HELP NEWS

The Monthly Newsletter of Helping Employees Learn Prosperity (HELP)

May 2025

Welcome!

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Helping Employees Learn Prosperity (HELP) is an IRC 501 (c)(4) charitable non-profit, tax-exempt, non-partisan, independent employee affiliation.

HELP is a Registered Employee Organization with the County of Los Angeles and has a County assigned payroll deduction code.

HELP's status with the City of Los Angeles is a Qualified Employee Organization.

Parental Leave

Parents have long had to juggle work demands while also prioritizing their families. Unfortunately, the U.S. is a bit of an outlier amongst developed countries in that there is no federal law that provides for paid pregnancy leave or baby bonding leave. However, there are state and federal laws that protect the rights of parents. It can be a lot to sort out. This month, we will explore some of the options that might be available.

Family Medical Leave Act (FMLA) & California Family Rights Act (CFRA):

The Federal Family Medical Leave Act ("FMLA") and the California Family Rights Act ("CFRA") provide up to 12 weeks of unpaid job-protected leave for a serious health condition or for baby bonding in a 12-month period. Baby bonding can begin once the child is born, up to one year after the child's birth. A parent may take baby bonding for birth, adoption, or foster placement. This includes time for the placement of a child in connection with adoption or foster care (for example, attending counseling sessions, court hearings, or legal consultations in connection with the placement of a child, and for a physical examination or travel to another country to complete an adoption).

Employees may use any available accrued leave concurrently (vacation, compensation time, etc.), and employers may require employees to use paid leave concurrently. Employer policies typically require this. This means that an employee who takes leave under FMLA or CFRA often gets paid for some or all of the leave of absence. In some situations, an employee may reserve sick leave for when they return to work. Since baby bonding is not for an employee's own con-

dition, an employer cannot require that an employee use sick leave concurrently, absent the employee's agreement. Employers are not required to provide intermittent baby bonding leave under FMLA (employers can require it be taken all at once), but it is allowed under CFRA. The regulations say that the minimum duration of leave shall be two weeks. It can be less than that under certain circumstances. Intermittent leave is also an option under both CFRA and FMLA when the need for leave is for a serious health condition. In those situations, leave increments may be as short as hourly.

Typically, FMLA and CFRA run concurrently, meaning an employee may take only 12 weeks off, not 24 weeks. But unlike FMLA, CFRA does not include pregnancy or related medical conditions in the definition of "serious health condition." For a mother who qualifies for FMLA or state Pregnancy Disability Leave (PDL), an employer can run FMLA concurrently with PDL but cannot run CFRA concurrently with either PDL or FMLA for the pregnancy. This means a mother may still take 12 weeks of baby-bonding under CFRA after exhausting pregnancy leave under FMLA/PDL. In total, a mother can take 29 1/3 weeks (over seven months) – 17 1/3 weeks under FMLA/PDL, and 12 weeks under CFRA – with maintenance of health benefits. Other employees can use a little less than that. For example, an employee can use up to 12 weeks of FMLA to care for a pregnant spouse with medical complications and up to 12 weeks of CFRA to bond with the new baby after birth, for a total of 24 weeks (6 months).

CFRA does not have to be used to bond with a new baby, though it often is. An employee may use it to care for their spouse (excluding pregnancy or related medical conditions), child, or another family member with a serious medical condition. Under CFRA, a family member is a spouse, registered domestic partner, parent, child (which encompasses both adult children and the children of a registered domestic partner), grandparent, grandchild, sibling, or designated person. The FMLA also allows parents to take time off to care for a child with a serious health condition. The FMLA defines "family member" to include only a spouse, parent, and minor or dependent child. The FMLA defines a child as under 18, whereas CFRA applies to children of all ages, whether minor or adults. Under both FMLA and CFRA, if leave is requested to care for a child or spouse with a serious medical condition (not bonding), there is no minimum amount of leave that must be taken. However, an employer may limit the leave increments to the shortest amount of time the employer's payroll system uses to account for absences (e.g., 15 minutes).

