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2025 Labor Law Update

 California Employers Association

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- Employee Handbooks
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We will cover:

- **Wage & Hour:** *Increasing wages, PAGA reform, independent contractors*
- **Employee Rights:** *Captive audience meetings, protected classes, job ads*
- **Leaves & Benefits:** *Crime Victims, PFL, Cal-Savers*
- **Safety:** *WVPP, Heat Illness*
- **Employer-Specific Rules**

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Wage and Hour Updates

Increasing Wages, PAGA Reform, Independent Contractors




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2025 Minimum Wage/Salary

All Employers – Regardless of Size!

Non Exempt / Hourly	Exempt / Salary (Yearly)
\$16.50	\$68,640

Transitioning Exempt to Nonexempt, Employee Relations Tips
bit.ly/Exempt_to_Nonexempt

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40+ Local Minimum Wage Laws & Counting...

- Over **40** local ordinances may apply!
- **Minimum wage**, paid sick leave, predictive scheduling, flex time

The **local minimum wage** is based on where the employee is *physically* working (e.g., home residence).

Look for Jan 1 increases! Visit bit.ly/CEAminimumwagePSL



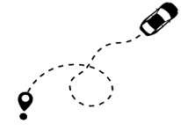
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Personal Vehicle Usage

Must reimburse costs incurred by employee on behalf of the business, including **mileage** when personal vehicle is used for work

IRS Mileage Rate:
• 2024: 67 cents/mile
• **January 1, 2025: ?**



Must pay hourly employees for actual drive time (i.e., work time) *in addition to* mileage reimbursement



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PAGA Reform

July 1, 2024: AB 2288 and SB 92 were signed into law, significantly reforming the Private Attorneys General Act

- This legislation was enacted as a result of a **deal** between the legislature and business groups.
 - Business groups withdrew a ballot measure to repeal PAGA entirely
- Reforms apply to PAGA cases filed **on or after June 19, 2024**
- The reforms mark **impactful changes** to how wage-and-hour lawsuits will be litigated going forward



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PAGA Reform

New opportunities for employers to reduce their penalties by demonstrating they took **"reasonable steps"** to comply with wage and hour laws

New opportunities to **"cure"** following a PAGA Notice – **consult legal counsel**

"Reasonable steps":

- Periodic **payroll audits** and **taking action** in response to results
- Lawful **written policies**
- **Training supervisors**
- Taking **corrective action** for supervisors who are not following your policies



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SB 988: Independent Contractors- "Freelance Worker Protection Act"

Applies to:

- **"Freelance worker"** performing **"professional services"** as a bona fide independent contractor
- **Does NOT** change test for independent contractor vs. employee
- **"Freelance worker"**: Individual person, or an organization of no more than one person; ≥\$250 for services

Requires:

- **Written contract:** Name and mailing address of each party; list of services, value, rate and method of compensation, date services due to receive timely payment

Prohibits:

- Once work has started, cannot make timely payments conditional on the worker agreeing to:
 - Accept less compensation, or
 - Provide more goods or services, or
 - Grant more intellectual property rights to hirer
- Retaliation



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SB 988: Independent Contractors- "Freelance Worker Protection Act"

Current Services Covered:

- | | | |
|-------------------------|---------------------------|------------------------|
| ✓ Marketing | ✓ Photographer, | ✓ Esthetician, |
| ✓ HR Administration | videographer, photo | electrolysis, |
| ✓ Travel Agent Services | editor, including Digital | manicurist, |
| ✓ Graphic Design | content aggregator | cosmetologist |
| ✓ Grant Writer | ✓ Freelance writer, | ✓ Performers teaching |
| ✓ Fine Artist | translator, copy editor, | master classes |
| ✓ Dept. of Treasury | illustrator, newspaper | ✓ Certain appraisers |
| Enrolled Agent | cartoonist | ✓ Certain professional |
| | | foresters |



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FAQ:

We use **time rounding** to the nearest 15 minutes.

For example, if an employee arrives at 8:07am, it will reflect **8:00am**, but if they arrive at 8:08am, it will reflect **8:15am**. Sometimes they gain time, other times they lose. **Is this okay?**



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Rounding Not Recommended!

Probably not.

- In *Camp v. Home Depot* (2022), CA Court of Appeal held that rounding policy is **NOT** compliant when employee **tracked their exact time in minutes and records showed employee was not paid for all time worked** due to rounding policy.
- Case is up for review with the **California Supreme Court** and we should have a final decision soon!



