2026 Midyear Employment Law Update

Presented By

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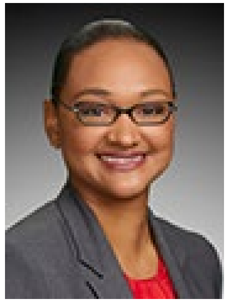

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Housekeeping

- Submit questions through the Q&A function.
- Keep questions relevant to the current topic.
- View links and report issues via Chat.
- Webinar runs from 10 a.m. to 11 a.m.
- A recording will be made available after the event.
- HRCI and SHRM credit codes at end — and a survey!
- MCLE credits available at seminars@calchamber.com.
- Have fun and use emojis! 😄

Agenda

- Regulatory and Statutory Updates.
- Federal Employment Law Developments.
- Key Cases.
- Poster Updates.
- Takeaways and Reminders.

Regulatory And Statutory Updates

Minimum Wage

- Currently, the state minimum wage is $16.90 per hour for all employers, regardless of size.
  - The minimum annual salary for exempt employees is currently $70,304 (two times the state minimum wage).
- Effective January 1, 2027, the state minimum wage will increase to $17.40 per hour.
  - The annual minimum salary for exempt employees will increase to $72,384.

Healthcare Worker Minimum Wage

- Rates for all covered healthcare facilities increased on July 1, 2026.
  - Hourly employees in those facilities must be paid the applicable minimum wage.
  - Rates range from $19.28 to $25 per hour, depending on facility type.
- The minimum wage increases also impact the calculation of exempt salary thresholds for covered employees.
  - Exempt employees must be paid the higher of either 1.5 times the healthcare worker minimum wage or two times the regular state minimum wage.
- https://www.dir.ca.gov/dlse/Health-Care-Worker-Minimum-Wage-FAQ.htm

Local Minimum Wage Increases Effective July 1

- **Alameda**: $17.76 per hour.
- **Berkeley**: $19.61 per hour.
- **Emeryville**: $20.34 per hour.
- **Fremont**: $18.05 per hour.
- **Los Angeles City**: $18.42 per hour.
- **Los Angeles County (unincorporated areas)**: $18.47 per hour.
- **Malibu**: $17.91 per hour.
- **Milpitas**: $18.50 per hour.
- **Pasadena**: $18.57 per hour.
- **San Francisco**: $19.61 per hour.
- **Santa Monica**: $18.47 per hour.

Los Angeles County Hotel Workers Protection Ordinance

- Effective April 1, 2026, Los Angeles County adopted a Hotel Workers Protection Ordinance (HWPO).
- The HWPO applies to covered hotel employers within the unincorporated areas of Los Angeles County.
- The HWPO's main requirements are:
  - Panic buttons for hotel workers;
  - Workload and work hour limitations for hotel workers;
  - Public Housekeeping training required for hotel workers (effective October 1, 2026); and
  - Employer notice posting requirement.

Los Angeles City Hotel And Airport Worker Minimum Wage Ordinance Amendments

- Effective June 29, 2026, the city of Los Angeles amended its hotel and airport worker minimum wage and health benefits ordinance (originally adopted in 2025).
- Main amendments to the ordinance include:
  - By January 1, 2030, minimum hourly wage rates for hotel workers will increase to $30;
  - Hotel employers must match the LAX health benefits payment rate starting in 2028;
  - The categories that can be counted towards an employer's health benefits obligation are narrowed.

San Diego Hospitality Minimum Wage Ordinance

- Effective July 1, 2026, the minimum wage for hotel and amusement park employees working in the city of San Diego is $19 per hour.
  - For hotel employers, these wage increases apply to properties with 150 or more guest rooms.
- Effective July 1, 2026, the minimum wage for specific event center employees working in the city of San Diego is $21.06 per hour.
- Set rate increases will occur through 2030.
- Employer notice posting requirement.

