



Murphy Austin Adams Schoenfeld LLP

Employment Law Newsletter

April 6, 2005

New Poster Requirement

In March of 2005, the Department of Labor issued a new poster regarding the Uniformed Service Employment and Reemployment Rights Act (commonly known as "USERRA"). Employers of all sizes should post this poster as soon as possible. The poster may be downloaded at <http://www.dol.gov/vets/programs/userra/poster.pdf>.

MAAS Offering Sexual Harassment Training

Employers of 50 or more employees are required to ensure their supervisors receive two hours of sexual harassment training in 2005. While smaller employers are exempt from that requirement, training their supervisors on how to prevent and handle harassment claims is advised. On **May 13, 2005**, the labor and employment attorneys at MAAS invite you to bring your supervisors and other employees to a sexual harassment training seminar designed to meet the training requirements proscribed by law and, in addition, educate your supervisors on handling other forms of harassment. The training will be held from **9:00 a.m. to 11:00 a.m. at the Doubletree Hotel in Sacramento**. The cost for attendance is \$55 per person. Further information will be mailed to you in April. We hope this training option will assist you in complying with the law and meeting all of your harassment training needs.

Federal Child Labor Laws Revised

Employers employing minors (those under 18-years of age) should be aware that the Department of Labor recently revised its laws regarding child labor. If you employ a minor, especially if the minor is employed in a cooking, driving,

roofing, or explosive-related position, you should contact counsel to ensure that you are in compliance with these new laws.

Relaxed Requirements For Foreign Worker Visas

The U.S. Citizens and Immigration Services recently announced that employers could file for an H-1B visa for any qualified applicant in 2005. Previously, employers were only allowed to seek such visas for workers with at least a master's degree from a U.S. institution of higher learning. For employers who seek workers from around the world, this may greatly increase the number of potential employees available to you.

Mandatory Leaves

We commonly receive questions relating to the leaves of absence that an employer is required to provide. This is not surprising considering the number of leaves that are required, the similarity of many of those leaves, and the fact that employers are required to offer different leaves depending on their size. We prepared the chart below to assist you in ensuring that you comply with the law.

Number of Employees	Type of Leave	Qualifying Event	How Much Unpaid Leave?	Additional Information
1-4	School Leave Related to Suspension	Employee requested by school to visit the school in relation to a suspension	Enough time to visit the school	Applies to students K-12
	Voting Leave	Employee has insufficient time to vote in a state election outside of working hours	Sufficient time to vote (up to 2 hours paid unless employee does not give sufficient notice of need for leave)	Employer must post notice of the leave 10 days prior to a state election. The leave should be at the beginning or end of the workday; whichever gives more time to vote and requires the least amount of time off.
	Jury Duty Leave	Participation in Jury duty	Enough time to fulfill the service	
	Witness Testimony Leave	Employee receives a subpoena or other court order to testify	Enough time to comply with the subpoena or court order	
	Crime Victim Leave	The victim is the employee or his/her immediate family member, registered domestic partner, or the registered domestic partner of his/her parent	Enough time to attend the judicial proceedings related to the crime	The crime must be a serious or violent felony.
	Emergency Personnel Leave	Performance of duty as a volunteer firefighter, reserve police officer, or emergency rescue personnel	Enough time to fulfill his/her duties	
	Military Leave	Military service (active or inactive)	4 periods of leave totaling 5 years	
	Kin Care Leave	Illness of the employee's spouse, child, parent, or registered domestic partner	Up to ½ of the employee's annual sick leave accrual	Only applies if the employer offers sick leave to its employees. An employees is not entitled to any additional sick days, but must be allowed to use up to ½ of his/her annual accrual of sick leave to care for their spouse, child, parent or registered domestic partner.
On-the-Job Injury Leave	Work-related Injury	Enough time to recover unless business realities require termination	Can deny leave if permanently disabled or the employer reasonably believes, based on medical evidence, that the employee can't return without undue risk of injury.	

5-24	All of the above leaves, and...			
	Pregnancy Leave	Disability due to pregnancy, childbirth, or related medical condition	4 months per pregnancy	May have duty to accommodate employee when working.
25-49	All of the above leaves, and...			
	Victims of Domestic Violence or Sexual Assault Leave	Victim needs to ensure the health, safety, or welfare of himself/herself or his/her child	12 weeks per year	Employers must keep reason for leave confidential.
	School Participation Leave	Employee participates in a school activity of a child in his or her custody	40 hours per year, but no more than 8 hours per calendar month	The child must be in K-12 or a licensed day care center. If both parents work at the same work site, the employer is only required to grant leave to one of them.
	Alcohol & Drug Rehabilitation Leave	Entry into a rehabilitation program	As much time as needed to attend the rehabilitation program	Employer must grant leave if the leave would be a reasonable accommodation. Employer must keep the reason for leave confidential.
	Literacy Leave	Employee requests accommodation from employer to assist him/her in enrolling in literacy education program	As much time as needed to attend the literacy education program	Employer does not have to grant leave if doing so would be an undue burden.
50 +	All of the above leaves, and...			
	Family and/or Medical Leave	<ul style="list-style-type: none"> ▪ Serious health condition of the employee or his or her spouse, child, parent or registered domestic partner; or ▪ Newly born child; or ▪ Foster care or adoption 	12 weeks per 12 month period	<p>An employer is covered if has employed 50 employees for 20 work weeks in current or preceding calendar year. Employee eligible if the employee:</p> <ol style="list-style-type: none"> 1. Has worked for 12 months with employer; 2. Worked more than 1250 hours in the preceding 12 months; and 3. Works at a facility with 50 or more employees within 75 miles.



[Dennis R. Murphy](#)



[Kelly L. Borelli](#)



[Mary E. Farrell](#)



[Brian S. Crone](#)



[Randall J. Hakes](#)

You may contact the above attorneys via e-mail by clicking on their name or using the contact information below.

1000 G Street
Third Floor
Sacramento, CA 95814
916/446-2300 (phone)
916/503-4000 (facsimile)
or

visit our website at www.murphyaustin.com

Please be assured that we make every effort to make certain that the information contained in this article is current at the time the article was prepared. Because laws and legislation are constantly changing, please contact us if you are unsure whether this material is still current. Nothing contained herein is meant to be legal advice. Please contact us to answer any questions you may have.