

LEGAL NEWS

Growing Obligations of Growing Businesses

The obligations of an employer are extensive and detailed. To lessen the burden on "small businesses," some of the obligations only apply when your business reaches a certain size. As your business grows, so do your obligations to your employees. What follows is an overview of the laws to which you are subject as a California employer as you hire more employees.

Two Employees: You are subject to "Cal-COBRA," a program which allows terminated employees to purchase continuation health coverage. Cal-COBRA does not apply when Federal COBRA does (see below)

Three Employees: The Immigration Reform and Control Act (IRCA) applies, which prohibits discrimination based on national origin or citizenship status.

Five Employees: California's Fair Employment and Housing Act (FEHA) applies. It provides protection against discrimination based on several categories, including race, gender, and disability. All employers, regardless of size, are prohibited from discriminating on most of these grounds.

FEHA requires that employees disabled due to pregnancy be granted a leave of absence. Employers must also make reasonable time accommodations for employees' religious beliefs.

Fifteen Employees: Title VII of the Federal Civil Rights Act apply at this level. It prohibits discrimination based on race, color, sex, national origin, or religion.

The requirements of the ADA (Americans with Disabilities Act) also applies to employers with fifteen or more employees.

Finally, California's FEHA prohibits discrimination based on mental disabilities by employers of this size.

Twenty Employees: The Age Discrimination in

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Employment ACT (ADEA) applies, prohibiting discrimination against employees 40 years of age or older.

Also at this level, the Federal COBRA requirements apply, requiring that terminated employees have the opportunity to purchase continuation medical insurance. The details of the program are different from Cal-COBRA.

Twenty Five Employees: California labor requires employers to "reasonably accommodate" an employee who voluntarily enters and participates in an alcohol or drug rehabilitation program.

If you have 25 employees at one location, you must allow employees to attend their children's school or day care. (All employers, regardless of size, must make reasonable accommodation so their employees can deal with school discipline matters.)

Finally, California labor law requires employers with twenty-five or more employees to give reasonable accommodation and assistance to any employee who reveals a literacy problem and requests assistance in an adult literacy program.

Fifty Employees: At this size, employers become subject to the California Family Rights Act (CFRA) and the Federal Family and Medical Leave Act (FMLA). The requirements of these two Acts are similar, but not identical. Both require that employers provide leaves of absence to employees for the birth or adoption of a child or a serious family illness. The leaves are not required to be paid.

Conclusion: Although every California employer is subject both Federal and California labor laws, larger employers must meet additional requirements. These requirements, and the size of the businesses they apply to, are constantly changing. As your business grows, you should periodically review which laws apply to you and how best to meet their requirements.

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