Workplace Violence Prevention Standards

- **Effective July 1, 2024,** these standards apply to all California employers except:
  - Healthcare employers subject to Health Care Facilities Violence Prevention Standard or employers who comply with that regulation.
  - Employees teleworking from a location of the employee's choice outside of the employer's control.
  - Workplaces with less than 10 employees at any given time that aren't accessible to the public.
  - Various corrections and law enforcement agencies.
- Currently, all covered employers must:
  - Implement a workplace violence prevention plan;
  - Train employees on the specific plan; and
  - Meet recordkeeping requirements.

Workplace Violence Prevention Plan Annual Review

- All covered employers must have a written workplace violence prevention plan (either a standalone document or integrated with an existing Injury and Illness Prevention Program (IIPP)).
- Many components are required in the plan, each with a varying level of detail required.
- Customization is required! Employers must tailor their plan to include information for each worksite where employees work, which may require separate plans for each worksite.
- Employers must review plans annually for effectiveness regardless of whether any workplace violence incident occurred in the past year, and document efforts to do so.

Training Requirements

- Employers must provide effective training on their workplace violence prevention plan.
- Training materials must be appropriate in content and vocabulary to employees' educational level, literacy and language.
- Training must be provided:
  - When the prevention plan is first established;
  - Annually, thereafter; and
  - Whenever changes are made to the plan or a new hazard is identified (the training may be limited to the plan change or new hazard).
- Anyone may provide the training, but the trainer should have expertise on the employer's specific prevention plan to answer questions.

Ongoing Recordkeeping Requirements

- Keep these records for five years:
  - Records of hazard identification, evaluation and correction, including records of the annual reviews and any changes made to the plan.
  - Violent incident logs.
  - Records of workplace violence incident investigations.
- Keep training records for one year.
- Records must be made available to the California Division of Occupational Safety and Health (Cal/OSHA) upon request.
- Records, except for post-incident investigation records, must be made available to employees and their representatives for examination and copying within 15 days of request.

Pending Regulations

- The law requires Cal/OSHA and the Occupational Safety and Health Standards Board (OSHSB) to create and implement regulations that at least match the requirements of the law.
- A revised draft of proposed regulations was released on July 22, 2026, and public comments were due August 17, 2026.
- While the law requires the OSHSB to adopt the final regulations no later than December 31, 2026, it is currently unclear when these regulations will be adopted.
- For more information, see: https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/.

Cal/OSHA "Walkaround Rule"

- This year, Cal/OSHA published a proposed rule broadly defining who may accompany Cal/OSHA representatives during workplace safety inspections, commonly referred to as the "walkaround rule."
- The rule allows an employee representative, who may be an employee, a third party or a collective bargaining representative, to accompany Cal/OSHA during an inspection.
- The proposed rule follows a similar federal Occupational Safety and Health Administration (OSHA) rule that took effect in 2024.

Federal Employment Law Developments

IRS Mileage Rates Increased On July 1

- Effective July 1, 2026, the standard mileage rates for the use of a personal vehicle driven for business use is **76 cents per mile**, up 3 cents from the January 1, 2026, rate of 72.5 cents.
- The California Division of Labor Standards Enforcement (DLSE) has stated that using the IRS mileage rate will generally satisfy an employer's obligation to reimburse for business-related vehicle expenses, absent evidence to the contrary.
  - Reminder: Mileage reimbursement is separate from any travel time owed to nonexempt employees.
- Employers should update their expense reimbursement policies to reflect the new July 1 rates.

DOL Rescinds 2024 Overtime Rule

- In May 2026, the U.S. Department of Labor (DOL) announced the publication of a technical amendment that officially rescinded the DOL's 2024 overtime rule, which sought to increase the exempt salary threshold under the federal Fair Labor Standards Act (FLSA).
- The amendment reinstated the agency's 2019 rule, under which the federal white-collar exempt salary threshold is $684 per week (equivalent to $35,568 per year).
- California employers are already subject to a higher standard under state law.