Under FMLA, same-sex couples must be legally married, but CFRA grants leave for a registered domestic partner or designated person. If an employee takes 12 weeks to care for a registered domestic partner or designated person under CFRA, they are still eligible for 12 weeks of FMLA to bond with a new child. If both parents work for the same employer, each parent (regardless of whether they are married) may take up to 12 weeks of baby bonding under CFRA. However, under FMLA, an employer may limit baby bonding to 12 weeks for parents if they are married to one another. The partners must be legally married – for example, a boyfriend or fiancé cannot take FMLA to care for a pregnant non-married partner with medical conditions. For unmarried parents who work for the same employer, the FMLA allows each parent to take 12 weeks to care for their child.

Adult children qualify under CFRA

An employee should request leave as soon as practicable and contact Human Resources to complete the necessary certification paperwork before calling out absent. An employee does not have to identify the serious health condition. An employer must accept a certification that identifies the date when the condition commenced (if known), the probable duration of the condition, and an estimate of time which a health care provider believes is needed to care for the family member. The certification must also include a statement that the condition warrants the employee's participation to provide care during a period of treatment or supervision of the family member. Under CFRA, an employer cannot

challenge the certification of a covered family member if these requirements are met. "Warrants participation" includes, but is not limited to, providing psychological comfort, arranging care, and providing or participating in the medical care.

State Disability Insurance (SDI):

SDI is a paid program (known as wage replacement benefits) administered by the state Economic Development Department ("EDD") for disability (including pregnancy-related conditions) and baby-bonding. If there is an SDI deduction on your paycheck, you may be eligible. SDI requires the whole bargaining unit to participate – it is not an individual election.

Check your paycheck for SDI

The program is funded by employee contributions (1% of pay) via regular payroll deductions. New claims generally cover up to 70% of your wages (or up to 90% for those earning less than $63,000 per year), up to a weekly benefit maximum of $1,681.

EDD provides an online calculator to help estimate weekly benefit amounts. Benefits include baby bonding that allows up to 8 weeks of paid leave. Both parents are eligible. Benefits also include disability leave for the mother – up to four weeks prior to the expected due date for a normal pregnancy, and six weeks (for normal delivery) or eight weeks (for Cesarean section) after delivery. A mother may be eligible for up to 20 weeks of benefits in total. Leave can be taken intermittently (an hourly, daily, or weekly basis as needed).

Employers may no longer require an employee to use up to two weeks of vacation prior to receiving benefits. Employers also cannot require an employee to use their own paid leave accruals concurrently with SDI benefits. However, the employer may allow an employee to supplement an SDI claim with accrued leave and receive up to 100 percent of pay. An employer may also choose to supplement SDI benefits to provide for 100% of pay.

The employer will run FMLA concurrently with a mother's disability claim and will run FMLA and CFRA concurrently with a parent's baby bonding claim.

Local Policies and MOU:

The labor contract (MOU) or employer policies may provide parental leave. Employers, particularly those who do not participate in SDI, might offer paid time off for employees to bond with a new child. These policies have become more common in recent years. A typical policy might provide for something like 80 hours of employer-paid leave within one year of birth, adoption, or placement of a foster child. This type of employer-paid benefit can be a good alternative to SDI. An employer's private disability insurance plan is another option. Some policies allow women who experience pregnancy-related complications to qualify for paid insurance benefits.

The MOU or employer policies might also give employees more discretion over how to coordinate leave accruals with any job-protected leave, allowing employees greater ability to preserve their own paid leave for when they return to work. Time off for doctor appointments and to care for sick children does not end once pregnancy disability or

baby-bonding ends (think about all those sleepless nights and unscheduled trips to the pediatrician). Many employees prefer not to exhaust their own leave, if possible, so they have some available for these situations. Sick leave donation policies or an advance of sick time (paid back from future accruals) are other options. Benefits are negotiable. If these benefits are not available to you, your employee organization can propose some in the next round of negotiations.

