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## **Workplace Solutions:**

### **Winter 2024 Newsletter**

Bilingual investigation skills are critical when thoroughly investigating claims raised by mono-Spanish speaking employees. Carrera Workplace Solutions is here to help.

Certified in DEI by Cornell University' School of Industrial and Labor Relations and by the Association of Workplace Investigators (AWI). Dedicated and responsive client relations.

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### **Why Carrera Workplace Solutions?**

- **Workplace investigations, advice and counseling, and workplace training, including California's mandated harassment prevention training for employees and managers.**
- **Bilingual services in Spanish.**
- **Certified in DEI by Cornell University School of Industrial and Labor Relations.**
- **Certified by the Association of Workplace Investigators (AWI).**
- **Over 23 years of actual employment litigation experience in matters involving workplace harassment. Dedicated and responsive client relations.**

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**Telemundo Channel 48 interviewed Karen Carrera regarding California's new sick leave law allowing workers to have five days of paid sick leave.**



<https://www.telemundoareadelabahia.com/noticias/trabajadores-california-tendran-dias-por-enfermedad-pagos/2362916/>

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## New 2024 California Employment Laws

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### **Minimum Wage Increases**

As of Jan. 1, 2024, the California state minimum wage will increase to \$16 per hour for all employers, regardless of employee headcount. This also means that as of Jan. 1, 2024, exempt employees in California must be paid a minimum annual salary of \$66,560. "Living wage ordinances" in various locales within the state have been enacted, so local standards should be confirmed to ensure compliance with all governing wage requirements. Covered exempt computer professional employees must be paid a minimum of \$55.58 per hour, or \$115,763.35 in annual salary. On April 1, 2024, covered fast food restaurant employers will see an increase in minimum wage, as will covered healthcare facility employers on June 1, 2024.

### **Increased California Paid Sick Leave**

(SB 616; Labor Code §§ 245.5, 246, and 246.5, effective January 1, 2024)

Under this enhancement to California's paid sick leave law, employers must provide 40 hours/5 days of paid sick leave each year. Previously, the required minimum amount of paid sick leave per year was 24 hours/3 days. Under SB 616 employees are entitled to accrue 1 hour of paid sick leave for every 30 hours worked. Employers may use a different accrual method, provided employees accrue no less than 24 hours of sick leave by the 120th calendar day and no less than 40 hours of sick leave by the 200th calendar day of employment.

- Carry over of or Caps on Accrual: Employers may cap accrual at 80 hours/10 days per year. Previously, the cap was 48 hours/6 days per year.
- Use: Employers may limit the use of paid sick leave to 40 hours/5 days per year. Previously, the use limit was 24 hours/3 days per year.
- Employers With Existing Plans: As before, employers are not required to provide additional paid sick days if they have an existing paid leave policy that provides paid time off for the same purposes as the paid sick leave law that (1) satisfies the accrual, carryover,

and use requirements of the law; or (2) for policies that were in place before January 1, 2015, provides for accrual of at least 8 hours/1 day within 3 months of December 22, 2023 employment and 40 hours/5 days within six months of employment.

- New for Employers with Unionized Workforce: Unionized workplaces that were previously exempt from the “use” provisions of Labor Code section 246.5 are now subject to that section, which provides:
  - Paid sick leave shall be provided for specified purposes.
  - Employers shall not require employees to use paid sick leave to search for a replacement worker.
- Employers shall not deny employees the right to use accrued sick days or discharge or discipline (or threaten) or discriminate against an employee for using accrued sick days.
- There shall be a rebuttable presumption of retaliation in favor of the employee if an employer takes employment action against an employee within 30 days of an employee doing any of the following regarding paid sick leave: filing a complaint with the Labor Commissioner, cooperating with an investigation or prosecution, or opposing an employer’s policy, practice, or action prohibited by this law.
- Next steps: All employers should update personnel policies and forms as needed, and comply with any meet and confer obligations. Employers with a unionized workforce should review the “use” provisions of Labor Code section 246.5 and ensure compliance with it.

