

# WAGE AND HOUR COMPLIANCE

## IN THE WORLD OF PAGA REFORM



LABOR LAW

The background features a blue-toned graphic of a hand pointing towards a central digital interface. The interface includes a central rounded rectangle labeled 'LABOR LAW' and several circular icons connected by lines: a scale of justice, a document, a magnifying glass, a book, and a group of people. The overall theme is legal and technological.

Presented by Mike Hayden

**INFINIUM**  
PAYROLL AND HR SOLUTIONS

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# AGENDA

- Introduction
- PAGA Reform
- Wage and Hour Compliance
  - Employee Classification – Getting It Right
  - Overtime & Regular Rate of Pay
  - Meal & Rest Breaks – Most Common Wage Claims
  - Timekeeping & Payroll Accuracy
  - Final Paycheck & Wage Statement Requirements
  - Sick Leave & Leave Compliance
- Action Plan for 2025 -
  - Bonus – Managing PAGA Reform and PAGA Claims



# Introduction

# We're all facing the Same Challenge

- Wage and hour laws are complex and ever-changing in California.
- PAGA Reform has mitigated risks for employers but compliance is still critical.
- Non-compliance can lead to lawsuits, penalties, and wage theft claims.
- Lawsuits can still be filed as a result of technical violations.







## **PAGA Reform**



# What is PAGA?

PAGA (Private Attorneys General Act) allows employees to sue employers for labor violations on behalf of the state.

It was reformed in 2024 to reduce frivolous lawsuits, limit excessive penalties, and provide businesses with more opportunities to address compliance issues before facing litigation.



# Key Changes

- Lawsuits are now limited in scope, emphasizing arbitration and alternative dispute resolution.
- The state now has more authority to review and intervene in claims.
- Caps on penalties for minor technical violations.
- Businesses with proactive compliance programs may be shielded from some claims.
- Employees have more opportunities to opt out of collective lawsuits.





# Leveraging Reform

- **Evaluate Current Practices.** Conduct a thorough review of payroll, timekeeping, and employment practices to ensure compliance with California labor laws.
- **Implement Compliance Programs.** Establish a certified compliance program to reduce liability and benefit from new PAGA protections.
- **Use Alternative Dispute Agreements** Ensure arbitration agreements are up to date and enforceable under the new law.
- **Regularly Audit Employment Policies** Periodically review handbooks, policies, and procedures to address potential gaps.
- **Engage Legal Counsel** Work with HR and legal experts to understand the reform and its implications for your business.

# Managing Wage Disputes

## Employee Complaints

- **Document and Investigate:** Promptly document all employee complaints and conduct thorough investigations to address potential labor law violations.
- **Proactive Resolution:** Resolve issues internally whenever possible, leveraging the enhanced mediation opportunities under PAGA reform to avoid litigation.
- **Maintain Compliance Records:** Keep detailed records of complaints, investigations, and resolutions to demonstrate compliance with California labor laws and strengthen defense against potential claims.

## Action Steps:

- Create a clear process for employees to report concerns and seek resolution.
- Document all complaints and actions taken to address them.
- Provide regular training to managers on handling employee grievances.





# **Wage and Hour Compliance**



# Employee Classification Errors

- **Review hourly non-exempt and salary exempt.** Salary exempt must meet minimum qualifications, i.e. manager, significant control. 2X minimum wage.
- **Review hourly pay employees.** Ensure hourly employees that receive bonuses, commissions or multiple pay rates are paid using regular rate of pay
- **Independent Contractors must meet ABC rule.**
  - A. Free of direction and control
  - B. Outside usual course of business
  - C. Independent business doing same work for others
- **Freelancer Agreements.** Freelance work must be covered by agreements for anything over \$250 per project or aggregate over 120 days.

*Employee misclassification errors can lead to overtime or minimum wage disputes, be sure to review all positions within the business for proper classification.*



# Overtime and Regular Rate of Pay

- **Overtime pay** is 1.5 Times “Regular Rate of Pay”. Over 8 hours in a day or 40 hours in a week and on the 7<sup>th</sup> consecutive day in a workweek.
- **Double time** applies after 12 hours in a day or work in excess of 8 hours on the seventh consecutive day.
- **Regular Rate of Pay** is the average of all hours worked divided by the total pay and includes bonuses, commissions, and differentials in the regular rate of pay
- **Overtime, sick and meal break violations** must be paid at the regular rate of pay include bonuses, commissions, and differentials in the regular rate of pay.



