discrimination. In addition, when providing payment for employees under the FFCRA for emergency sick leave or expanded family and medical leave, it is best to err on the side of caution. As long as an employee falls under one of the six qualifiers, and provides documentation to back it, employers with less than 500 employees are required to provide this leave. There are some industry specific exemptions, but overall the best remedy is providing that leave to employees. Employers will be reimbursed this payment made to employees via payroll tax credit.

Also, While many employers are implementing methods to make the work environment safer and more hygienic, many aren't considering the elements that come with these implemented methods. For example, if an employee is required to go through a screening process before work, employers must consider the time an employee is spending to be screened. Time spent doing something required by the company must be paid. [PE]

LABOR RELATIONS SEMINARS!

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

until further notice.

RSVP to Pacific Employers at 559-733-4256. *These*

mid-morning seminars may include handouts, but refreshments will be up to you.

2020 Topic Schedule

♦ **Customer Service** - and Contracts, Signs, Handouts, Fliers - Just what paperwork does an Employer need?

Thursday, September 24th, 2020, 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 15th, 2020, 10 - 11:30am

♦ **Discipline & Termination** - The steps to take before termination. Managing a progressive correction, punishment and termination program.

Thursday, November 19th, 2020, 10am - 11:30am

♦ **Favorite Things Table Talk** - It's the holiday season, and we want to share with you some of our favorite "HR things." Tools that may make your life in HR a bit easier.

Thursday, December 10th, 2020, 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 a monthly sexual harassment prevention training webinar for employees who need 1 hour of training. Our first webinar will be in September.

Where: Webinar
When: Wednesday September 2nd, 2020
9:00 AM-10:00 AM

RSVP Pacific Employers - 559-733-4256