### **Reproductive Loss Leave**

(SB 848; Government Code § 12945.6, effective January 1, 2024)

- Purpose of Leave: Employees are entitled to take time off after either a “reproductive loss event” or after another kind of leave for the same “reproductive loss event.” A “reproductive loss event” includes miscarriage, unsuccessful assisted reproduction, failed adoption, failed surrogacy, and stillbirth. This is a new leave entitlement under the Fair Employment and Housing Act.
- Eligibility: Employees are eligible to take this leave on the 30th day of employment. Employees who have had a reproductive loss event or would have been a parent if no reproductive loss event had occurred are eligible for this leave.
- Amount of Leave (Paid or Unpaid): Qualified employees are entitled to take 5 days of unpaid leave per reproductive loss event. The reproductive loss leave need not be paid, but employees may use available leave balances, such as paid sick leave, when taking reproductive loss leave. Leave is capped at 20 days per 12-month period if an employee has more than one loss event.
- No Retaliation: Employers may not retaliate or discriminate against an employee for exercising their right to reproductive loss leave or for participating in an inquiry or proceeding related to rights to reproductive loss leave.
- Confidentiality: Employers must maintain the confidentiality of any requests for use of reproductive loss leave.
- No Documentation Requirement: Employers are not allowed to request documentation from employees requesting to take reproductive loss leave.
- Timing of Leave: Employees are entitled to take this leave within three months after a reproductive loss event. This leave does not have to be taken consecutively or all at once. If prior to or immediately following a reproductive loss event, an employee is on

or chooses to go on California Pregnancy Disability Leave (PDL), California Family Rights Act (CFRA) leave, or any other leave under state or federal law, the reproductive loss leave must be taken within three months of the end date of such other leave. The reproductive loss leave is a separate leave entitlement and does not count against an employee's entitlement to PDL, CFRA, or other leave under state or federal law.

- Next steps: Employers should update personnel policies and forms as needed, and comply with any meet and confer obligations.

### **Workplace Violence Prevention Plan**

(SB 553; Labor Code §§ 6401.7, 6401.9, effective July 1, 2024)

- By July 1, 2024, covered employers are required to establish, implement, and maintain a workplace violence prevention plan that contains specified procedures.
- The required procedures include procedures for the employer to accept and respond to reports of workplace violence, prohibit retaliation against employees who make such reports, respond to actual or potential workplace violence emergencies, identify and evaluate workplace violence hazards, correct workplace violence hazards, and account for post-incident response and investigation.
- Employers are required to record specific listed information regarding every workplace violence incident in a violent incident log.
- At least annually, employers are required to review the effectiveness of the workplace violence prevention plan, and revise it as needed.
- Employers are required to provide training to employees at least annually. Such training must include the workplace violence prevention plan, how to report workplace violence incidents, the workplace violence hazards specific to the employees' jobs, the corrective measures the employer has implemented, and the strategies to avoid physical harm.
- The California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) has the authority to issue citations and assess civil penalties for violations of this law.
- Next steps: By July 1, 2024, employers must establish, implement, and maintain a written workplace violence prevention plan; comply with any meet and confer obligations; and train employees as specified in the law.

### **Workplace Violence Prevention Restraining Orders**

(SB 428 and SB 553; Code of Civil Procedure § 527.8; effective January 1, 2025)

- Effective January 1, 2025, employers and collective bargaining representatives have standing to seek workplace violence restraining orders on behalf of employees who are subject to the threat of, or actual violence, or "harassment" at work. Existing law only allows employers (and not collective bargaining representatives) to seek workplace violence prevention restraining orders for the threat of, or actual violence (and not harassment), at work. A collective bargaining representative of at least one employee of the employer can seek workplace violence restraining orders on behalf of unrepresented employees.
- For purposes of the statute, harassment is defined as "a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional

distress, and must actually cause substantial emotional distress.”

