

Employee Handbooks Must be Updated to Comply with Illinois and/or California Laws

2/3/2015

Practices: Employment, Labor & Benefits

EXECUTIVE SUMMARY:

New Illinois and California laws require most companies to post new notices and draft new policies for their employee handbooks. The Illinois Human Rights Act was amended to require that all Illinois employers with one or more employees make reasonable accommodations for conditions related to pregnancy and childbirth. In addition, California now requires that most employers with employees in California provide a minimum amount of paid sick leave, which will require employers to review or draft their sick day and/or paid time off policies to ensure they comply with these new requirements.

THE ILLINOIS EDGE

Effective January 1, 2015, all Illinois employers with one or more employees must comply with a recent amendment to the Illinois Human Rights Act. It requires employers to make reasonable accommodations for any medical or common condition of a job applicant or employee related to pregnancy or childbirth. No accommodation is necessary if the employer can demonstrate the accommodation would impose an undue burden on the ordinary operation of its business. The amendment applies to all job applicants, part-time, full-time, and probationary employees.

The employee is responsible for notifying her employer of a need for a reasonable accommodation. In response to a request for an accommodation, the employer may ask the requesting employee to provide documentation from the employee's healthcare provider regarding (a) the medical justification for the requested accommodation, (b) the description of the reasonable accommodation medically advisable, (c) the date the reasonable accommodation became medically advisable, and (e) the probable duration of the reasonable accommodation. Once the information is received, the employer and the employee must engage in a timely, good faith, and meaningful exchange to determine if an effective reasonable accommodation is available. Reasonable accommodations might include, but are not limited to, more frequent or longer breaks, breaks for increased water intake, assistance with manual labor, light duty assignments, temporary transfer to a less strenuous or hazardous position, job restructuring, part-time or modified work schedule, or reassignment to a vacant position.

ACTION REQUIRED:

Because the amendment: (1) specifically requires employers to post a new notice in a conspicuous location where notices to employees are normally posted, and (2) requires employee handbooks to include information regarding reasonable accommodations, all Illinois employee handbooks must be updated to include a reasonable accommodation provision.

THE CALIFORNIA EDGE

Effective January 1, 2015, with limited exceptions, every California and non-California based employer that employs employees in California must begin complying with California's Healthy Workplaces, Healthy Families Act of 2014 (the "Act"). The Act requires employers with employees in California to provide paid sick leave to any employee who works at least 30 days a year in California, including part-time, per diem and temporary employees. Beginning January 1, 2015, affected employers are required to (1) post a notice in a conspicuous place informing employees of their rights and (2) provide new employees with an individualized notice that includes information regarding paid sick leave.

Starting July 1, 2015, if the employer adopts an accrual method, non-exempt employees must earn at least one (1) hour of paid sick leave for every 30 hours worked. For a full-time non-exempt employee, this works out to about eight (8) days per year. An employee who is exempt from the overtime requirements is deemed to work 40 hours per workweek, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based on that normal workweek. As an alternative to the accrual method, employers can simply provide no less than 24 hours or three (3) days at the beginning of the 12-month period. The Act provides very specific accrual, carryover and use requirements that every employer's sick pay and/or paid time off plan must satisfy to ensure compliance.

Employees can take paid sick leave for themselves or a family member for preventative care or for care of an existing health condition or if they are the victim of domestic violence, sexual assault or stalking. Family members include the employee's parent, child, spouse, registered domestic partner, grandparent, and sibling. For partial days, the employer can require that employees take at least two hours of leave, but otherwise the employee determines how much time is needed. Employers must permit employees to use paid sick leave upon oral and written request.

ACTION REQUIRED:

Because the Act: (1) provides very specific accrual, carryover and use requirements, (2) requires employers to show how many sick days are available on the employee's paystub or a separate document, and (3) requires that records be kept for at least three years, employers with employees in California (including non-California based employers) must review their sick pay and/or paid time off policies to ensure compliance and update their payroll systems (if necessary).

The above Edges are summaries of some of the key features and requirements of these new state laws. To examine how these two laws may affect your company and discuss amending employee handbooks and payroll systems to comply, please contact a member of Masuda Funai's Employment, Labor & Benefits Group.