

The Source

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Open Enrollment

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It's time for our annual open enrollment. This is the one time of the year when employees can enroll into the insurance programs without qualifying events. For those clients with benefit plans, we have distributed the open enrollment packets consisting of all the details and forms for employees.

Employees can make changes or enroll for the first time to the insurance plans by completing the appropriate application/change forms. Forms are due to the benefits department no later than May 28, 2010 for changes to take effect on June 1, 2010. No forms are necessary if employees will not be making changes to their coverage.

All forms should be faxed to the Benefits Department at: (760) 632-9627. For more information contact the benefits department at (800) 559-2350 ext. 344.



Did you know...

SUA Insurance Company was purchased by Tower Group, Inc. in November of 2009?

SUA will now be known as CastlePoint National Insurance Company. Along with the name change, Employers Resource is pleased to announce that CastlePoint now enjoys an A.M. "Best Rating" of A- (Excellent). For more information on how this change affects your policy, contact the Workers Compensation Policy department at Extension 338.

Compliance Spotlight

Bullying in the Workplace



If you think bullying is something you left behind at the elementary-school playground, think again. It turns out that 37 percent of U.S. adults, or an estimated 54 million Americans, report being bullied at work, according to research from the Workplace Bullying Institute. Just as surprising is that bullying is four times more common than harassment — and that figure is likely to be underreported. As with most forms of harassment, employees tend to be too afraid or embarrassed to report the incidents.

Experts anticipate more employees coming forward in the future, due in part to a 2008 Indiana Supreme Court ruling that awarded \$325,000 to a medical technician. He sued his boss, a cardiovascular surgeon, for emotional distress and assault in 2002. The hospital employee alleged his boss screamed, lunged and swore at him, which ultimately caused such stress that he had to leave his job. The case paved the way to show that “bullying can cause emotional distress so that people can sue,” says Dr. Gary Namie, director of the Workplace Bullying Institute. What’s more, nine states, including Illinois, New York and Utah, have undertaken a legislative campaign to enact anti-bullying laws in the workplace.

The effects of bullying can be quite detrimental — both to the individual and the workplace. 45 percent of bullying targets experienced stress-related health problems like depression, anxiety and sleeplessness, among other symptoms. For the company’s part, a business can see a decrease in productivity, an increase in employee turnover, an increase in health and workers compensation claims for stress-related illnesses and, in some cases, potential litigation costs. “This is an economic issue, and small businesses are more intimately affected by the behavior of a workplace bully,” says Garry Mathiason, vice chair of Littler Mendelson, a labor and employment law firm. In a small business environment such issues are magnified and there’s little capacity to hide the incident from others.

So what exactly is considered bullying? How do you know that it’s bullying and not just an interpersonal issue between employees? For the most part, bullying is “outrageous, inappropriate behavior ... physical, verbal or subtler,” says Stephen Paskoff, attorney, founder of ELI, a training company that teaches professional workplace conduct, and author of “Teaching Big Shots to Behave (and Other Human Resource Challenges).” “It is what is said, and how it is said — both language and tone of voice all contribute,” he says. To be sure, bullying is very subjective. What will stop bullying, he says, is leadership that is committed to the welfare of it’s employees and sees that productivity is threatened, resulting in policies that are linked to the bottom line.

Should you have a workplace bully, there are a few simple guidelines to follow:

- Document and discipline the bully by explaining his or her behaviors are not acceptable and will not be tolerated
- Be sure the bullied employee feels the support and backing of the company
- Require the bully be trained in managing his or her behavior
- Monitor the problem employee to ensure the behavior remains under control
- Terminate the troubled employee if positive coaching and training does not work

Contact the Human Resource department for guidance in addressing workplace bullies.

Earthquake safety in the workplace

Companies have an obligation to keep their employees safe and to maintain an emergency disaster plan. With regard to a disaster plan an emergency evacuation area must be designated where workers can gather after a fire or earthquake. The emergency evacuation area should be outside in an open area away from buildings or power lines. If there is no open space nearby, designate some other safe location.