California's Fair Employment & Housing Act (FEHA):

FEHA guarantees all employees disabled by their own pregnancy the right to take unpaid medical leave, known as Pregnancy Disability Leave ("PDL"). (Gov't Code § 12945). A mother is entitled to up to four months (17 1/3 weeks) for the period she is disabled for each pregnancy. PDL can be taken intermittently – it does not have to be taken in one continuous period.

A woman is "disabled by pregnancy" if, in the opinion of her health care provider, she cannot perform any one or more of the essential functions of her job or to perform any of these functions without undue risk to herself, her pregnancy, or to others. Disability is defined broadly – it includes severe morning sickness, pre-natal or post-natal care, bed rest, gestational diabetes, hypertension, preeclampsia, post-partum depression, childbirth, loss/end of pregnancy, recovery from childbirth, etc. This is a non-exclusive list. Many women qualify for this leave at some point during or after pregnancy. The state Civil Rights Department has a helpful chart that shows the legal protections that are available. https://calcivilrights.ca.gov/employment/pdl-bonding-guide/

An employer may require an employee to use any accrued sick leave during the unpaid portion of PDL, and she may elect, at her option, to use vacation leave and other accrued leave to receive pay during PDL. Extending the four-month PDL by adding paid leave is at the employer's discretion, but requests should be granted consistent with similar requests from non-pregnant employees.

An employer must give notice of disability leave rights to an employee "as soon as practicable" after the employee tells the employer of her pregnancy. An employer is also required to provide notice of disability leave rights to an employee who asks about such leave. An employee should provide their employer with at least 30 days' advance notice when the need is foreseeable. If such notice is not possible, such as during an emergency or unforeseen complication, an employee must give notice as soon as practicable.

Once an employee gives notice, an employer must respond within 10 calendar days. An employer may require written medical certification and must identify the need, the deadline, what constitutes sufficient medical certification, and any consequences for failing to provide it, and provide any employer-required certification form for the health care provider to complete.

As with FMLA and CFRA, an employer must maintain and pay for health coverage at the level and under the conditions that would have been provided if an employee remained continuously employed for the duration of the leave not to exceed four months over a twelve-month period. (Cal. Code Regs. Tit. 2 § 11044). The time that an employer provides health coverage during PDL shall not be used to meet an employer's obligation to pay for 12 weeks of health coverage during CFRA leave. This applies even when an employer runs FMLA concurrently with PDL. Maintenance of health coverage during PDL and CFRA are two separate and distinct entitlements. An employee could have health benefits maintained for 17 1/3 weeks (PDL) and then for 12 weeks (CFRA baby bonding).

It is unlawful for an employer to discriminate, harass, or retaliate against an employee because of pregnancy or because the employee took PDL. An employer may not require an employee to undergo a medical or psychological exam or inquire about an employee's medical or psychological condition. An employer may require a return-to-work certification from a health care provider, but only if an employer has a uniformly applied policy or practice requiring this for other similarly situated employees returning from other non-pregnancy-related disability leaves.

An employer must reinstate an employee to the same or comparable position that the employee held when the leave began. An employee returning from PDL shall return