# Regular Rate of Pay Example

## Regular Pay Calculations

	Pay	Hours	Total
<b>Pay Rate 1</b>	\$30	30	\$900
<b>Pay Rate 2</b>	\$40	15	\$600
<b>Total Regular Pay</b>		45	\$1,500
<b>Commission</b>			\$325
<b>Total Weekly Pay</b>			\$1,825

## Regular Rate of Pay Calculations

<b>Total Hours Worked</b>	45
<b>Total Pay Received</b>	\$1,825
<b>Regular Rate of Pay</b>	\$40.56
<b>Overtime Premium Rate</b>	\$20.28
<b>Overtime Premium</b>	\$101.39
<b>Total Pay</b>	<b>\$1,926.39</b>

## Included in Regular Rate of Pay:

In California, the regular rate of pay is more than just an employee's hourly wage. It must include all types of compensation earned in a workweek. Here are the main types of pay that must be included when calculating the regular rate of pay for overtime purposes:

- Hourly Wages
- Piece-Rate Pay
- Commissions
- Non-Discretionary Bonuses
- Shift Differentials
- Production Bonuses



# Meal and Rest Breaks

- Meal breaks must be provided before the 5th hour of work and must be no later than 30 minutes.
- Waivers can be used for 1<sup>st</sup> or 2<sup>nd</sup> meal breaks if workday is less than 6 or 10 hours. Each time in writing.
- Rest breaks are required for every 4 hours worked, or major portion thereof.
- Do not combine Rest Breaks and Meal Breaks.
- Penalties apply if breaks are past the 5<sup>th</sup> hour mark or short even a minute under 30 minutes.

# Meal Break Best Practices

## Common Mistakes

- ❌ Not tracking break times accurately using electronic timekeeping
- ❌ Allowing employees to work through meal breaks without waivers
- ❌ Failing to provide breaks at the required times
- ❌ Not properly compensating for missed breaks with meal break penalty
- ❌ Not paying meal break violations for non-compliant meal breaks

## Action Steps

- ✓ Implement automated timekeeping systems to track meal breaks
- ✓ Train managers and supervisors on California labor laws
- ✓ Ensure employees know their rights and encourage compliance
- ✓ Review payroll records regularly to catch and correct errors
- ✓ Seek HR & legal guidance if unsure about compliance requirements





# Payroll Accuracy

**Maintain Accurate Payroll Records.** Keep detailed records of all hours worked, wages paid, overtime calculations, and deductions for at least 4 years. Be sure to extract wage and hour data when you switch payroll companies.

**Provide Legally Compliant Wage Statements.** Pay stubs must include gross and net wages, total hours worked, pay period dates, overtime details, deductions, and available sick leave. The official name of the business and address must be listed on stub and check.

**Ensure Timely & Correct Pay.** Employees must be paid on time and in full, with overtime, meal break penalties, and commissions included as required by law.

**Correct Errors Immediately.** If a mistake is discovered on a paycheck or wage statement, rectify it as soon as possible to avoid potential wage claims or penalties.

**Keep Up with California Wage Laws.** Labor laws change frequently; ensure your payroll process stays compliant to prevent costly lawsuits, penalties, and PAGA claims.

**Utilize Reliable Payroll Systems.** Invest in automated payroll and timekeeping to reduce errors, track compliance, and streamline wage calculations.

# Timekeeping

## **Non-exempt employees must record all hours worked.**

- Overtime must be tracked and paid correctly.
- Meal and rest breaks must be documented.
- Employers must maintain at least 4 years of payroll records.

## **What Employers Cannot Do:**

- ❌ Alter time records without justification. Get approval if you do.
- ❌ Allow off-the-clock work.
- ❌ Fail to compensate for all hours worked, including training and travel time.
- ❌ No rounding of time punches.

Accurate timekeeping isn't just best practice—it's the law. Proper records protect your business, ensure employees are paid fairly, and help prevent costly legal disputes. Stay compliant, stay accountable!



