

10 California Employment Laws for Business Managers to Remember

California's employment laws provide more protection for employees than those of any other state. And new laws are being enacted at a blistering pace. Below are just a few of the most important rules to remember when advising and managing California employers. The best form of insurance against lawsuits by employees is a simple, well-drafted severance agreement.

Contact Us:

Richard J. Frey

Partner

RJFrey@Venable.com

310.229.9630

Ryan M. Andrews

Associate

RMAndrews@Venable.com

310.229.0344

Venable LLP

2049 Century Park East
Suite 2300

Los Angeles, CA 90067

310.229.9900

www.Venable.com

- 1. Overtime must be paid for all hours over 8 in a day or 40 in a week for non-exempt employees,** and double time after 12 hours in a day. Special overtime rules apply to "personal attendants" working in a private household.
- 2. Fixed rate wages cannot include overtime.** If an employee is not exempt from overtime, then a fixed rate only covers 8 hours of work per day and 40 per week, regardless of any agreement to the contrary, and overtime is owed beyond that.
- 3. Final paychecks must be paid on the day of termination.** Employers cannot wait until the next regular payday. Penalties result from each day that payment is late.
- 4. Use-it-or-lose-it vacation policies are illegal.** California law treats accrued vacation time as wages; it cannot be forfeited if unused, and it must be paid out on termination. Capping accrual at no less than 1.5x the annual rate is recommended. Unlimited plans are increasingly popular, but pose separate risks.
- 5. Paid sick leave is mandatory for all California employees.** Employers must either provide at least 3 days upfront each year, or provide accrual of sick time at the rate of 1 hour per 30 worked. And many California cities, including Los Angeles, have even more protective rules.
- 6. Unpaid meal breaks and paid rest periods are mandatory for non-exempt employees.** There are very specific rules that apply and penalties for non-compliance.
- 7. If you think an independent contractor might be an employee, then the worker is probably misclassified.** There are California-specific penalties for misclassification. Business managers (but not lawyers) can be held liable for providing advice.
- 8. Pregnancy disability leave (up to 4 months) is mandatory for employers with 5 or more employees.** Many employers with fewer than 50 employees are unaware that they must provide job-protected leave.
- 9. Non-compete agreements are illegal, even if extremely narrow.** Covenants not to solicit customers are also illegal. There are a few exceptions, such as when selling the goodwill of a business. These exceptions are narrowly construed.
- 10. Effective January 2017, choosing out-of-state law in an employment contract is prohibited** unless the employee has counsel when negotiating the deal.