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Tips for Complying with California Employment Laws During the Wildfires, *SHRM, ft. Barbara Harris Chiang*

Barbara L. Harris Chiang was quoted in a SHRM article written by Lisa Nagele-Piazza published on October 20, 2017.

Destructive wildfires in Northern California have made it difficult or impossible for some employees to get to work or for worksites to remain open—which could cause a host of issues for employers. Employees may need to work remotely and time-keeping and other human resources information systems may be down.

Here are some tips for California HR professionals on how to help their workplace function during a natural disaster.

Disaster Plan

First, it's important for employers to have a disaster plan. Employers should clearly communicate the plan to all workers and make sure they are aware of what the plan covers, said Barbara L. Harris Chiang, an attorney with Kaufman Dolowich & Voluck in San Francisco. The plan should outline how to safely exit the building in an emergency, what type of fire hazards may be present on the premises, and how to handle a situation should one arise.

"The plan should also include information on how the employer will communicate with employees in the event of an unplanned closure and who will communicate with the employees," she added. "Additionally, it would be beneficial to predesignate which employees may work remotely in the event of an emergency."

Remote Workers

"Nonexempt employees should be reminded to follow all company time-keeping policies as if they were working at the office," Chiang said. They should record all time worked and the start and end times for meal breaks and should take their rest breaks.

Payroll Compliance

Office closures, reporting delays and systems issues during a natural disaster can make it difficult to timely and accurately run payroll.

If paychecks do not capture all hours worked due to reporting delays, the employer is obligated to pay for all hours that it knows the employee worked, Chiang said. If the employer has reasonable knowledge that the employee worked an eight-hour day, but did not receive a time card, the employer must still pay the employee for the time worked.

Leaves of Absence

Several leave laws may be triggered in the event of a disaster, Chiang noted, including:

- **The Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA). If a business is covered by these laws, an employee may be eligible for leave if the employee or a family member has developed a serious health condition as a result of the disaster.**

- **The Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Even if an employee is not eligible for FMLA or CFRA, if the employee suffers either a physical or mental injury as result of the disaster, obligations under the ADA and FEHA may be triggered.**
- **School or childcare leave. Employers may be obligated to provide a certain amount of unpaid leave if school or child care is unavailable due to the disaster.**
- **Emergency responder leave. Volunteer firefighters, reserve police officers and emergency rescue personnel must be permitted to take a leave of absence to perform emergency duties, although an employer is not required to pay for the time off.**

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