

THE REA LETTER

Monthly Human Resources and Labor Relations Digest

Daylight Saving Time

Daylight Saving Time will begin this year on Sunday, March 10, 2019. We recommend that a notice be posted on your Company bulletin boards to remind all employees of the change in time. A suggested notice is enclosed.

Required Postings

Most of our clients check their bulletin boards on a regular basis to make sure all required State and Federal posters are present. Frequently, posters are removed by employees who want to read or copy them or taken down by others for various reasons such as painting or repairing walls.

Unfortunately, some clients do not ensure that their company authorized materials are posted. It is important that company materials, such as the “Harassment Policy” and “Rules of Conduct” are posted at all times. Mark your calendar for a day this week to check and make sure that all Federal, State and Company required materials are posted at each of your facilities.

Salary History Information - Clarification -

In 2017, AB 168 was signed into law which prohibited California employers from asking job applicants for “salary history information”. California employers must also provide “applicants” with “pay scale information” for the particular position in question, upon a “reasonable request”.

Recently passed legislation in AB 2282 was able to clarify the above terms for employers.

AB 2282 clarifies the following:

Applicant – is an individual who seeks employment with the employer, not a current employee.

Pay Scale – a salary or hourly wage range that does not include bonuses or equity ranges.

Reasonable Request – a request made after an applicant has completed the initial interview.

Additionally, AB 2282 clarifies that although AB 168 prohibits employers from asking for an applicant’s salary history information, employers may ask about an applicant’s salary expectations for the position.

Nothing in these bills prohibit an applicant from voluntarily and without prompting disclosing salary history information. We strongly recommend hiring practices be reviewed so that employees involved in the hiring process understand what is considered acceptable.

California Makeup Time

Some of our Clients and Friends utilize makeup time. In California, where daily overtime at time and one-half is required for all hours worked beyond 8, makeup time is allowed under somewhat narrow circumstances. All the following must be accurate for the makeup time to be performed without experiencing daily overtime:

- The employee must submit a signed written request to be off work and to make up the time missed. This may be presented before the anticipated time away from work, or after actual time has been lost.
- The employer must approve makeup time.

- The employee may not work more than 11 hours on any day without paying time and one-half the employee's regular rate of pay.
- The makeup hours must be worked within the same workweek (payroll week).
- Hours worked in the workweek beyond forty (40) must be paid at time and one-half the employee's regular rate of pay regardless (Federal and State law).
- "The employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same workweek...."

Allowing makeup time may not work in your particular situation. Presence of supervision, co-workers (no one should be scheduled to work alone) and the ability to be productive must always be a consideration.

Requests should be presented in writing. We have seen e-mail, and this is fine.

Our experience has demonstrated that makeup time is more frequently used in office settings rather than production. We have seen makeup time be an important demonstration of Management's awareness of home-work life balance, but only when efficiencies are not sacrificed.

On-Call Policies and Reporting Time Pay

In California, employees are owed "Reporting Time Pay" if they report to work expecting to work a specified number of hours and are then deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.

The Industrial Welfare Commission Orders states, "Each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her scheduled day's work, the employee must be paid for half the usual or scheduled day's work, but in no event for less than two hours nor more than four hours, at his or her regular rate of pay". It further states, "If an employee is required to report to work a second time in

any one workday and is furnished less than two hours of work on the second reporting, he or she must be paid for two hours at his or her regular rate of pay".

Exceptions to this requirement include instances that are outside the control of the employer. These include:

- Public utilities fail to supply electricity, water, or gas;
- Operations cannot continue due to threats to employees or property;
- When civil authorities recommend that work not begin or continue;
- When there is an interruption of work caused by an Act of God; example, an earthquake.

A recent California Court of Appeal decision in *Ward v. Tilly's, Inc.*, has brought to our attention the need for Clients who may be utilizing On-Call policies to carefully review them.

In this class action complaint brought against Tilly's, it was determined that Tilly's *required* its employees to call-in two hours before a potential shift to see if they were needed. If an employee was told to report to work, they would be paid for hours worked. If an employee was told they were not needed for the day, the employee would not report to work and would not receive any compensation for the day.

Since Tilly's, Inc. policy *required* employees to call-in two hours before their potential shift, the court determined, in a 2-1 decision, that employee being required to call in to see if they were to report to work was the same as "reporting to work" and that employees in this case must be given "Reporting Time Pay".

Although this case deals with the mercantile industry, it is important to note that "Reporting Time Pay" language in most of the Industrial Welfare Commission Orders is the same. All employers should be aware of the potential liability. We strongly recommend Clients and Friends review any On-Call policy in place.

CONSUMER PRICE INDEX

Consumer Price Index for All Urban Consumers, CPI-U.

The Los Angeles-Long Beach-Anaheim Consumer Price Index (not seasonally adjusted) for January 2019 was 269.468, a 0.7% increase from December 2018, and a 3.2% increase over the last 12 months.

The United States City Average, Consumer Price Index (not seasonally adjusted) for January 2019 was 251.712, a 0.2% increase from December 2018 and a 1.6% increase over the last 12 months.

Los Angeles-Long Beach-Anaheim

January	2019	269.468
December	2018	267.631
January	2018	261.235

United States City Average

January	2019	251.712
December	2018	251.233
January	2018	247.867

Consumer Price Index for Urban Wage Earners & Clerical Workers, CPI-W.

The Los Angeles-Long Beach-Anaheim Consumer Price Index (not seasonally adjusted) for January 2019 was 259.182 a 0.4% increase from December 2018 and a 2.9% increase in the last 12 months.

The United States City Average Consumer Price Index (not seasonally adjusted) for January 2019 was 245.133, a 0.1% increase from December 2018 and a 1.3% increase in the last 12 months.

Los Angeles-Long Beach-Anaheim

January	2019	259.182
December	2018	258.101
January	2018	251.785

United States City Average

January	2019	245.133
December	2018	244.786
January	2018	241.919

All Consumer Price Indexes are based on 1982-1984.

HUMAN RESOURCES PICTURE

California Employment

No updates were available at the time this article was written.

Los Angeles Employment

No updates were available at the time this article was written.

National Employment

The national unemployment rate for January 2019 remained increased to 4.0%. Job sectors showing growth for the month were leisure and hospitality, health care, and transportation and warehousing.

National Wage and Hours

Real average hourly earnings for all employees increased 0.2% from December to January, seasonally adjusted. This stems from a 0.1% increase in average hourly earnings, combined with no change in the CPI-U.

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