



San Diego Employers Association

SDEA Newsletter | April 2014

Advanced Management Essentials Certificate

This NEW 6- Week Evening Program Starts Wednesday, April 30, 2014
Register for the Certificate Program or Individual Classes



The Advanced Management Essentials Certificate Course is ideal for someone who is more experienced in their management position, who values ongoing growth and expansion of their current skill set, and someone who is seeking to deliver ever-greater value to their team and their company.

Over the course of 6 weeks, participants will complete a communication style assessment, learn to address organizational change in a productive way, and receive training in employment law. Expert instructors will teach participants to leverage their professional experiences and discover new ways to build teams that meet and exceed their business goals and targets. Courses may be taken together or individually. The following topics will be covered:

- Apr. 30 - DISCover Your Strengths (\$49 additional assessment fee required)
- May 7 - Achieving Results Through Accountability
- May 14 - Leading Organizational Change
- May 21- Project Management Skills
- May 28 - Business Ethics
- June 4 - Advanced Employment Law

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Certificate Program Meets Every
Wednesday Evening

April 30 - June 4, 2014
5:00pm - 8:00pm

(6 Courses) - \$650 Member / \$775 Non-Member
Individual Classes: \$115 Member/\$150 Non-Member

Obama Overtime Initiative Unlikely to Have Major Impact in California

By Aaron Buckley, Paul, Plevin, Sullivan & Connaughton

Last week President Obama directed the Secretary of Labor to revise the Fair Labor Standards Act (FLSA) regulations so that fewer employees will qualify for overtime exemptions. But the changes sought by the President are unlikely to have much of an effect in California, because the overtime exemptions under state law are likely to remain more restrictive than those under the FLSA.

Overtime exemptions allow employers to exclude certain employees from overtime rules, and to pay them fixed salaries regardless of the number of hours they work each week. The most common overtime exemptions are those for executive, administrative and professional employees—the so-called “white collar” exemptions. To qualify for these exemptions, employees must have job duties that satisfy certain criteria, including responsibilities that require discretion and independent judgment.



The FLSA regulations currently allow an exempt employee to perform some “nonexempt” tasks that do not meet the criteria for the exemption. The employee can even spend a majority of working time on nonexempt tasks, provided the employee’s “primary duty”—the most important duty or principal function—is the performance of the executive, administrative or professional “exempt” work that qualifies the employee for the exemption. In addition to having a “primary duty” that qualifies for an exemption, for purposes of federal law, a white collar exempt employee must be paid a salary of at least \$455 per week.

Press reports indicate the President has at least two specific changes in mind. First, the administration may change the “primary duty” test so it can only be satisfied when more than 50% of the employee’s working time consists of “exempt” work. Second, the administration apparently intends to raise the minimum weekly salary.

Employers in California should be aware that California has its own “white collar” overtime exemptions that are similar, but not identical, to their FLSA counterparts. Among the most notable differences is that California’s “primary duty” test already limits the exemptions to employees who spend more than 50% of their working time performing “exempt” work. So the President’s intended change to the FLSA’s “primary duty” test will, if implemented, simply make the FLSA exemptions more like California’s.

Another important difference between the California and FLSA white collar exemptions is the minimum salary. While the FLSA minimum salary for white collar exempt employees has remained at \$455 per week since 2004,

California’s minimum salary is pegged at twice the state minimum wage for a 40-hour workweek. Under the current \$8 per hour California minimum wage, the minimum salary is \$640 per week. The state minimum wage is scheduled to rise to \$9 per hour in July 2014, which will raise the minimum salary to \$720 per week. California’s minimum wage is scheduled to rise again to \$10 per hour in January 2016, raising the minimum salary to \$800 per week. So even if the FLSA minimum salary rises substantially, it is unlikely to exceed California’s minimum salary any time soon.

