

Blogs

California Department of Industrial Relations Issues Coronavirus (COVID-19) Guidance for Employers

Labor & Employment Law Blog

By April Szabo and Jonathan Judge on 03.10.2020

The California Department of Industrial Relations (“DIR”), the agency that oversees the Department of Labor Standards Enforcement (“DLSE” or “the Labor Commissioner”), workers’ compensation, and Cal-OSHA (among other things), released guidelines confirming its interpretation of California wage and hour laws potentially applicable to the workplace in light of the spread of COVID-19.

The DIR’s guidance contains a number of important points for employers, including:

Employees cannot be forced to use accrued Paid Sick Leave if they are absent from work

The DIR clarifies that employees may be permitted to use accrued Paid Sick Leave (“PSL”) if they are absent due to illness, which includes both treatment for COVID-19 and quarantine. Quarantines meet the definition of preventive care aimed at stopping the spread of the virus. However, the DIR confirmed employees cannot be compelled to use their accrued PSL.

Non-exempt employees who are sent home due to illness must be paid reporting time pay for that day.

The DIR confirms California’s reporting time pay guidelines would apply to a non-exempt employee who reports to work and is sent home by the employer. However, the agency states reporting time pay is not owed where operations are shut down on the recommendation of civil authorities. As a reminder, an employee who reports to work and works less than half of the employee’s usual or scheduled shift is entitled to half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay.

Exempt employees must be paid for any week in which they perform any work.

Even if the workplace shuts down temporarily, exempt employees are entitled to their full salary for any week in which they perform work, says the DIR. If the employee performs no work for the entire week, the employee’s salary may be reduced. If an exempt employee exhausted the employee’s sick leave and is

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absent from work for a full day for sickness, deductions from salary may be made in full day increments only.

Employers are encouraged to review the entire text of the DIR's guidance. As usual, your usual employment counsel at AALRR is happy to answer any questions you might have.

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