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Coronavirus – School and Child-Care Closure Issues

With so many California schools and businesses closing in response to concerns over the spread of the coronavirus, many California employees are having to find alternative child-care arrangements. Consequently, many employers are wondering how to respond to employees' time off requests and absences necessitated by child-care and school closures. For employers with 24 or fewer employees, this is largely a business decision given that there is no law which directly requires employers to grant employees time off for school closures. However, employers with 25 or more employees will need to pay close attention to California Labor Code section 230.8.

Generally, Labor Code section 230.8 requires California employers with 25 or more employees working at the same location to permit employees to take up to 40 hours of leave for certain school and child-care activities each year. Covered employers are prohibited from discharging, disciplining, or otherwise discriminating (or threatening any such conduct) against any employee for taking time off pursuant to this statute.

What Employers Need to Know About School and Child Care Activities Leave:

1. What employees are eligible for school and child care activities leave?

Employees who are the parents of one more children of the age to attend kindergarten through 12th grade, or a licensed child care provider. For purposes of this type of leave, "parent" means a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to, a child.

2. How much leave are employees entitled to?

Eligible employees are entitled to take off up to 40 hours of leave each year. If more than one parent of a child is employed by the same employer at the same worksite, then the two parents get a combined 40 hours of leave, and only one parent may take leave at a time.

3. What purposes qualify for school and child-care activities leave?

The following child-related activities are covered:

- Finding, enrolling, reenrolling a child in a school or with a licensed child-care provider;
- Addressing a child-care provider or school emergency, if the employee gives notice to the employer.

There is no question that school or child-care closures due to coronavirus would constitute a school emergency for purposes of this law.

4. Are employees required to use available vacation during the leave?

Employers may require employees to utilize available vacation, personal leave, or paid time off.

5. What are the penalties for violating this law?

Employers that unlawfully deny such leave to employees could be required to reinstate employees, reimburse them for lost wages and work benefits, and could be subject to a penalty equal to three times the amount of the employee's lost wages and work benefits.

What This Means For Employers:

California employers with 25 or more employees at a single worksite must grant employees' time off requests for child-care and school closures due to mitigation measures related to coronavirus. If you have any other questions not addressed by this article, or if you have other questions concerning issues brought about by coronavirus concerns, you can contact the attorneys at Barsamian & Moody at (559) 248-2360.

The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.