Workers Comp Check-Up

By Jennifer Jacobus, PHR-CA

California employers are required to provide workers' compensation coverage to their employees which also requires the employer to pay for benefits should an employee become injured or ill on the job. Workers' comp is costly and claims can be time-consuming, confusing, frustrating, and down-right confusing all at the same time. Some "simple" requirements that all employers should remember:



- Obtain workers' comp insurance or qualify to become self-insured
- Provide a workers' comp pamphlet to new employees that explains their rights and responsibilities under the workers' comp laws
- Post the required workers' compensation poster
- To avoid penalties and possible criminal sanctions, you should never try to deflect employees' workers' comp claims. You can help defend your business from such accusations by aggressively tackling all of your responsibilities under the workers' compensation law

When an injury or illness occurs, you must:

- Provide a workers' comp claim form to the affected worker within 24 hours of when the injury or illness is reported
- Return a completed copy of the claim form to the worker within 24 hours of receipt
- Forward the claim form, along with the employer's report of occupational injury or illness, to the claims administrator within 24 hours of receipt
- Provide transitional light-duty work whenever appropriate

In an unlawful practices settlement involving a Raley's in Northern California a few years ago, Raley's had to pay \$550,000 in penalties and costs of an investigation as well as an additional \$30,000 to fund training. The settlement also included an additional \$150,000 sanction if other violations occur during the next 5 years.

The Raley's store alleged to have discouraged an injured worker from filing a workers' comp claim. An investigation revealed that this was not an isolated incident—that Raley's managers regularly suggested that injured employees turn to their own health care providers for work-related injuries. Criminal charges were filed against two store managers as well as a civil lawsuit against Raley's under the unlawful business practices.

Failure to carry workers' compensation insurance is a misdemeanor, and employers can be fined along with jail time. If you're not insured when a worker gets injured or becomes ill at work, you could have to pay all related medical bills. And, because you were not carrying workers' compensation insurance, you will not be covered by the "exclusive remedy" provisions of the workers' compensation law--which means the worker could sue you for additional damages.

Workers Comp Check-Up (Continued)

Related to workers comp, here are a few additional questions to consider:

- **Do you have a certificate of insurance from your coverage carrier?** You'll need this certificate to prove you have valid workers' compensation insurance, such as if the state Department of Industrial Relations (DIR) inspects your records. If you don't have one, be sure to request it from your carrier.
- **Have you posted the workers' compensation "notice to employees" poster?** This must be displayed where workers can see it. Not posting this notice is a misdemeanor that carries a fine of up to \$7,000.
- **Are you covering the cost of the insurance?** Don't make the mistake of passing the cost along to your employees, in the form of a wage deduction or otherwise. The law requires employers to pay for the insurance.
- **Do you file claims for all injuries (beyond those requiring more than first aid)?** This is required by law, and employers are prohibited from paying employee medical bills directly or paying cash for treatment of work-related injuries and illnesses.
- **Are you properly classifying employees, reporting payroll, and estimating projected employment?** While misclassifying employees, underreporting payroll, or underestimating projected employment might lower your comp premiums, they can also be considered insurance fraud.

Strategic Leadership Insights from Peter Farrell, of ResMed

At the Strategic Leadership Series event on March 27th featuring Dr. Peter Farrell, founder of ResMed, Dr. Farrell shared insights into the characteristics of leadership that he has learned and lived by over the years. Here is a sampling of his insights.

The five characteristics of leadership, inspired by British historian Paul Johnson, that Dr. Farrell has lived by are:

- Moral Courage
- Judgment
- A Sense of Priority
- Disposal of Concentration and Effort
- Sense of Humor

Inspired by Warren Bennis at the USC Marshall School of Business, Dr. Farrell stressed the importance of passion, purpose, optimism and results. Dr. Farrell added that a high tolerance for bad news is crucial for success.

At ResMed, Dr. Farrell focuses his resources on:

- Timing – The 4/2 Rule (Everything takes twice as long as you would think and costs four times as much)
- Technology Assessment
- Alpha Factor – Do they love it?
- Financial Analysis (Also, when money is exchanged, we know something is considered valuable)
- Cultivating Innovation that is exciting and intriguing



If you were unable to attend this event, won't want to miss our next speaker in the Strategic Leadership Series! We will be announcing the name and date of the next speaker in the coming weeks.

