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LEGAL UPDATE

November 3, 2014

To: Superintendents, Member School Districts (K-12)

From: Loren W. Soukup, Associate General Counsel LS

**Subject: AB 1522 – Employee Paid Sick Leave
ADDENDUM to Memo No. 25-2014**

On September 25, 2014, we issued Legal Update No. 25-2014 entitled: AB 1522 – Employee Paid Sick Leave. In response to this Legal Update, we have received the following questions from educational agencies concerning these new sick leave requirements:

1. Do the new sick leave requirements apply to student workers?
2. If an employee's rate of pay exceeds 30% more than the state minimum wage does the employee become ineligible for the paid sick leave under AB 1522?
3. Should educational agencies track the number of hours worked by employees who are not eligible for the paid sick leave under AB 1522?
4. Should educational agencies report the sick leave accrual balance on or with each eligible employee's paycheck?

Here are our responses to these questions:

1. Do the new sick leave requirements apply to student workers?

Yes. In accordance with Labor Code §245, student workers are considered "employees" under AB 1522 and will be entitled to the paid sick leave provided they work at least 30 or more days per year.

2. If an employee's rate of pay exceeds 30% more than the state minimum wage does the employee become ineligible for the paid sick leave under AB 1522?

No. An employee will only become ineligible for the paid sick leave under AB 1522 if the employee is covered by a collective bargaining agreement which provides for all of the following:

- Paid sick leave;
- Final and binding arbitration of disputes regarding sick leave;
- Premium wage rates for overtime; and
- Regular hourly rate of pay of not less than 30% more than state minimum wage.

3. Should educational agencies track the number of hours worked by employees who are not eligible for the paid sick leave under AB 1522?

Yes. A tracking mechanism should be developed for non-eligible, as well as eligible employees, to ensure that educational agencies have a record of hours worked and a record of accumulated and used sick leave, if any. Such records must be maintained by the educational agency for at least three years.

4. Should educational agencies report the sick leave accrual balance on or with each eligible employee's paycheck?

Yes. Educational agencies should include the employee's sick leave accrual balance on or with each paycheck.

Please contact our office with questions regarding this or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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