DOL Opinion Letters

- DOL Opinion Letter FMLA2026-1 considered how an employer should count an employee's Family and Medical Leave Act (FMLA) time when the employer closes for part of a week due to bad weather:
  - When an employee is approved to take FMLA leave for less than a full workweek, and the employer closes for part of the week, the closure time should not be deducted from the employee's FMLA leave entitlement.
  - If, however, the employee is using FMLA for a full workweek, then a closure part of the week doesn't impact the employee's FMLA usage, and the employer may deduct a full week's worth from the employee's leave entitlement.

DOL Opinion Letters, Cont.

- DOL Opinion Letter FMLA2026-2 confirmed that an employee may use FMLA-protected leave for the time spent traveling to and from a medical appointment for a serious health condition.
    - According to the DOL, traveling to a healthcare provider's location is "part and parcel of obtaining care," and the FMLA covers such time.

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DOL Opinion Letters, Cont.

- DOL Opinion Letter FLSA2026-9 considered whether midday travel between an employee’s home and their workplace was compensable when the employee performs work at both locations and midday travel is a voluntary option that the employer offers for schedule flexibility.
    - In looking at various scenarios, the DOL concluded that midday travel qualifies as “normal” or “ordinary” commuting travel, which is not compensable hours worked under the FLSA (resting on the principle that time counts as “hours worked” if it primarily benefits the employer).

DOL Opinion Letters, Cont.

- DOL Opinion Letter FLSA2026-10 addressed the issue of when pre-shift activities and commuting time may become compensable under the FLSA.
  - Scenario: Within an hour before traveling from home to various client sites, the employer sends the employee client service requests through the employee's paging/messaging system, and the employee takes approximately 15 seconds to accept each page and then calls each client to set up appointments, with each call taking five to 10 minutes (unpaid by the employer). In some instances, the employee receives the client service requests while still at home, and in others, the employee is already driving to a client location and making client calls while driving.
  - The DOL concludes that the time receiving assignments electronically is not compensable — whether performed at home or during the commute — under the federal Employee Commuting Flexibility Act (ECFA). However, time spent on the phone with clients and other field employees is compensable.

EEOC Votes To End EEO-1 Reporting

- In July 2026, the Equal Employment Opportunity Commission (EEOC) formally voted to issue a Notice of Proposed Rulemaking that would officially rescind the longstanding EEO-1 demographic reporting requirement for large employers, along with similar reporting requirements for other groups. In the proposed rule, the EEOC determines that the reports:
  - Are inconsistent with equal employment opportunity law;
  - May raise constitutional concerns; and
  - Collect data that is not narrowly tailored or necessary to enforce anti-discrimination statutes.
- Employers with 100 or more employees have long been required to submit EEO-1 reports to the EEOC with workforce demographic data, including data by job category, sex and race or ethnicity.

EEOC Votes To End EEO-1 Reporting, Cont.

- The proposed rule's 30-day public comment period is open through August 25, 2026.
- Although it seems increasingly unlikely that the EEOC intends to collect EEO-1 reports this year, employers should consider preparing their reports because current regulations still require them, and it may be weeks or months before the proposed rule takes effect. Even when finalized, it may be subject to legal challenges that could delay implementation.
- Employers should continue monitoring the EEO Data Collections website, which currently states that updates regarding the data collection will be posted on the page as they become available: https://www.eeoc.gov/data/eeo-data-collections
- California's Civil Rights Department (CRD) pay data reporting requirements are still in effect, due annually on the second Wednesday of May.

EEOC National Enforcement Plan

- On June 4, 2026, the EEOC released a new five-year National Enforcement Plan, replacing the prior Strategic Enforcement Plan.
- The new enforcement plan focuses on enforcing federal anti-discrimination laws using a three-pronged approach:
  - Prevention through education and outreach;
  - Voluntary resolution of disputes; and
  - Strong and even-handed enforcement via the EEOC's litigation program.
- California employers should remember they are also subject to California's anti-discrimination laws, enforced by the CRD.

