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It looks like you're offline. In December 2019, the California Labor Commissioner, Division of Labor Standards Enforcement (DLSE) updated the DLSE Enforcement Policies and Interpretations Manual – which the agency uses in discharging its duty to administer and enforce California state labor statutes and regulations. Here we summarize the key updates to the DLSE Enforcement Manual impacting employers with California employees. While the DLSE Enforcement Manual is not binding on courts, judges often cite it as persuasive authority, and the interpretations are certainly binding on proceedings before the Labor Commissioner. California employers evaluating wage-and-hour issues must analyze the DLSE Enforcement Manual in context with other binding legal authority. California state authority includes the California Labor Code, California Wage Orders, California state case law, and DLSE opinion letters. Federal authority includes the Federal Labor Standards Act (FLSA), FLSA regulations, federal district court and 9th Circuit case law, and Department of Labor guidance (and opinion letters), employee agreements and policies, and applicable labor law. Sections 8.1-8.1.3: Labor Code Section 210 Permitting Employees to Recover Statutory Penalties for the Late Payment of Wages During Employment In 2019, the California state legislature amended Labor Code Section 210 to allow employees to sue employers directly for statutory penalties when employees are not timely paid wages during employment as required under Labor Code Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5. Previously, the Labor Code had permitted recovery of these civil penalties only by the Labor Commissioner. Effective January 1, 2020, an employer must pay \$100 for each initial violation, and \$200 for each subsequent violation or for any willful or intentional violation, plus 25 percent of the amount unlawfully withheld. Labor Code Section 210 specifies that employees may recover either statutory penalties under Section 210, or civil penalties under the Labor Code Private Attorneys General Act of 2004—but not both—for the same violations. The changes to Sections 8.1–8.1.3 of the DLSE Enforcement Manual reflect the changes to Labor Code Section 210, which took effect on January 1, 2020. Section 19.3.6: Service Charges and Gratuities (Tips) The update to Section 19.3.6 reflects a change in the California Labor Commissioner's position on service charges not being considered a gratuity under Labor Code Section 351 (employer shall not "require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer"). Section 19.3.6 now provides that service charges may be considered a gratuity where a local ordinance requires that service charges be paid to the employee who provides the service, or where the facts suggest a customer intended or believed the service charge was being used to pay a tip to an employee. See our blog post on this here. Section 45.2.5: On-Duty Meal Periods Generally, no employer shall employ a worker for a period of more than five hours without providing an uninterrupted meal period of at least 30 minutes. Certain exceptions may allow an employer to require an employee to work "on-duty" meal periods. Section 45.2.5 incorporates a California court of appeal's findings in *L'Chaim House, Inc. v. DLSE* (2019) 38 Cal.App.5th 141, which provides that even if all of the circumstances exist to allow an on-duty meal period, the employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. Sections 3.2.5, 3.4, 4.3.3: When Wages Are Payable to Print Shoot Employees and Event Employees Section 3.2.5 incorporates the newly enacted Labor Code Section 201.6, which provides that "print shoot employees" may be paid by the next regular payday. "Print shoot employees" are defined, in part, as "individuals hired for a period of limited duration to render services relating to or supporting a still image shoot, including film or digital photography...." Section 3.4 incorporates Labor Code Section 201.8. Labor Code Section 201.8 went into effect on January 1, 2020, and allows employers to pay event employees working at a professional baseball venue on the next regular payday, unless the worker is fired or quits. Section 4.3.3, which addresses the payment of wages by mail following termination, was amended to include new Labor Code Sections 201.6 and 201.8; employers of print shoot employees and event employees may choose to pay an employee's final wages by mail and the date of mailing will be considered the date of payment. DivisionOfLaborStandardsEnforcementEnforcementPoliciesAndInterpretationsManual. This manual requires Adobe Acrobat Reader to view and print. Links from the manual to the opinion letters will place you in a different document. To return to the manual, use the "back" button on your browser and not the "Go to Previous View" button on the Acrobat Reader toolbar. View the DLSE Enforcement Manual. (4 MB) Cautionary Note: All Wage Orders except Orders 14 and 17 contain references to specific Code of Federal Regulations (CFR) sections. These references are in the section of the Wage Orders that discuss their applicability. All the references relate to determining if employees meet the "Executive," "Administrative," and/or "Professional" exemption. Because the CFR sections referenced are those in effect when the Wage Orders were amended, and because some of the current CFRs have been amended, click on the link to access the correct 29 CFR language that is referenced in the Wage Orders 1-13 and 15 or click on the following link to access the correct 29 CFR language that is referenced in Wage Order 16. Pursuant to Executive Order S-2-03, the DLSE opinion letters and the Enforcement Policies and Interpretations Manual are currently under review to determine their legal force and effect and to ensure compliance with the requirements of the Administrative Procedures Act. Please note, in addition, that DLSE opinion letters are advice in specific cases only. If you believe that a section of the Enforcement Policies and Interpretations Manual or an opinion letter needs to be reviewed to determine if it should go through the regulatory process pursuant to the Administrative Procedures Act, please submit your comments to dlsecomments@dir.ca.gov. Please include the specific manual section or opinion letter number and explain your specific concerns. The Division of Labor Standards Enforcement - Comments mailbox account (dlsecomments@dir.ca.gov) has been established solely to take comments on the enforcement manual and opinion letters. All comments will be read and considered, but no responses to questions or specific advice will be provided. Corporate Author California. Department of Industrial Relations. Division of Labor Standards Enforcement. Uniform title Enforcement policies and interpretation manual. Title The 2002 update of the Division of Labor Standards Enforcement Enforcement policies and interpretations manual. Variant Title Title from acknowledgments page: 2002 update of the DLSE Enforcement policies and interpretations manual. Edition [2002 ed.] Imprint [Sacramento, Calif. :] [Division of Labor Standards Enforcement], [2002]- Note Cover title.Includes indexes. Local Note In order to access the opinion letters, click on "Opinion letters" in left hand frame. Linked Resources Language English Includes Index of opinion letters.Opinion letters. Record Appears in Monographs & Serials

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