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Wage & Hour: To Do's



- ✓ Ensure **minimum wage rates** are adjusted as needed and update **Wage Theft Notices**
 - Review local ordinances and industry specific wage requirements
 - Adjust **salaries** for exempt employees as needed
- ✓ Implement **"reasonable steps"** in light of PAGA reform, including payroll audits and supervisor wage and hour training
- ✓ Review **independent contractor arrangements**



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Employee Rights and Protections

*EEOC Guidance,
Protected Classes,
Captive Audience Meetings,
Job Advertisements*



16

EEOC's Harassment Guidance

NEW: After nearly 25 years, on 4/29/2024, the EEOC updated its harassment guidance with 77 examples and clarification, such as:

- Harassment can include **intrusive questions** about sexual orientation, gender identity, gender transition, or intimate body parts
- Harassment of LGBTQ+ workers can include **denial of access** to bathrooms consistent with gender identity, intentional and repeated mis-gendering, etc.
- Sexual harassment can be based on pregnancy, childbirth, and related **medical conditions**
- Harassment can occur in **remote work environments**
- **Intersectional harassment** is harassment based on more than one protected characteristic of an employee (for example, harassment based on both race and age)



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EEOC Example:

One day at work, Janet (age 51) quickly removed her jacket and began fanning herself. A manager saw and said, "Oh, you're having a hot flash! You must be menopausal." **Janet said she would prefer not to discuss it.**

On another occasion when Janet mixed up a customer order, **the manager yelled at her** and asked if Janet's mistake was because of "all of the hormones" and said, "women your age get so emotional."

*This example represents **"intersectional harassment"** based on both age and gender (e.g., stereotypes about older women)*



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FEHA Protected Classes

SB 1137: Amends FEHA's definitions to recognize the concept of **"intersectionality"**

- **Unlawful discrimination or harassment** can occur not just because of one protected class, but also because of the **combination of two or more protected classes**
- Clarification of existing law
- Mirrors EEOC Guidance (April 2024)

To Do: Review and update handbook EEO policies to address intersectionality



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FEHA Protected Classes

AB 1815: Protective hairstyles: Deletes the word "historically" from the definition of "race"

- New definition: "Race" includes traits *historically* associated with race, including, but not limited to, hair texture and protective hairstyles"

To Do: Review and update handbook EEO policies, as well as policies addressing dress and appearance at work



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SB 1100: Drivers License Discrimination



- Cannot require a **driver's license** on job advertisement, posting, application or other material unless employer *reasonably*:
 1. expects driving to be a function of the position, AND
 2. believes alternative transportation would not be comparable in travel time or cost (e.g., Ride hailing service, Taxi, Carpooling, Bicycling, Walking, etc.)
- **To Do:** Update job postings and application materials



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SB 399: Captive Audience Meetings

"CA Worker Freedom from Employer Intimidation Act"

- Employees may decline to attend meeting(s) or listen to communications regarding an employer's opinion about **religious or political matters (including re: labor organizations)**.
 - Adverse action or threats of adverse action prohibited
 - Does not include legally required information or information necessary to perform job duties
 - Employee who is working at the time of the meeting and elects not to attend must be **paid**
- *Historically, captive audience meetings were permitted under the NLRA; however in November 2024, the NLRB ruled that mandatory captive audience meetings are unlawful.*



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Labor Law Poster Updates

AB 2299: Whistleblowers

- Labor Commissioner will update its "Whistleblowers Are Protected" poster
- Unlike current "sample notice", new poster will guarantee its posting by employers fulfills California's requirements

Minimum Wage Posting

- DIR poster: \$16.50/hour
- *Supplemental Posters* for Fast Food and Health Care

AB 1870 Workers Comp

- Workers compensation rights notice must include:
 - Employee's right to consult an attorney
 - Notice that in most cases, attorney's fees will be paid from an injured employee's recovery
 - Updated Dir Notice (Form D7 version 10/24)



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Employee Rights: To Do's



- ✓ Review EEOC's guidance and stay up to date on **harassment prevention training** (every two years)
- ✓ Revise **handbook policies** regarding protected classes
- ✓ **Review job postings, applications**, etc. to ensure driver license requirements are appropriate
- ✓ **Train supervisors** on captive audience meeting law
- ✓ Update **Labor Law Posters** for 2025



