


Best Employment Policies and Practices: The First Line of Defense - March 17, 2016 , 10:45 am-12:00 pm

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Why Do You Need Employment Policies?


- Enhance Employee Morale
- Encourage Employee Productivity
- Eliminate Unnecessary Attrition and Associated Costs
- Provide Certainty To Employees And Administrators
- Provide Procedures For Disciplining and/or Termination of Problematic Employees
- Compliance with the Law; Avoid Legal Fees



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Things to Consider In Adopting Policies

- MOU Or Collective Bargaining Agreement
- Charter Petition
- Ties To The School District
- Education Code



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“Essential” Personnel Policies

- Employment At-Will Statement
- Employee Classifications
- Payroll Practices
- Teacher/Student Interaction
- Performance/Discipline
- Unlawful Harassment/Discrimination
- Leaves Of Absence
- E-mail/Voice Mail And Internet Usage
- Social Media
- Paid Sick Leave – New in 2015!

At-Will Employment

- Advantage Of At-Will Language
 - Is at-will a myth?
- Contracts For A Specified Term (School Year) Can Still Be At-Will
- Termination for “Cause” is Opposite of At-Will

Why are Employee Classifications Important?

- Can Determine Right To Benefits, Overtime, Rest Breaks and Meal Periods
- Can Create Legal Liability
- Can Affect Unionization

Common Types of Employee Classifications

- Exempt v. Non-Exempt
- Certificated v. Non-Certificated
- Full-time v. Part-Time
- Permanent/Probationary*
- Regular v. Temporary



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Payroll Policies - Exempt v. Non-Exempt Employees

- Exempt Employees Are Paid The Same Salary For All Hours Worked Regardless Of How Few Or How Many
- Non-Exempt Employees Are Paid By The Hour And May Be Entitled To Overtime, Meal Breaks And Rest Breaks
- Salary and Duties Test to Qualify to be Exempt



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Payroll Policies

- Timekeeping Policies
- Meal/Rest Breaks
- Overtime
- Payroll Schedule
- Payment of teachers for 10 month, 11 month or 12 month period
 - Classified?



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Common Payroll Policies for All Employees

- Holidays
- Vacation/Paid Time Off
- Paid Sick Leave – REQUIRED.
- Health/Dental Benefits
- Retirement Benefits
- Business Expense Reimbursement

Common Payroll Policies For All Employees - Terms

- **Policies Should Include:**
 - Eligibility conditions
 - Accrual/Vesting requirements
 - Method of requesting and obtaining approval
 - “Caps” or “ceilings”
 - Cash out or carry-over of unused benefits
 - Use it or lose it policies (sick leave, only if given full 3 days up front)

Sick Leave Law: Award v. Accrual

- **Award** - provide minimum of 3 days of paid sick leave per year at beginning of year
 - **EXCEPT** Union employees covered by CBA with paid sick leave where CBA provides for “final and binding” arbitration of sick leave disputes
 - Retired PERS employees who are still working
 - 3 days is either minimum of 24 hours or 3 x number of hours worked per day

Sick Leave Law: Award v. Accrual

- **Accrual:** At least 1 hr leave for every 30 hrs worked
 - 1.3 hrs per week or 5.3 hrs per month of sick leave for 40-hr/wk employees
 - Employees can use sick leave beginning on 90th day of employment
 - Unused sick days must carry over up to cap of 6 days (48 hrs).



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Specific Requirements of CA Sick Leave Law (continued)

- Maximum use increment of 2 hours.
- Cannot force employee to find someone to cover work in order to take leave
- Used for “diagnosis, care or treatment of existing health condition or preventative care for an employee or an employee’s family member”.
 - (includes parent-in-law, grandparent/child, sibling)
 - ½ leave for kin care



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Not required for employers who already have PTO or sick leave policy IF:

- Current policy provides at least 3 days of leave for same purposes and under same conditions as new law, and either:
 - Satisfies accrual, carry-over requirements; or
 - Provides 3 days (24 hrs) leave up front at beginning of each year of employment.
 - If PTO provided, still must pay out on termination.
 - Must still comply with all posting and notice requirements.