Form I-9 Inspections And Enforcement

- On March 17, the U.S. Immigration and Customs Enforcement (ICE) revised its *Form I-9* Inspection Under Immigration and Nationality Act § 274A fact sheet, indicating it is taking a more aggressive approach to *Form I-9* violations.
- The fact sheet describes ICE's I-9 inspection process, including what happens if it finds violations. ICE classifies violations as either "technical" or "substantive," depending on the specific issue.
    - Importantly, if ICE identifies a technical violation, employers have 10 business days to correct the problem without penalties. New technical violations were also identified.
    - Substantive violations are subject to penalties with no opportunity to correct them.
- This effectively eliminates the 10-day cure period for many common errors in *Form I-9* paperwork.

H-1B Visas

- On September 19, 2025, President Trump issued a proclamation requiring that employer petitions for H-1B visas include a $100,000 payment for each visa petition, which must be paid before the petition is filed.
- Litigation challenging the requirement was filed shortly thereafter, and on June 8, 2026, a federal district court vacated the $100,000 fee, ultimately concluding that the fee constituted an impermissible tax.
- The administration appealed the decision on June 11, 2026.
- The court's decision conflicts with a different federal court decision that upheld the fee in a similar legal challenge. That case has also been appealed.
- With both appeals pending, the legal status of the $100,000 H-1B requirement remains unsettled. Employers should monitor developments and work with legal counsel on how to proceed with H-1B petitions.

Key Cases

Employer Knowledge Of Employee's Disability

- An employee, Daniel Husband, exhibited two instances of aggressive behavior and irrational comments. Based on the employee's behavior, the employer decided to terminate Husband's employment for violating the employer's workplace violence prevention policy.
- At the time the decision was made, Husband had not informed the employer that he suffered from bipolar disorder and had not requested an accommodation.
- Husband filed a lawsuit, alleging claims for disability discrimination, failure to provide reasonable accommodation and failure to engage in the interactive process under California's Fair Employment and Housing Act (FEHA).

Employer Knowledge Of Employee's Disability, Cont.

- The court ruled in favor of the employer, concluding that, absent direct notice from the employee or a third party, an employer can only be charged with knowledge of an employee's undisclosed disability when the disability is the only reasonable interpretation of the employer's observation of the underlying facts.
- In the circumstances of this case, the employer couldn't be charged with knowledge of Husband's bipolar disorder based on the two instances of aggressive behavior and irrational comments because bipolar disorder was not the only reasonable interpretation of the facts.
- The court noted that such behavior could have been caused by sleep deprivation, side effects of medications and other circumstances.

Husband v. Target Corp., 120 Cal.App.5th 762 (2026).

Good-Faith Mistake In Law Still Supports Retaliation Claim

- Manuel Contreras worked for his employer as a forklift driver from 2016 to 2020. During his employment, he learned that other employees performing similar work were being paid more than him, including employees with less seniority than him. He raised the issue with supervisors several times, but no action was taken.
- Based on conversations with a deputy labor commissioner and FAQs on the Labor Commissioner's website, he believed his employer was violating California's Equal Pay Act (EPA).
- Contreras was later terminated for a variety of reasons, including violating company procedures, disrupting work and refusing his manager's instructions.

Good-Faith Mistake In Law Still Supports Retaliation Claim, Cont.

- In 2021, Contreras filed suit against his employer for retaliation, including whistleblower retaliation under Labor Code section 1102.5, related to his discussions about alleged EPA violations at work.
- The jury found that the employer retaliated against the employee for engaging in protected activity, but the employer established that the employee was mistaken about the alleged EPA violations and argued he wasn't reporting any violations. The trial court agreed, reducing the judgment against the employer.
- On appeal, the court found that where the employee has an objectively reasonable belief that the employer was violating the law, even if mistaken, California law still protects the employee from retaliation for raising the issue as a protected activity.

