

Newsletter: February 2017



Doing Right by New Hires & Continuing Employees

Employment and labor laws are simply meant to protect rights and outline responsibilities in the workplace—but they're anything but simple. Constantly changing and highly complex, they can overwhelm even the most on-the-ball employers and their HR staff, hiring managers and supervisors.

We're here to alert you to some recent and upcoming HR changes that will impact your hiring practices, new hires and existing employees, and bottom line. And we're eager to help you navigate the changes as wisely, efficiently and cost-effectively as possible.

If you're considering any new hires in 2017, you'll want to take particular note of the following changes:

Immigration Practices

Effective January 1, 2017, SB 1001 makes it unlawful for an employer to request more or different immigration documents than those required under federal law or to question the authenticity of or refuse to honor documents presented. Further, the bill makes it unlawful to reinvestigate or re-verify a continuing employee's authorization to work (unless required by federal law).

Also, beginning January 22, 2017, employers must use the 11/14/2016 N version of Form I-9 (Employment Eligibility Verification) to verify the identity and work eligibility of every new employee hired. (The version date can be found on the lower left-hand corner of the form.) Prior versions of the form will no longer be valid for use.

How to respond: While you verify that new hires are either U.S. citizens or authorized to work in the United States, be mindful of the rules regarding which Form I-9 to use, what eligibility questions are permissible during pre-employment screenings, and what type of immigration documents are acceptable. If you don't comply, you could face a violation penalty of up to \$10,000.

Juvenile Criminal History



Effective January 1, 2017, AB 1843 prohibits employers from asking job applicants to disclose any information regarding juvenile convictions and makes it unlawful to seek or use any information related to juvenile arrests, detentions, or court dispositions as a factor in employment determination.

How to respond: Review your policies and practices to be sure that "off-limits" information is not requested or considered during any part of the

hiring process. Note: if you are an employer at a health facility, you may inquire about an applicant's juvenile crimes if a juvenile court has ruled that the crime committed was a felony or misdemeanor involving sex crimes or certain controlled-substance crimes and happened within five years of applying for employment (unless the record has been sealed).

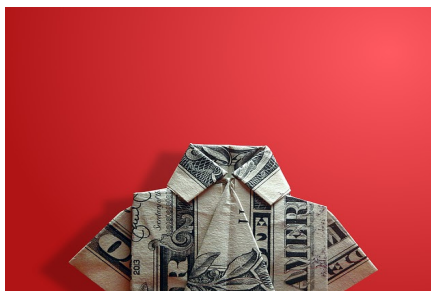
Fair Pay Act Expansions

Effective January 1, 2017, SB 1063 prohibits an employer for paying any employees wage rates that are less than those paid to employees of another race or ethnicity. In addition, AB 1676 specifies that prior salary cannot, by itself, justify any disparity in compensation.

How to respond: Employers and employees must negotiate and set salaries based on the requirements and expectations of each position and the qualifications of the employee rather than his or her prior earnings. You'll want to update job descriptions accordingly and revise any job applications that seek information about prior salary.

Minimum Salary Increase

If instituted, new Department of Labor overtime legislation (currently on hold during nationwide injunction) will almost double the minimum annual salary for full-time exempt employees to \$47,476. This is higher than California's minimum salary (which is no less than two times the state minimum wage) and will remain higher throughout 2017 (when state and



federal minimums differ, you must comply with the more restrictive requirement of the two). In addition, the new regulation could impact your organization's exempt/non-exempt classifications.

How to respond: While we await a federal court outcome, you should confirm that you're classifying each of your employees properly as exempt or non-exempt as well as consider honoring any salary increases or status changes that were implemented to meet the new threshold or status requirements. You might also conduct a cost analysis to determine whether your current compensation structure will work under the new regulations and make any necessary adjustments.

Legalization of Marijuana

While California has legalized recreational marijuana in California for people aged 21 and over, marijuana is still designated as a Schedule 1 substance under the federal Controlled Substance Act (CSA), which criminalizes the possession, manufacture, distribution and sale of the drug. We have yet to learn what the passing of Prop 64—as well as the discrepancy between state and federal marijuana legislation—will mean for California workplaces in terms of productivity, safety, employee privacy rights, zero-tolerance policies, drug testing methods and more.

How to respond: You're still entitled to maintain drug-free workplaces. As you await legislation addressing issues that will inevitably surface, confirm your background check and drug screen methods, review consent forms, and maintain clear and consistent, well-defined and well-communicated drug-use policies.



Upcoming Laws in 2017

As you incorporate new hires into your workplace, keep these upcoming laws in mind:

- All-gender bathrooms: As of March 1, 2017, AB 1732 will require all single-user toilet facilities in any business establishment, place of public accommodation or government agency in California to be identified as “all-gender.” Update your facilities accordingly and obtain and install the appropriate signage.
- Workplace violence notices: Starting July 1, 2017, AB 2337 will obligate California employers with 25 or more employees to provide written notice—to new employees upon hire and current employees upon request—of their right to take protected time off, without threat of termination, discrimination or retaliation, for domestic violence, sexual assault or stalking. (You might choose to include this notice in your employee handbook.)

If you're in one of these particular industries, take note:

- Health industry: Effective April 1, 2017, the Workplace Violence Prevention in Healthcare rule (California Code of Regulations/CCR Title 8, Section 3342) requires healthcare employers to develop and implement a specific written workplace violence prevention plan, review the plan and train employees annually, maintain a workplace violence incident log, report workplace violence as indicated, and more.
- Janitorial industry (and any California employer who employs at least one “covered worker” who enters into a contract, subcontract, or franchise agreement to provide janitorial services): Effective July 1, 2018, AB 1978 establishes requirements for the janitorial industry, including registering annually with the Labor Commissioner, to protect janitorial employees from wage theft and sexual harassment. It also requires employers to develop and implement biennial in-person sexual harassment and violence prevention training.
- Agricultural business (that means you, wine industry!): AB 1066 requires California employers to pay agricultural workers overtime over a four-year phase-in process. Beginning January 1, 2019 (though you may choose to implement sooner), employers are required to pay overtime for any hours worked over 9.5 hours per day or 55 hours per week (to incrementally lessen yearly until reaching 8 hours per day or 40 hours per week, beginning January 1, 2022). Also beginning on January 1, 2022, any employee who works over 12 hours per day must be paid at a rate no less than twice the regular rate of pay. (Employers with 25 or fewer employees will have an extra three years to comply with the phase-in.)

Thriving Through the Changes

How you respond and adapt to these complicated, ever-changing employment and labor laws is key to how you'll thrive through them—and we can help you do just that. HR professionals who specialize in compliance and stay continually up to date on federal, state and local regulations and requirements, we have the tools and resources to keep you abreast of these and many other changes, help you develop a thorough understanding of how specifically they will impact your unique organization, and work with you to tailor a plan to address them with success.



Copyright © 2017 Leap Solutions Group, Inc., All rights reserved.

Thank you for subscribing to our Leap Solutions newsletter.

Our mailing address is:

1400 North Dutton Avenue, #15 Santa Rosa, CA 95401

707-527-0969

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#)

The MailChimp logo, featuring the word "MailChimp" in a white, cursive script font, centered within a grey rectangular button.