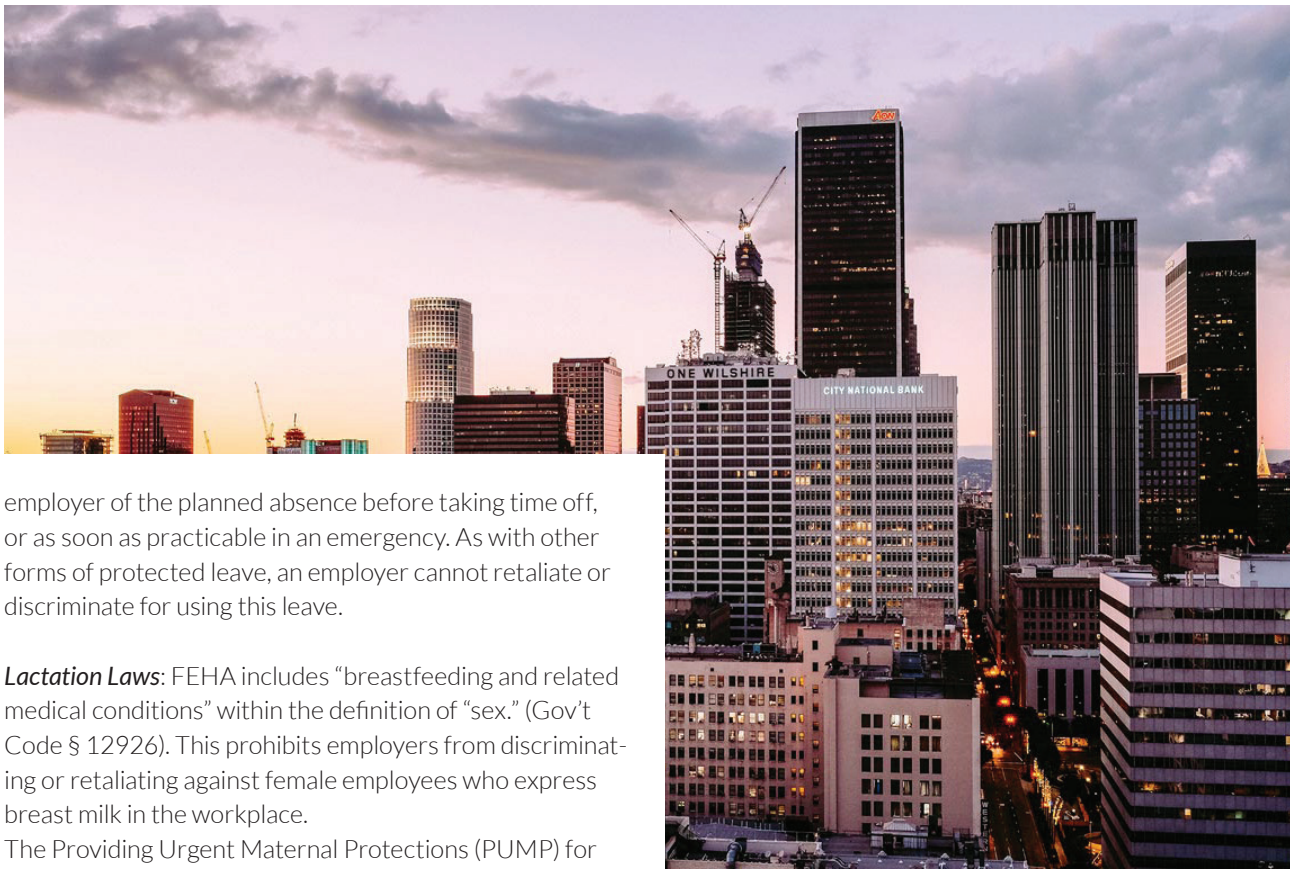
with no less seniority than she had when her leave commenced. An employee also must receive the same benefits as before the leave began, without any new qualification period, physical examination, or prerequisites.
Generally, an employer may not treat employees disabled by pregnancy less favorably than it treats other disabled employees. For example, if an employer offers a more generous leave policy to other temporarily disabled employees than what is provided by the FEHA, the employer must provide equal leave to employees disabled by pregnancy.

Other Laws:

Medical Accommodations: The Federal Pregnancy Discrimination Act of 1978 – which amended Title VII of the Civil Rights Act of 1964 – and the Federal Americans with Disabilities Act of 1990 also provide job protection. Neither provides a specific amount of leave, but under the ADA (and FEHA), an employer must reasonably accommodate an employee's disability, which may include granting unpaid leave beyond what the employer's policies or other state and federal laws might require. For example, the employer may have to reasonably accommodate an employee disabled by pregnancy, even after PDL is exhausted. Courts have held additional unpaid leave can be reasonable accommodation. Sanchez v. Swissport, Inc. (2013) 213 Cal. App. 4th 1331.