Part of the emergency disaster plan requires employers to establish a procedure to account for all employees by having an employee roster and assigning the safety officer to take the roster with them when evacuating the building.

Employers should identify evacuation routes and alternate routes, and keep them clear of any obstructions. It is a good idea and recommended you plan assistance for people with disabilities, employees, and people who may be visiting by conducting drills.

Companies should assign and train employees to handle basic first aid and evacuations. Employers should train all employees in earthquake preparedness and identify safe places at work. We recommend appointing and training safety officers to take leadership in emergencies.

6 Components to an Earthquake Drill:

Alarm
Response
Evacuation
Assembly Head Count
Evaluation

Alarm – During the alarm stage, those involved in the drill are alerted by a loud warning device such as a bell or buzzer. This must be a pre-arranged signal known by everyone, so that all will respond accordingly.

Response – During the response phase, everyone heads for cover. Persons get under a heavy desk, table, chair, bed or under a door jamb. Make sure you move away from windows, glass or light fixtures. If there is not a cover available, crouch and try to protect your head.

Evacuation – After remaining in your respective safe place until the shaking has stopped, persons should then evacuate the building. The evacuation proceeds through pre-determined safe routes and evacuees gather outside in a pre-designated safe area away from building, fences, walls, electricity poles, bridges and trees.

Assembly – At the assembly point, the evacuees are grouped in order of departments or floors to facilitate the next step, which is roll call

Roll Call – During the roll call the safety officer determines if everyone is present

Evaluation – After the roll call, there should be an evaluation of how successful the evacuation was. The company should identify problems or potential problems with the drill.

Remember, only by practicing drills will employees be reasonably sure that in the event of a serious earthquake they will be able to respond appropriately. Contact the Loss Control Department for assistance in creating an Emergency Disaster Plan.

Independent Contractor or Employee?

As wage and unemployment claims continue to rise in California by persons claiming to be employees when employers classified them as Independent Contractors, we provide some guidance in deciding how to classify persons via the EDD's employment determination guide.

The basic test for determining whether a worker is an independent contractor or an employee is whether the principal has the right to direct and control the manner and means by which the work is performed. When the principal has the "right of control", the worker will be an employee even if the principal never actually exercises the control. If the principal does not have the right of direction and control, the worker will generally be an independent contractor.

If it is not clear from the face of the relationship whether the worker or the principal has the "right of control", reference is made to a list of secondary factors that are evidence of the existence or nonexistence of the right of control.

If your response to one of the below questions is "Yes", it is a strong indication that the worker is an employee and there is a high probability of risk if you classify the worker as an independent contractor:

1. Do you instruct or supervise the person while he or she is working?
2. Can the worker quit or be discharged at any time?
3. Is the work being performed part of your regular business?

A "No" answer to questions 4-6 indicates that the individual is not in a business for himself or herself and would therefore normally be an employee:

4. Does the worker have a separately established business?
5. Is the worker free to make business decisions which affect his or her ability to profit from the work?
6. Does the individual have a substantial investment which would subject him or her to a financial risk of loss?

A "Yes" answer to any of the below questions is an indication the worker may be an employee, but no one factor by itself is deciding. All factors must be considered and weighed together to determine which type of relationship exists. However, the greater the number of "Yes" answers to questions 7-13, the greater the likelihood, the worker is performing services as an employee:

7. Do you have employees who do the same type of work?
8. Do you furnish the tools, equipment or supplies used to perform the work?
9. Is the work considered unskilled or semi-skilled labor?
10. Do you provide training for the worker?
11. Is the worker paid a fixed salary, an hourly wage, or based on piece rate basis?
12. Did the worker previously perform the same or similar services for you as an employee?
13. Does the worker believe that he or she is an employee?

Should you have questions how best to classify your staff contact Employers Resource.



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