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Leave Laws & Benefits

Crime Victims, Paid Family Leave, Cal-Savers Deadline

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AB 2499: Crime Victims Leave All Employers

Prior to January 1, 2025 (Labor Code section 230):

All employers required to provide:

- Time Off From Work for jury service, witness duty and to seek relief for safety (e.g.,TRO,) for employee who is a crime victim or their child
- Employees could use vacation and paid sick leave if employee was victim of domestic violence sexual assault or stalking
- Reasonable accommodation to ensure safety at work of employee who is victim of domestic violence, sexual assault, stalking
- Employer must maintain **confidentiality**
- **Note:** AB 2499 does not change other laws requiring time-off for employees to attend judicial proceedings, or other proceedings where a victim's right is at issue, involving certain specified crimes (Labor Code sections 230.2 and 230.5)

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AB 2499: Crime Victims Leave All Employers (cont.)

AB 2499 Changes Effective January 1, 2025:

- New definition of a **"victim"**
- Reasonable accommodation for employee safety at work now required where employee **or family member** is the victim
- Employees can use Paid Sick Leave for all crime victim purposes
- New notice requirements: Employer must provide notice:
 - To new employees **upon hire**
 - To all employees **annually**,
 - **Upon request**, and any time an employee **informs** an employer that employee or employee's family member is a victim
- CRD to issue new notice by July 1, 2025
 - Duty to provide notice begins when new notice is posted on agency website

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AB 2499: New Definitions

"Victim": An individual against whom a **qualifying act of violence** has been committed:

- Domestic violence, sexual assault, and stalking
- Acts, conduct or patterns of conduct that include
 - bodily injury or death to another individual
 - exhibiting, drawing, brandishing or using a firearm or dangerous weapon
 - using or threatening to use force to cause physical injury or death

"Family member":

- Child, parent, grandparent, grandchild, sibling, spouse, or domestic partner
- "Designated person":
 - Any individual related by blood or whose association with the employee is the equivalent of a family relationship
 - Employer may limit employee to one designated person per 12-month period

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AB 2499: 25 or More Employees

Prior to January 1, 2025:

- Time off from work required for employees who are victims of crime to seek medical or mental health care, victims' services and to engage in safety planning (in addition to court leave)

AB 2499 Changes:

- New reasons for leave: obtaining court **relief**, legal proceedings, **medical** attention and victim services, **mental health** services, **safety planning**, **relocation** to secure new residence or school for child, **providing care** to family member recovering, providing childcare or care to dependent adult to ensure safety
- Employer may limit total combined leave for all reasons to **12 weeks**. **Leave runs concurrently** with CFRA/FMLA, if applicable
- When the employee's family member is the victim, so long as they are not deceased, employer may limit leave: **10 days** total, **5 days** when used for relocation/school

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AB 2123: Paid Family Leave Benefits

- Beginning January 1, 2025, employers may **no longer require employees** to use accrued vacation **prior to** collecting Paid Family Leave (PFL) benefits from the State/EDD
 - **Old rule:** Employers *used to* be able to require employees to use up to 2 weeks of vacation/PTO before using PFL through the state
- New rule applies to periods of disability beginning after January 1, 2025
- **To do:** Update handbooks, leave policies and forms and train payroll staff on this important change

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CalSavers Retirement

- California employers who do not offer retirement plans must **enroll employees in CalSavers** (employees can opt out)
- Requirement to register with CalSavers (unless exempt) has been **phased in based on employer size**
- Deadline** for employers with 1 or more employees to register is **December 31, 2025**

What is CalSavers?

- Retirement savings program for employees in California who don't have a retirement plan at work
- Employers add and maintain their employee roster and submit contributions via payroll deduction
- No employer fees nor do employers make contributions to employee accounts
- Employee participation is **voluntary**



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Leave/Benefits: To Do's



- ✓ Update crime victim and other affected policies
- ✓ Prepare for new notice requirements
- ✓ Update leave practices in light of new rules about vacation/PFL
- ✓ Register for CalSavers if needed



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Health and Safety Updates

*Workplace Violence,
Heat Illness,
Workplace
Restraining Orders*



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Workplace Violence Overview



- New requirement to establish, implement, and maintain a written workplace violence prevention plan and **update each year**
- Also includes **annual training requirements** for your staff



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Key Requirements

- Create your **written plan**;
- Solicit** employee (and union) involvement;
- Conduct annual (or more frequent) employee **training**;
- Schedule periodic **inspections and hazard correction, safety meetings**;
- Investigate** workplace violence incidents;
- Recordkeeping requirements**, including maintaining a violent incident log



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Question:

What are ongoing requirements for the WVPP?