Contreras v. Green Thumb Produce, Inc., 116 Cal.App.5th 1251 (2025).

Background Check Rules

- Tina Parsonage applied for a job as a sales associate and a few days later accepted an offer of employment, conditioned on passing a background check. She electronically viewed and acknowledged receipt of a background report disclosure and electronically signed the related authorization.
- The disclosure was 14 pages long, with the “California Disclosure” beginning on page 9 and listing six consumer reporting agencies with a number to call to find out which agency was used for her report.
- The employer mailed a copy of the report to Parsonage, and she began employment on June 15, 2018.
- In September 2021, Parsonage sued the employer for a violation of California’s Investigative Consumer Reporting Agencies Act (ICRAA), alleging that her employer failed to identify the agency conducting the investigation by including six agencies in the disclosure.

Background Check Rules, Cont.

- The employer alleged that Parsonage lacked standing to sue under the ICRAA because she didn't suffer any harm from the violations as she ultimately received the job she applied for and didn't experience any adverse employment actions.
- The trial court agreed with the employer and granted its motion for summary judgment on the basis of lacked standing under ICRAA.
- The Court of Appeal disagreed and reversed the trial court's decision.
- According to the court, the California Legislature, through the damages provision, "made clear the agency or user should be held liable regardless of whether the consumer suffers any actual damages."

Parsonage v. Wal-Mart Associates, Inc., 118 Cal.App.5th 399 (2026).

Classification Of Volunteers

- Plaintiffs worked at a religious nonprofit organization as part of a drug and alcohol rehabilitation program, and they were classified as volunteers.
- In addition to attending mandatory classes and meetings as part of the rehabilitation program, participants were required to engage in what the employer refers to as work therapy, which consists of various tasks performed in support of the employer's thrift stores.
- Plaintiffs filed a class action lawsuit alleging that the work made them employees, not volunteers, and that the employer failed to pay minimum wage and overtime.
- The trial court agreed with the employer, finding that plaintiffs were volunteers because there was no express or implied agreement for compensation.

Classification Of Volunteers, Cont.

- The appellate court determined that instead of focusing on the lack of an agreement, courts should evaluate a volunteer's motivation and ensure that nonprofits are not unfairly exploiting volunteer labor.
- The court announced a two-part test for courts to determine whether these factors are met and sent the case back to the trial court to apply the test:
  - (1) Nonprofit must demonstrate that the worker freely agreed to work for a personal or charitable benefit, not for compensation.
  - (2) Nonprofit must demonstrate that its use of volunteer labor is not an effort to avoid having to comply with wage-and-hour laws.

Spilman, et al. v. The Salvation Army, 117 Cal.App.5th 913 (2026).

Poster Updates

Poster Updates

- *Cal/OSHA's Safety & Health Protection On The Job,* updated April 2026.
  - Minor revisions to Cal/OSHA's contact information contained in the notice for its Santa Barbara and San Francisco offices.
- *Your Rights Under USERRA*, updated July 2026.
- *Minimum Wage Order Supplement for Covered Health Care Employees*, effective 7/2026 – 7/2027.
- Local minimum wage ordinance posters, updated for localities with July 1, 2026, minimum wage increases.

Takeaways And Reminders

Takeaways And Reminders

- Ensure employees' pay was increased to account for applicable July 1 minimum wage increases and plan for January 1, 2027, increases.
- Complete annual workplace violence prevention plan review and conduct annual employee training.
- Update expense reimbursement policies and practices to reflect IRS mileage rate increase.
- Review *Form I-9* practices to ensure they are complying with the law and avoiding hefty penalties for minor errors.
- Implement current versions of updated posters.
- Subscribe to *HRWatchdog* for updates on pending cases, agency actions and other updates that may impact California employers.
- Stay tuned for updates on new legislation for 2027!

Certificate of Achievement

2026 Midyear Employment Law Update

August 20, 2026

(Name)

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For Live Event: SHRM Activity ID: 26-WQJFE (1.0)

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Thank You