Roundtable: Mediation as Dispute Resolution

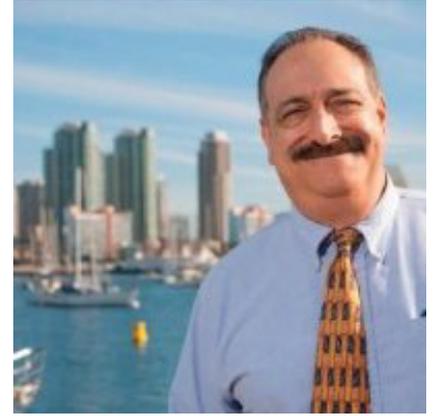
Friday, April 25, 2014
11:30 a.m. - 1 p.m. at SDEA

San Diego employment law specialist attorney and mediator Ken Rose of The Rose Group and Rose Mediation will discuss the increasing use, and importance, of mediation as a tool for resolving employer-employee disputes.

Whether the employment dispute is in litigation before a court, an arbitrator, or an administrative agency, or even before litigation where the dispute has been raised through an attorney demand letter or internal company complaint or grievance, mediation can be utilized to obtain a fair and cost-effective resolution.

Facilitated by Ken Rose, President of The Rose Group

\$35 Members | \$45 Non-Members | Lunch is included
Register at www.sdea.com.



Upcoming Training Opportunities

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| April 8 | Exempt vs. Non-Exempt Employees Webinar* |
| April 8 | Effective Communication (Evening class) |
| April 9 | Updating Your Supervisory Skills |
| April 10 | Business Ethics* |
| April 11 | Administering Benefits* |
| April 15 | Having Difficult Conversations |
| April 15 | Resolving Conflict and Building Strong Teams |
| April 16 | Personnel Law* |

*HRCI Credits Available -- More classes available at www.sdea.com

College Savings 101

Contributed by Sean Ciemiewicz with Retirement Benefits Group

Breathe a sigh of relief: Although the cost of college has been rising well above the rate of inflation for more than a decade, there are some signs that annual increases are moderating, according to the College Board. Its Trends in College Pricing report for the 2013–14 school year shows a 3.2% average increase in total year-over-year costs at public four-year in-state schools to \$18,391, and a 3.7% increase at private four-year colleges and universities to \$40,917.

Despite the significant cost of attending a two- or four-year college, the lifetime-earning premium of a bachelor's degree is significantly higher than that of a high school diploma, even after deducting the costs of loan repayments, as the chart shows. Paying for college can seem like buying a new car every year, but the sticker shock can be lessened if you plan ahead. **Here are seven tips to help you get started:**



1. Get your retirement in order first – Your kids will have access to more sources of college money than you will once you stop working, so make sure you're on the right path for your own retirement before you set aside money for college.

2. Start early – Even small contributions can add up if you give them time to grow. Investing just \$100 a month for 18 years can yield \$48,000, assuming an 8% average annual return.

3. Consider a 529 savings plan for big tax advantages – Qualified withdrawals are free of federal taxes (and some state tax benefits, too), and the amounts you can put in are substantial (more than \$300,000 per beneficiary in many plans). Plus, you can open a 529 no matter how much you make or the age of the beneficiary, which makes it a particularly attractive vehicle for grandparents who want to lower the value of their taxable estate.

4. Custodial accounts give the child more control over the money – Gifting assets through the Uniform Gifts to Minors Act (UGMA) accounts or transferring assets through the Uniform Transfers to Minors Act (UTMA) accounts can be a practical way to expand the universe of available investment options, but they come with a caveat. UGMA and UTMA accounts weigh more heavily on financial aid decisions because they are considered an asset of the child, not the parent. Plus, their tax benefits are limited when compared to a 529. The biggest consideration, however, is that the money saved becomes the child's at a certain age, regardless of whether he or she goes to college.

5. Set up a Coverdell Education Savings Account for simpler needs – The Coverdell ESA offers tax advantages that are similar to those of the 529 plan but limits contributions to \$2,000 per year. If you're contributing less than \$2,000 a year, it can be simple to set up and manage. Plus, you can select from a broad range of investment options, including mutual funds.