- An employee who would be protected by a workplace violence restraining order brought by an employer or collective bargaining representative must be allowed to opt out of being named in the petition for a workplace violence restraining order.
- Constitutionally or statutorily protected speech or activity is not subject to restraint by a workplace violence restraining order.
- Next steps: Employers who are concerned about workplace conduct are encouraged to consult legal counsel to discuss how to seek protections for employees and evaluate whether to seek a workplace violence restraining order.

### **Retaliation Protections**

(SB 497; Labor Code §§ 98.6, 1102.5, and 1197.5, effective January 1, 2024)

- This law expands the retaliation protections for employees who engage in protected activity relating to wage-related complaints, Equal Pay Act complaints and activities, and whistleblower activities.
- Adverse employment actions taken against an employee within 90 days of engaging in protected activity related to a wage complaint or Equal Pay Act-related protected activity will create a rebuttable presumption of retaliation in favor of the employee.
- This law subjects all employers to the civil penalties provisions of the general whistleblower statute (as opposed to just corporate employers). Also, civil penalties are increased from “up to \$10,000 for each violation” to “up to \$10,000 per employee per violation.”
- Next steps: Employers should ensure adequate training of supervisory/managerial personnel and human resources personnel regarding what constitutes protected activities under wage complaint laws, the Equal Pay Act, and the general whistleblower law.

### **Workplace Prevention Plans: What should you do?**

Governor Newsom signed SB 553 a first of its kind workplace violence prevention law, which requires nearly all California employers to create, adopt, and implement written Workplace Violence Prevention Plans that include numerous elements, annual workplace violence prevention training, violent incident logs, and the creation and retention of various records.

Developing a workplace violence prevention plan is crucial for maintaining a safe and secure work environment. Here are steps to consider:

- 1. Risk Assessment:** Conduct a thorough risk assessment to identify potential sources of violence in the workplace. This may include assessing the nature of the work, interactions with the public, and any previous incidents.
- 2. Establish Policies and Procedures:** Develop clear policies and procedures outlining expectations for appropriate behavior, conflict resolution, reporting mechanisms for threats or violence, and consequences for violating policies.
- 3. Training and Education:** Provide comprehensive training for all employees on recognizing warning signs of potential violence, de-escalation techniques, how to report concerns, and procedures to follow in the event of an incident.
- 4. Promote Communication:** Encourage open communication

between employees and management. Provide channels for employees to report concerns about safety or threats anonymously if necessary.

- 5. Implement Security Measures:** Evaluate and implement appropriate security measures such as access control systems, security cameras, and emergency response protocols to enhance workplace safety.
- 6. Establish Emergency Response Protocols:** Develop and communicate clear protocols for responding to incidents of violence or threats, including procedures for evacuations, lockdowns, and contacting law enforcement.
- 7. Provide Support Services:** Offer support services such as employee assistance programs (EAPs), counseling services, or referrals to mental health professionals for employees experiencing stress, harassment, or other issues that could potentially lead to violence.
- 8. Regular Review and Update:** Regularly review and update the workplace violence prevention plan to reflect changes in the work environment, new threats, or lessons learned from previous incidents.
- 9. Promote a Culture of Respect:** Foster a culture of respect, inclusivity, and zero tolerance for violence or harassment in the workplace. Encourage teamwork, conflict resolution skills, and mutual respect among employees.
- 10. Monitor and Evaluate:** Continuously monitor the effectiveness of the workplace violence prevention plan through incident tracking, employee feedback, and regular assessments to identify areas for improvement.

### **What Must be Included in a Workplace Violence Prevention Plan in California?**

Workplace Violence Prevention Plans must be in writing and easily accessible by employees. The Plans can be included as a stand-alone section within an existing injury and illness prevention plan (IIPP) or they can be maintained as a separate document.