# Payroll and Timekeeping Best Practices

- ✓ Implement an electronic time tracking system
- ✓ Automate punch restrictions for to prevent short meal breaks.
- ✓ Automate regular rate of pay calculations
- ✓ Create strong policies on timekeeping, meal and rest breaks, and overtime
- ✓ Train and remind employees on timekeeping policies
- ✓ Enforce overtime & break compliance
- ✓ Regularly audit time records – correct errors immediately when found
- ✓ Require manager oversight maintain payroll records for at least 4 years
- ✓ Prevent off-the-clock work – there are no de minimus allowances
- ✓ Discipline promptly and consistently for failure to abide by rules
- ✓ Seek HR or legal guidance when needed

# Final Paychecks

## Employee Quits with 72 Hours or More

Pay on the last day of  
their notice

## Employee Quits with Less than 72 Hours

Pay within 72 hours or  
before a weekend

## Involuntary Termination or layoff

Pay is due immediately

### What must be included:

- All earned wages through the last day worked
- Accrued but unused vacation time (if applicable)
- Overtime pay, bonuses, and commissions (if earned and calculable)
- Any expense reimbursements due



# Final Checks Best Practices

## What Employers Cannot Do:

- ❌ Hold final pay for unreturned equipment
- ❌ Delay payment for processing payroll
- ❌ Deduct unauthorized expenses from final wages
- ❌ Require employee to pick up from a different location

## Best Practices for Compliance

- ✓ Prepare final pay in advance before termination meetings.
- ✓ Use direct deposit only if employee approves in writing
- ✓ Provide wage statements: Include clear breakdowns of all final wages.
- ✓ Keep payroll records and documentation for at least 4 years.
- ✓ What about unclaimed checks and property?



# Paid Sick Leave

## Basic Rules

- Must provide paid sick leave – 5 days or 40 hours
- 90 days eligibility
- Employees accrue at least 1 hour per 30 hours worked
- May provide lump sum
- Not advised to request physicians note within legally mandated time off available

## Can be Used For

- Employee's health condition ("health")
- Caring for a family member
- Domestic violence, sexual assault, or stalking situations



PAID SICK  
LEAVE



# ACTOIN PLAN





# TAKE PROACTIVE ACTION

- Conduct Regular Compliance Audits
- AUTOMATE, AUTOMATE, AUTOMATE Payroll and Timekeeping systems
- Implement a Certified Compliance Program
- Train Managers & HR Teams on Wage & Hour Laws
- Ensure Proper Handling of Final Paychecks & Employee Departures
- Maintain Detailed Payroll & Employment Records
- Engage Legal & HR Support for High-Risk Issues
- Schedule annual HR compliance reviews with an qualified HR consultant or employment attorney.



## **BONUS PAGA INFORMATION**





## POLICIES

# Implement a Certified Compliance Program

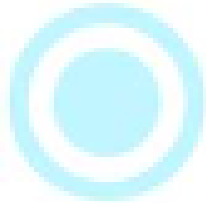
1. Conduct a full labor law compliance audit.
2. Develop clear policies and procedures addressing all areas of California labor law. Add these policies to your handbook.
3. Provide ongoing training for employees and management.
4. Establish robust internal reporting and resolution processes.
5. Partner with a qualified HR provider or attorney to certify your compliance program.

## PAGA NOTICE

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# If You Receive a PAGA Notice

1. Take the Claim Seriously!
2. Review the Notice Thoroughly
3. Engage Legal Counsel Immediately
4. Notify Key Personnel
5. Conduct an Internal Audit
6. Evaluate Potential Liability
7. Explore Settlement Options
8. Respond to LWDA within 33 days
9. Implement Corrective Measures
10. Prepare for Potential Litigation
11. Proactively Prevent Future Claims

# Thank you!




## Infinium HR – Your Partner in Payroll, HR, and Compliance

At Infinium HR, we understand the complexities of California wage and hour compliance and the challenges HR professionals face. Since 2014, we've been a locally owned and operated firm dedicated to helping businesses navigate payroll, HR automation, and compliance with confidence.

- ✓ **Payroll & Tax Management** – Accurate, reliable payroll processing with full tax compliance.
- ✓ **HR Support & Compliance Guidance** – Expert advice to help you stay ahead of labor law changes.
- ✓ **HR Automation** – Streamlined onboarding, timekeeping, compliance, benefits, and more.
- ✓ **Employee Relations & Best Practices** – Proactive guidance to minimize risk and enhance workplace culture.

Whether you need day-to-day HR support, payroll solutions, or proactive compliance strategies, Infinium HR is here to help.

## Contact Mike Hayden for more information

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