State Sick Leave Laws: An employee can use protected sick leave under California's Kin Care Law. (Labor Code §233). An employee can use one-half of their annual sick leave amount for absences due to their own condition, to care for a spouse or registered domestic partner, to care for a sick child, or for baby bonding (parental leave). An employee must have accrued sick leave available.
Kin Care can be used not only if a family member is sick, but also for the diagnosis, care, preventative treatment, or treatment of an existing health condition. A "family member" includes a child regardless of age or dependency status. A "child" is a biological, foster, adopted, step, or legal guardianship relationship, including for those who stand in the place of a parent ("in loco parentis"), as well as a child of a domestic partner. As with the CFRA, sick leave can also be used to care for a designated person, which can be for a minor who does not meet the statutory definition of a child (e.g., a boyfriend or girlfriend's child). An employer can require advanced notice if an absence is foreseeable. An employer cannot retaliate against an employee for using family sick leave if accrued Kin Care time is available.
California's Paid Sick Leave Law (Labor Code §245) requires employers to provide up to five days of sick leave, which an employee can use to care for a child, grandchild, spouse, or registered domestic partner. As with Kin Care time, an employee may use their sick time even if the family member does not suffer from a serious health condition. It may be used to care for a family member with a cold or flu, for an annual physical, or to get a vaccine or flu shot.

Child Related Activities: California law permits parents to take up to 40 hours of leave each year to attend to their child's school activities. (Labor Code §230.8). A parent can request leave to find, enroll, and re-enroll a child in school or with a licensed childcare provider, to address a childcare provider or school emergency, or to participate in school-sponsored or childcare-sponsored activities, such as a field trip, graduation, or holiday party. Stepparents, foster parents, grandparents, legal guardians, and those standing in loco parentis are also allowed this leave.
A parent can only use up to 8 hours per month unless it is an emergency. An "emergency" is when the child cannot stay at school because the school says the child needs to be picked up, the child is having disciplinary/behavioral problems, or there is a school closure or natural disaster. An employer must employ 25 or more people working at the same location, and the child must be in grades K-12.
A parent may use their own paid leave or request unpaid time. A parent must give reasonable notice to their



employer of the planned absence before taking time off, or as soon as practicable in an emergency. As with other forms of protected leave, an employer cannot retaliate or discriminate for using this leave.

Lactation Laws: FEHA includes "breastfeeding and related medical conditions" within the definition of "sex." (Gov't Code § 12926). This prohibits employers from discriminating or retaliating against female employees who express breast milk in the workplace.

The Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act, a Federal law known as the PUMP Act, expands lactation protections for nursing mothers. It was modeled in part off California's Labor Code, which requires all public agencies to provide a reasonable amount of break time to accommodate an employee who needs to express breast milk during work hours. (Labor Code § 1030). The break time shall, if possible, run concurrently with any break time that the mother already receives. If it does not run concurrently with the rest time, it shall be unpaid.

The employer must provide break time unless doing so would "seriously disrupt the operations of the employer." (Labor Code § 1032). The employer must also provide a room or other location, other than a toilet stall, near the work area and shielded from view to express breast milk privately. (Labor Code § 1031). The location must have access to electricity or charging stations to operate an electric or battery-powered breast pump. The employer must also provide access to a sink with running water and a refrigerator suitable for storing milk near the employee's workspace.

An employer cannot discharge, discriminate, or retaliate against an employee for breastfeeding or attempting to breastfeed at work. (Labor Code § 1033). The employer's lactation accommodation policy must include a statement about the employee's right to request lactation accommodation, the process for how to make a request, the employer's obligation to respond, and a statement about the employee's right to file a complaint with the Labor Commissioner for any violation. (Labor Code § 1034). An employer shall include the policy in any handbook or set of policies made available to employees and shall distribute it at the time of hire and upon request. If an employer cannot provide break time or a location consistent with the policy, it must provide a reason in writing.

