

LEGAL INSIGHTS



BY LAURA B. RIESENBERG, ESQ.,
AND WENDY L. TUCKER, ESQ.
Senior Counsel at Procopio,
Cory, Hargreaves & Savitch LLP



New employment laws require immediate action

Several new laws went into effect in early 2009 that significantly impact California employers, including revisions to the Family Medical Leave Act, or FMLA, and COBRA continuation coverage entitlements. These new laws require affected employers to take immediate action.

Family Medical Leave Act

Public agencies and all private employers with more than 50 employees are subject to FMLA. The Jan. 1 statutory revisions to FMLA require these employers to take immediate steps to:

- Post a new FMLA poster to reflect the amended law in a location accessible to applicants and employees.
- Update employee handbooks to satisfy the new law's detailed requirements.

In addition, the amended FMLA provides additional leaves and expands the scope of pre-existing rules. For example:

- An employee is now entitled to take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury or illness.
- An employee is now entitled to take up to 12 weeks of FMLA leave for a "qualifying exigency" relating to the deployment or call to active duty of an employee's parent, spouse or child in the National Guard, the military reserve or who is retired military.

Among other things, the amended law changes the increments in which FMLA leave can be taken, changes the way paid leave can be used in conjunction with FMLA leave, sets forth new form and timing rules for employer notice requirements, adds new requirements for qualifying for a serious health condition and revises treatment of light duty leave.

It is important to note that there are other amendments to FMLA that may affect your business. Additionally, some of the new provisions of FMLA have created even more differences between FMLA and the provisions of the California Family Rights Act. To ensure your business is fully complying with both federal and state law, you should consult your attorneys.

COBRA subsidy

President Barack Obama signed the American Recovery and Reinvestment Act of 2009, or ARRA, on Feb. 17. This law imposes affirmative obligations upon employers who offer group health



UNDERSTANDING RECENT CHANGES TO FMLA AND COBRA WORKSHOP

WHEN:
From 7:30 to 9 a.m. April 29

WHERE:
Carlsbad Chamber of
Commerce, 5934 Priestly Drive

COST:
\$25

INFORMATION:
(760) 931-8400

OTHER:
Attendees must RSVP by
April 24

benefit coverage to their employees.

Under ARRA, certain employees and their qualified dependents are eligible to receive a federal subsidy of 65 percent of their COBRA continuation coverage premium costs for up to nine months. For most employee benefit plans, the subsidy is paid by the employer sponsor of the health plan, which can then be used as a credit toward the employer's quarterly employment tax return.

Federal COBRA law applies to employers with 20 or more employees that maintain a group health plan. The law also provides for subsidies by insurance carriers for employees receiving continuation coverage under Cal/COBRA.

Employees and their qualified dependents are eligible for the COBRA subsidy if the employee was involuntarily terminated from employment between Sept. 1, 2008 and Dec. 31, 2009. Eligible individuals who did not elect COBRA continuation coverage or elected COBRA, but whose coverage terminated, are entitled to a second election period.

What do employers need to do?

Employers must provide special COBRA notices before April 17, 2009. Employers also must establish procedures for implementation of the subsidy payments during a two-month transition period.

Employers claiming an off-set credit on their employment payroll taxes must comply with new reporting and record-keeping obligations. For most plans, the new law applies to premium payments after March 1, 2009.

For more information, call Laura Riesenberger at (619) 525-3877 or Wendy Tucker at (619) 525-3845.

Cal State University San Marcos president delivers annual report

"Renewing the Promise... Rising Above" was the theme of California State University San Marcos President Karen Haynes' 2009 Report to the Community.

Speaking to an enthusiastic audience of 300 regional leaders Feb. 5, Haynes vowed that the university would surpass expectations in key mission areas of educational attainment, community engagement and institutional accountability and innovation.

"Public higher education has promised to provide access and opportunity to those who arrive at its doors," Haynes said. "Our pledge to you has been not only to provide that access and opportunity, but to rise above that promise by actively creating pathways so that more students can arrive, qualified, at our doors."

Haynes reported that the university has built on its solid record of enrolling under-represented students. As examples, she said the university is close to earning federal Hispanic Serving Institution status, which is awarded to universities having at least 25 percent Hispanic full-time student enrollment, and it has become a federally designated Asian American and Pacific Islander Institution with student enrollment in that group exceeding 10 percent.

On the community engagement front, Haynes noted that students in the university's nationally-acclaimed Community Service Learning Program have delivered 104,000 hours of community service, valued at \$830,000. Its Chamber Champions program now has 72 volunteers who have filled more than 230 seats at chamber events and attended more than 80 chamber mixers. The university's Osher Lifelong Learning Institute, which debuted in 2004 with one location and 249 members, has grown to 15 locations and 885 members.

Haynes expressed pride in her university's standing as a national pioneer in institutional accountability, one of her long-standing priorities.

In 2007, the university became one of 17 pilot campuses in the nationwide College Portrait initiative. Prospective students, their parents and the general public can now get a comprehensive statistical picture of campus life by visiting www.csusm.edu and clicking on the "College Portrait" link on the lower left side.

Looking to the future, Haynes emphasized that the university is poised to sustain its remarkable trajectory, but cannot do it alone.

"Your university... needs your voice to carry the message that public higher education can lead us through the surmounting



"Public higher education has promised to provide access and opportunity to those who arrive at its doors."

Karen Haynes,
California State University San Marcos President

challenges we face," she said. "It needs your action to advocate for our support, not just to maintain, but to flourish. It needs your commitment, not only in words and deeds, but in resources. And it needs your presence at campus events where our community can gather with students, faculty and staff to plan, to problem solve and to celebrate achievements."

Haynes concluded her remarks by announcing the theme of the university's milestone 20th anniversary celebration in 2010.

"Cal State San Marcos will not just promise to advance into our 20s. We will rise above that. We will, with you, in just 11 short months, celebrate our 20th anniversary by roaring into our 20s," she exclaimed.

AMBASSADOR OF THE MONTH

Melissa Stimson of Taleo has been named Ambassador of the Month by the Carlsbad Chamber of Commerce.

Stimson has been a member of the Carlsbad Chamber of Commerce since 2006, and although she has been with several organizations over the years, the one constant has been her commitment to the Ambassador Committee.

"Being a member of the Ambassador Committee has allowed me to increase my professional and personal networks, and has given me the opportunity to stay connected to the Carlsbad community as a whole," Stimson said.

She said the chamber has been a great referral source over the years, connecting her with small- to medium-sized businesses. Although her new business focus with Taleo – an on-demand talent management software company – is more at an enterprise level, Stimson said the chamber members are still a valuable resource.

The netweaving concept promoted by the



MELISSA
STIMSON

chamber, and embraced by its members, has helped Stimson gain introductions to key contacts within organizations throughout not only Carlsbad, but in multiple states, to help her grow her business.

After 13 years as a staffing professional, Stimson is using her extensive knowledge of recruiting processes and systems to consult with clients on the benefits of working with the premier solution provider for talent management systems – Taleo.

Taleo connects candidates to jobs and automates the recruiting and hiring processes. The company integrates talent management, from powering multiple career sites to optimizing the onboarding process. But most of all, Taleo enables you to quickly identify, hire and retain top talent so you can drive business performance.