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Answer:

SCHEDULE AT LEAST:

- **Annual** review of your WVPP
- **Annual** soliciting employee feedback
- **Annual** employee training
- **Periodic** hazard inspections
- **Periodic** safety meetings (recommended)



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Indoor Heat Illness

- On **July 23, 2024**, CA's indoor heat illness standard went into effect
- Applies to indoor work areas when temperatures **reach or exceed 82 degrees while employees are present**
- Aimed at: manufacturing, warehouses, restaurant kitchens, etc. (i.e., places without full A/C), but not limited to those industries!

- Remember, **outdoor** places of employment are **already required** to maintain a **written Heat Illness Prevention Plan**



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Heat Illness Cont.

Essential Requirements Include:

- Water
- Cool-Down Areas
- Emergency Response Procedures
- Acclimatization



Employers Must Also Have:

- Written Heat Illness Prevention Plan (HIPP)
- Training for Employees and Supervisors
- Additional High Heat Requirements
 - (e.g., when temperatures exceed 87 degrees OR 82 degrees but wearing restrictive clothing, near heat radiant source, etc.)

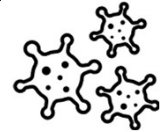


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COVID-19 Reminders

- Cal/OSHA's "COVID-19 Prevention Non-Emergency Standard" remains in effect through **February 3, 2025** (with certain record-keeping requirements lasting until February 3, 2026)
- Continue compliance and monitor CalOSHA's website for any changes
- Bookmark this site:
bit.ly/covid-nonemergency



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Safety: To Do's



- ✓ Comply with annual **WVPP** and **staff training** requirements
- ✓ Develop **Heat Illness Prevention Plan** (indoor and/or outdoor) as needed
- ✓ **Monitor COVID-19** requirements for employers



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Industry and Employer-Specific Changes

Construction Exemption;
Criminal History Protections



AB 1034: Construction Industry PAGA Exemption Extended Exemption

- PAGA exemption:
 - For employees in the **construction industry**
 - If they fall under a **collective bargaining agreement (CBA)** meeting **specific requirements**
- Exemption extended from January 1, 2028 to **January 1, 2038**
- **Consult legal counsel** about specific requirements for exemption



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Two New Local Fair Chance Ordinances

State Law Refresher

Employers with 5 or more employees:

Can't Inquire Into Criminal History:

Prohibits employers with 5 or more employees from inquiring into criminal history in the interview process

Until After a Conditional Employment Offer:

Cannot ask about past criminal history or conduct a background check until AFTER a conditional job offer has been extended

To Deny, Must Show "Direct & Adverse" Relationship:

Even if something is flagged in background check, cannot deny job UNLESS able to show conviction history has a "direct and adverse" relationship with the specific duties of the job, after conducting an **individualized assessment**



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New Local Fair Chance Ordinances: San Diego and Los Angeles Counties

San Diego County Ordinance

- Effective **October 10, 2024**
- Unincorporated areas of San Diego County
- Those doing business who employ 5 or more employees
- Enforced by County Office of Labor Standards Enforcement
- Some differences from state law:
 - Individualized Assessment must be in writing; applies to remote work and contracts performed within geographical boundaries
- For more information, visit:
<https://www.sandiegocounty.gov/content/sdc/OISE.html>



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Los Angeles County Ordinance

- Effective **September 3, 2024**
- Unincorporated areas of Los Angeles County
- Businesses with 5 or more employees located in unincorporated areas
- Enforced by Dept. of Business and Consumer Affairs
- Several Differences from state law:
 - Additional requirements with job ads, written offer letter disclosures, two written individualized assessments and recordkeeping
 - **New required notice** to be posted!
- For more information, visit:
<https://dcba.lacounty.gov/fairchance/>

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What's Next, California Employers?

- Ensure you stay up to date on **trainings**: mandatory harassment prevention training, annual WVPP training, supervisor wage and hour training;
- Keep your **employee handbook current** with new laws (CEA can assist you!)
- Comply with **new wage requirements** and pay attention to local ordinances
- Ensure you have an updated **Labor Law Poster** in your workplaces
- **Stay tuned** to ongoing developments by following **CEA's blog!**



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49



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