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News Release - CPI Data

The U.S. Department of Labor, Bureau of Labor Statistics, publishes monthly consumer price index figures that look back over a rolling 12-month period to measure inflation.

2.4% - CPI for All Urban Consumers (CPI-U) Nationally

2.2% - CPI-U for the West Region

3.0% - CPI-U for the Los Angeles Area

2.7% - CPI-U for San Francisco Bay Area (from Dec)

2.5% - CPI-U for the Riverside Area

3.8% - CPI-U for San Diego Area

Questions & Answers about Your Job

Each month we receive dozens of questions about your rights on the job.
The following are some GENERAL answers.
If you have a specific problem, talk to your professional staff.

Question: I am an acting coordinator. Am I limited in this role for a specific a mount of time, let's say six months? Does the employer have to convert me from acting into a permanent appointment into this role? The employer will be opening the position for outside recruitment soon, and I will have the ability to apply.

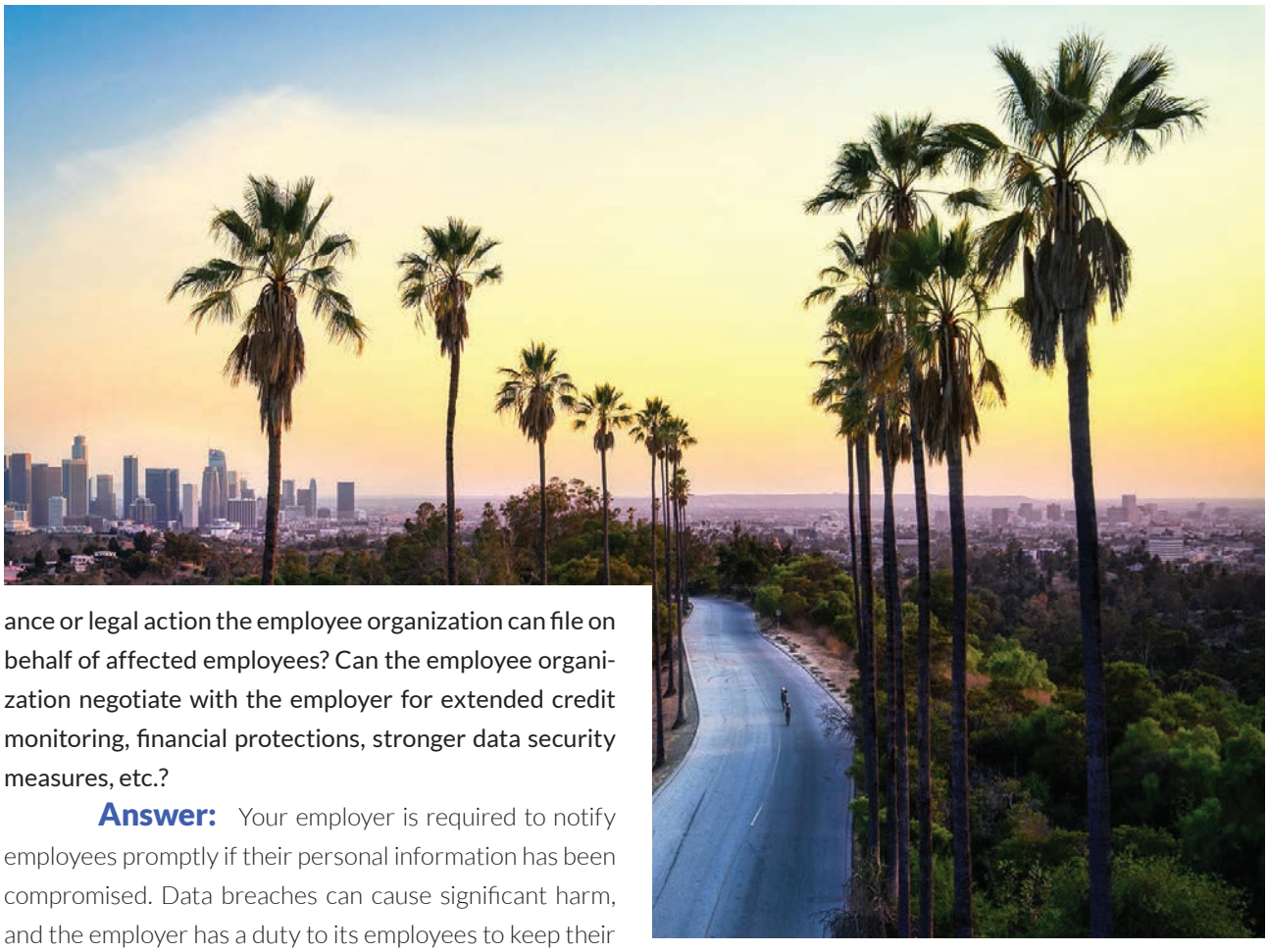
Answer: Government Code §20480 limits certain acting assignments to 960 hours (about six months) and requires employers to track all hours an employee works in an out-of-class assignment and report it to CalPERS. Under this law, "out-of-class" is defined as an appointment to an upgraded position or higher classification by an employer in a vacant position for a limited duration. A "vacant position" refers to a position that is vacant during an active recruitment for a permanent appointment. A vacant position does not refer to a position that is temporarily available due to another employee's leave of absence or as a part of a temporary project. If the coordinator position was