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Specific Requirements of CA Sick Leave Law (continued)

- No discrimination or retaliation – rebuttable presumption if adverse action w/in 30 days of Employee:
 - Filing complaint with Labor Commissioner
- Cooperating w/investigation
 - Opposing policy or act prohibited by new law



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Other Payroll Policies for Employers

- Record-Keeping
- Payroll Periods
- Handling Of Payroll Deductions
- Pay Statements
- Payment Of Wages Upon Termination
- Payment Of Accrued Vacation Upon Termination



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Teacher/Student Interaction Policy

- Strongly Recommended
- Should Be Tied To Mandatory Reporting Requirements
- Will Help Keep School, Teachers and Students Protected
- Will Provide Basis and Grounds For Handling Difficult Situations
- Should Include Prohibition Against Involving Students/Parents in Personnel Issues



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Performance Policies

- Role Of Performance Evaluations
 - Acknowledge superior performance and identify performance problems
 - Supervisor training recommended
- Policy Should Set Forth:
 - Frequency of evaluations
 - Should specify failure to evaluate won't prevent termination



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Discipline Policies

- Be As Simple And Clear As Possible
- Avoid "Tables Of Penalties"
- Retain Reasonable Degree Of Flexibility
- Whatever You Adopt, You Must Follow



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Discipline Policies (continued)

- Can Provide Illustrations Of Disciplinary Offenses
 - Include caveat that list is not exhaustive
 - Do not characterize as "grounds" or "cause" for termination
 - Provide that prohibited conduct "may lead" to termination



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Discipline Policies (continued)

- If Specify Termination Only For Cause, Must Provide Due Process
- Due Process May Include
 - Pre-Disciplinary Notice
 - Employee’s right to meaningfully respond
 - Hearing



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Harassment/Discrimination Policies

- Employers Are Required To Take “All Reasonable Steps Necessary To Prevent Discrimination And Harassment From Occurring.”
- Policy Should Require All Managers To Report Any Instances Of Harassment Of Which They Are Aware
- Managers Must Undergo State-Mandated Sexual Harassment Training Every Two Years if more than 50 employees



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Harassment/Discrimination

- Strict Policy Against Any Type Of Harassment
 - Should include applicants, employees and independent contractors
 - Equal Opportunity Statement
 - Must Expressly Prohibit Retaliation
 - Should Not Guarantee Confidentiality



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Harassment/Discrimination (continued)

- Policy Should Set Forth Procedures for:
 - Complaints
 - Investigations
 - Discipline



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Medical leave Policies – Why They Are Important

- Statutorily Regulated
- Often Implicate Sensitive Legal Considerations
 - Pregnancy discrimination
 - Sex discrimination
 - Disability discrimination
 - Workers’ compensation
 - Family and medical leave issues
 - Alcohol and drug rehabilitation



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Medical Leave Policies

- Policies Should Include:
 - Circumstances under which leave will be granted
 - Maximum amount of leave time available
 - Employee’s obligations while on leave
 - Documentation required



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Medical Leave Policies (continued)

- Distinguish Between Medical And Non-medical Leaves
- Do Not Treat Pregnancy Or Pregnancy-related Leaves Differently Than Other Types Of Leaves Except As Required By Law

Other Statutorily-Mandated Leave Policies

- Jury Duty/Witness Duty Policy
- School Activities/Discipline Policy
- Voting Policy
- Military Leave
- Military Spouse Leave Law
- Victims Of Domestic Violence/Sexual Assault/Stalking
- Crime Victims
- Civil Air Patrol Leave
- Organ and Bone Marrow Donor Leave

E-mail/Voice Mail/Internet Use Policies

- Important To Adopt This Policy Before You Have A Problem
- Should Limit Employees' Expectation Of Privacy
- Should Establish Employer's Right To Monitor/Access
- Particularly Important For Charter Schools If Computers Are Used In The Classrooms And Students Have Access

Social Media Policies

- Posting during work time
- No expectation of privacy
- Employees should not speak for organization unless authorized
- Media contact
- Protection of confidential information
 - Including student information
- Must be mindful of School and teacher's image!
- Must comply with all laws and school policies



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Other Types of Useful Policies

- Drug Testing
- Workplace Safety And Violence Prevention
- Dress And Grooming Standards
- Inspection Of Personnel Files
- Privacy



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Other Types of Useful Policies (continued)

- Immigration Compliance
- Exit Interviews
- Conflicts of Interest
- Nepotism/Related Parties
- Confidentiality



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Now that you have policies, what do you do with them?

- Follow Them !
 - Having them and not following them is worse than not having them at all
- DOCUMENT, DOCUMENT, DOCUMENT !



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Useful Websites for Employers

- www.ca.gov
- www.eeoc.gov
- www.dfeh.ca.gov
- www.edd.ca.gov
- www.FLSA.us.gov/
- www.dol.gov
- www.dir.ca.gov.DOSH
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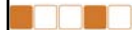


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