In addition to identifying the individuals responsible for implementing the Plan, a Plan must include the following procedures for:

- Involving employees in the development and implementation of the Plan
- Coordinating implementation of the Plan and training with other employers such as staffing agencies.
- Accepting and responding to reports of workplace violence, and prohibiting retaliation against reporting employees
- Ensuring employees comply with the Plan
- Communicating with employees about: (1) how to report violent incidents, threats, or workplace violence concerns to employer or law enforcement and (2) how concerns will be investigated and results communicated
- Responding to actual and potential workplace violence emergencies
- Identifying and evaluating workplace violence hazards
- Post incident response and investigation
- Reviewing Plan effectiveness annually, when deficiency is apparent, or after a workplace violence incident

## Training Requirements

SB 553 also requires employee training. Employers must provide employees with initial training when the Plan is first implemented and continue to conduct annual training. The training must cover the following topics:

- The employer's Plan and how employees can obtain a free copy of the Plan
- How to report workplace violence hazards and workplace violence incidents
- Corrective measures the employer has implemented
- How to seek assistance to prevent or respond to violence
- Strategies to avoid physical harm
- Information about the violent incident log and how employees can obtain a copy
- Additional training is required when new or previously unrecognized workplace violence hazards are identified, or when there are changes to the Plan.

Employers must retain training records for at least one year.

## Recording and Reporting Requirements

Employers are required to record every workplace violence incident in a violent incident log including:

- Date, time, and location of the incident
- Detailed description of the incident
- Classification of who committed the violence
- The type of violence, including whether it was a physical attack or threat, whether weapons or other objects were involved, or whether it was a sexual assault
- Consequences of the incident including whether security or law enforcement was contacted and whether actions were taken to protect employees from a continuing threat

Employers must retain the log for 5 years and omit personal identifying information. Employees are entitled to view and copy the log within 15 calendar days of a request.

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## Karen's Delicious Latin Kitchen

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### Peruvian Chicken and Rice

Gaston Acurio, a renowned Peruvian chef, has many delicious recipes, including Peruvian chicken and rice. Here's a simplified version inspired by his culinary style:

#### Ingredients:

- 4 bone-in, skin-on chicken thighs
- 2 cups long-grain white rice
- 1 onion, finely chopped
- 3 cloves garlic, minced
- 1 cup frozen peas
- 2 tablespoons aji amarillo paste



(Peruvian yellow chili paste) (you can find Peruvian aji Amarillo paste at Latin markets and Nugget Markets) adjust to taste

- 2 cups chicken broth
- Salt and pepper to taste
- 1 Bunch fresh cilantro liquified (cut off stems and liquify in blender with 1 cup chicken broth)
- Vegetable, avocado oil, or olive oil



### Instructions:

- Season the chicken thighs with salt and pepper.
- In a large skillet or Dutch oven, heat some oil over medium-high heat. Add the chicken thighs, skin side down, and cook until golden brown, about 5-6 minutes. Flip and cook for another 5 minutes. Remove the chicken from the skillet and set aside.
- In the same skillet, add a bit more oil if needed. Sauté the chopped onion, garlic, and until softened, about 5 minutes.
- Stir in the aji amarillo paste. Cook for another 2-3 minutes until fragrant.
- Add the rice to the skillet and cook, stirring frequently, for about 2 minutes to toast the rice slightly.
- Pour in the chicken broth and cilantro mixture and bring to a boil. Reduce the heat to low, cover, and simmer 10 minutes.
- Nestle the browned chicken thighs into the rice mixture. Scatter the peas over the top. Cover and continue to simmer for another 15-20 minutes, or until the rice is tender and the chicken is cooked through.
- Once done, remove from heat and let it sit, covered, for a few minutes before serving.
- Garnish with chopped cilantro.

Enjoy your homemade Peruvian chicken and rice, inspired by the flavors of Gaston Acurio's cuisine! Adjust the spice level according to your preference, and feel free to add other Peruvian ingredients like aji panca or chopped pickled red onions on the side.

\*You can make this dish vegetarian or vegan by substituting vegetable broth and no chicken.

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Carrera Workplace Solutions specializes in Spanish language and bilingual trainings and investigations with Spanish-speaking employees. Topics of trainings include discussions on diversity and inclusion, harassment prevention, discrimination, retaliation, and abusive conduct (bullying).

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