6. Take advantage of federal tax breaks – Depending on your modified adjusted gross income, you may be able to take the "American Opportunity Tax Credit and Lifetime Learning Credit" in the years you pay tuition.

7. Look for flexible repayment plans – There are still ways to cut costs after your student graduates and begins repaying student loans. For instance, there is often a one-quarter percentage point interest-rate decrease if you set up automatic debit, in which monthly payments are automatically taken from your account. Federal student loan programs generally have more lenient provisions than private education loans. To learn more, connect with a financial advisor and visit www.rbggrp.com.

Is Mandatory Paid Sick Leave In Our Future?

By Jennifer Jacobus, PHR-CA

AB 1522 which would require California employers to offer paid sick days to their employees is working its way through the system.

The bill was proposed back in 2013 and would require employers, regardless of size, to provide their employees with paid sick leave equaling three (3) paid days per year, accrued at the rate of one hour for every 30 hours worked.

While many employers already offer paid sick time for employees this bill would require that paid sick leave also be offered to part-time and temporary workers.

This bill is being introduced to help assist workers, mostly those on the lower end of the wage spectrum, from having to choose between going into work sick or losing a day of pay. The bill would prohibit an employer from discriminating or retaliating against an employee who requests paid sick days.

This bill would require the Labor Commissioner to administer and enforce these requirements, and would authorize the Labor Commissioner to impose specified administrative fines for violations.

SDEA will keep you posted on any updates to this bill.



SDEA Members Save Money Through the UPS Savings Program

Did you know that **SDEA members can save up to 34% when you ship with UPS?**

Whether you're shipping express or ground packages, you'll get same day pickup with one driver for all of your shipments. Save on a broad portfolio of shipping services, including:

- Up to 34% on UPS Air letters including UPS Next Day Air
- Up to 30% on UPS Air packages (1 lb.+)
- Up to 32% on UPS International imports and exports
- Up to 16% on UPS Ground shipments
- Savings begin at 70% on UPS Freight shipments over 150 lbs.

You can receive these discounts even if you already have a UPS account.

To enroll and start saving, visit savewithups.com/sdea or call 1-800-MEMBERS.





SDEA Helpline Q & A

Every month SDEA receives hundreds of calls. Here readers have the opportunity to learn from some of the most common HR questions received by our HR consultants.



Q. Our company is considering implementing pre-employment medical exams, what regulations apply in this instance?

A. Pre-employment medical exams can't be conducted until after making a conditional job offer.

The purpose is to separate candidate non-medical information (experience, skills, knowledge, etc.) from candidate medical information. Both the federal law (Americans with Disabilities Act) and the California State law (Fair Employment and Housing Act) set guidelines for the pre-hire process. Additionally, pre-employment medical exams should occur after a background check and not simultaneously according to court rulings.

In the court case Leonel v. American Airlines, the Ninth Circuit held that employers must follow a pre-hire sequence of steps and American Airlines failed to when hiring flight attendants. So when implementing a pre-hire process it's important for employers to ensure that pre-hire steps follow a specific order and are consistently applied across the organization. If you would like a copy of this checklist, email us at info@sdea.com or call 858-505-0024.

Q. If an employee quits and leaves immediately, what are the final paycheck requirements?

A. California Labor Code section 201 requires employers to pay wages within 72 calendar hours if an employee quits the job with less than 72 hours' notice. If an employee has given more than 72 hours' notice, then wages must be paid on their final day.

It is important to remember that final paychecks must include all wages owed, including any vacation/PTO that was earned but not used.

**Save The Date:
Friday, May 16**

**Roundtable
11:30 a.m. - 1 p.m.**

**Workplace Wrongdoing
Investigations**

Presented by Lonny Zilberman, Esq.

\$35 Members | \$45 Non-Members

Lunch and networking is included.

**To learn more and to register visit
www.sdea.com**



Advertising And Article Submission Information

This newsletter is published monthly by the San Diego Employers Association (SDEA). We welcome the submission of articles by our members on topics of interest related to HR. Date for submission of materials and advertising is the 15th of the month prior to publication on the 1st of each month. If you are interested in submitting an article or obtaining advertising rates, please email info@sdea.com.