not actively recruited for, the employer likely does not have to count any time you have been acting so far. The Code does not define active recruitment. It instead refers to the organization's official policy for when recruitment begins. However, once the employer opens recruitment, your acting assignment should be limited to no more than 960 hours. The employer will be penalized for hours worked that exceed 960 hours, and that penalty is paid to CalPERS. The employer can stop assigning you the acting role once you reach 960 hours. As for a permanent appointment, you are not automatically converted into the position once you reach the 960 hours. You must apply for it. However, employees who have been performing the role in an acting capacity often have a leg up in recruitment, assuming you meet the minimum qualifications for the acting role. Check your MOU and hiring policy for more information on the recruitment and promotional rules. You may inquire with human resources about the specifics of the recruitment process for this position including a timeline.

Question: An employee was recently promoted to a supervisor position that was not posted for applications. I feel we should have had the opportunity to apply. I spoke with HR, and they were very vague about what was going on. They are reaching out to management to get clarification and are supposed to be sharing that information with me. Is there anything else I should be doing?

Answer: Employers have a lot of discretion in selecting employees for promotions. However, they must follow the MOU, personnel/civil service rules, and hiring policy. Begin by reviewing those documents to see what is required. Identify the process that management must follow when they decide to fill a vacancy, and for when a promotional opportunity becomes available. The management of a department may have the authority to decide who are the qualified candidates, who should be interviewed, and who to select, but Human Resources should ensure that management follows the application and recruitment process identified in the employer's rules and policies. This should be transparent and open to all qualified candidates. If HR does not maintain the integrity of the hiring procedure, contact your employee organization about enforcement and ensuring the rules are applied as written.

Question: I received a notice of data breach from my employer regarding a security incident that compromised sensitive personal information, including Social Security numbers, driver's license details, and medical records. This breach has raised concerns about the employer's data security practices and the potential risks to employees. How can the employee organization help address it? Does our MOU have provisions that protect an employee's personal information? Is there a griev-



ance or legal action the employee organization can file on behalf of affected employees? Can the employee organization negotiate with the employer for extended credit monitoring, financial protections, stronger data security measures, etc.?

Answer: Your employer is required to notify employees promptly if their personal information has been compromised. Data breaches can cause significant harm, and the employer has a duty to its employees to keep their personal information secure. The MOU does not typically include language or provide a means for the employee organization to hold the employer accountable for data breaches. Legal action is something that affected individuals would have to pursue on their own. However, your employee organization can meet with the employer to discuss what steps it is taking to keep your data safe and maintain the integrity of its systems moving forward. The employee organization can also propose that the employer take further action, like paying for extended credit monitoring services.

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What are YOUR questions?
Let us know!
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