

Inside This Issue:

*Happy Holidays from
HR Advisors*
Page 1

*ADA Amendments Act
of 2008 Signed Into
Law..What You Need To
Know Now*
Page 2

New FMLA Regulations
Page 2

*Five Common,
Avoidable COBRA
Mistakes*
Page 3

*Four Ways To Reward
Employees Without
Spending Any Money*
Page 3

*How Do We Calculate
Working Time Under
FLSA*
Page 4

*How To Motivate Any
Employee In Your
Company*
Page 5

Happy Holidays from HR Advisors

We are thankful for what we have accomplished this year. Once again it's the Holiday Season, not a time to diminish the level of service that we provide to our customers and clients, nor a time to slow down the pace. However, it's important for us as a team (as it's important for you) to stop and reflect not only on the good things that have happened, but also on everything else that has happened in the past year (some things perhaps not so good).

We need to examine why and be thankful for everything that has worked well. If it did not turn out as well as we anticipated, we should take the time to understand why.

Our team realizes this and we know that our clients are very important to us. We also appreciate how valuable time is and are fortunate to be passionate about what we do every day. We are thankful that all of you have chosen us as your outsourced HR and Staffing Solutions provider and we appreciate the opportunity you have given us to use our time to create moments of success for you and your company.

From all of us at HR Advisors, we wish you and yours a very Happy Holiday and look forward to a prosperous 2009!





ADA Amendments Act of 2008 Signed Into Law

What You Need to Know Now!

The Americans with Disabilities Amendment Act (ADAA) has now been signed into law and will take effect on **January 1, 2009**. The amendment makes sweeping changes to the Americans with Disabilities Act (ADA), and the change that will have the biggest impact on employers is the much broader definition of who qualifies as disabled. The bottom line is that more employees will fit within the definition of disabled under the ADA. **This in turn, means more employees may request reasonable accommodations from their employers.**

In particular, the Act contains the following amendments:

- The Act specifically provides that the term “disability” shall be construed in favor of broad coverage for individuals.
- The Act prohibits the consideration of “mitigating measures,” such as medication, medical supplies, prosthetics, hearing aids, mobility devices and assistive technology, in determining whether an individual has a disability.
- The Act clarifies that an impairment that substantially limits one major life activity need not limit other major life activities in order to be a disability
- The Act states that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

NEW FMLA REGULATIONS

What Changes on January 16?

The Department of Labor has finally announced its Family and Medical Leave Act (FMLA) revisions that go into effect January 16, 2009. The final regulations revise almost all of the 70-plus sections of the FMLA regulations that were first issued in 1995. Some changes are comprehensive, while others are just minor edits to the current regulations.

Here is a brief overview of the revisions:

- **Leave rights to care for ill military family members and to manage affairs when family members are called to duty.**
- **Penalty provision/Supreme Court Ragsdale decision.**

The final regulations remove the penalty in the old regulations requiring an employer to essentially provide more than 12 weeks of FMLA leave if it fails to notify an employee that time off is covered by the FMLA, except when the employee suffers harm as a result of the notification failure.

- **Serious Health condition definition.**

The new regulations add a new time frame definition to “continuing treatment” by a health care provider. They clarify that to meet the definition of incapacity and treatment, an employee or family member must be incapacitated for more than three consecutive calendar days and receive treatment two more times within a 30-day period, unless extenuating circumstances exist. Also, the first visit must occur within seven days of the first day of incapacity. In addition, the regs now define “periodic visits to a health care provider” for chronic serious health conditions as at least two visits to a health care provider per year.

- **Medical certification process.**

The final regs allow certain members of management or HR to communicate directly with an employee’s health care provider to clarify and authenticate the medical certification, but only after the employee authorizes the contact and has been given an opportunity to cure any deficiencies found in the certification initially provided. To further protect patient medical privacy, the employee’s direct supervisor cannot make contact with the health care provider.

- **Employer notices to employees of designation of FMLA leave.**

The final regulations include a new employer notification requirement that specifically informs employees that their leave is being designated as FMLA leave and counts against their 12 weeks entitlement. The DOL also provided a new for you can use for this purpose.

FIVE COMMON, AVOIDABLE COBRA MISTAKES

Managing COBRA shouldn't be rocket science, but there is a science to it that employers and HR Managers need to be aware of. **HR Advisors can help you with any or all of these 5 basic rules!**

Most of it is covered in the following five basic rules of COBRA administration, as explained by the law firm of Ogletree Deakins:

1. **Watch the hours.** If access to your health plan is determined by the number of hours a week the employee works – for instance, they have to work a minimum of 30 hours to gain coverage – then you will have to offer COBRA to any employee whose hours dip below that number and who loses coverage as a result.
2. **Know your state laws.** If your facilities are located in states other than California, it's best to make sure you're in compliance with those state laws. **Please call HR Advisors to determine compliance in each state you do business in.**
3. **Don't forget the spouse.** You may know that you are obligated to send a notice of a "qualifying event" to the employee's residence so that a spouse is kept in the loop. But what if the spouse doesn't live at the same address? **Have employees update spouses' contact information, and make it a practice to check that info when COBRA notification comes into play.**
4. **Coordinate with FMLA.** If you have 50 or more employees, in most instances when an employee takes leave under the Family and Medical Leave Act, COBRA isn't an issue, since health coverage normally continues while the employee is on leave. But you will want to watch for two FMLA related situation: (a) An employee's FMLA leave expires, and the employee doesn't return to work or (b) during FMLA leave, an employee notifies you he's not returning to work. In either case, COBRA – and YOUR obligation – may kick in.
5. **Be specific about domestic partners.** If your plan covers employees' non-spouse partners, your plan description needs to explain how those partners are treated when there is a COBRA qualifying event. For instance, what happens when there is a "break-up" that is not a legal divorce? If you're not specific in your summary plan description or other documents, the law generally tilts in favor of the partner.



FOUR WAYS TO REWARD EMPLOYEES WITHOUT SPENDING ANY MONEY

Cash bonuses can be great, but they are certainly not the only way to reward employees. In fact, other methods can be even more effective. Here are four ways good managers can recognize employees without dipping into the budget:

1. **Let them set their own schedules.** Once a worker shows that she or he is a consistent contributor, relax some of the supervisory structure. Let stellar employees use their own judgment about when they take breaks and lunch and so on.
2. **Find advancement opportunities for them.** Even if it's outside of your department, if necessary. Obviously, it would be better to keep good workers in your own department. But, if there are no opportunities for them there, actively seek out promotional possibilities in other departments. Sure, you'll lose some good workers this way, but that will be offset by the image of goodwill you project for your company. Your employees will realize that you care about their future as much as you care about yours.
3. **Give them plum assignments.** When possible, find special assignments that offer them a welcome change of pace. Sitting on a special task force, for example, or working on a new product launch.
4. **Praise them in front of their peers.** The human being has not yet been born who doesn't relish public praise. Remember, though, to reserve this powerful weapon for exceptional performance. Otherwise, you risk weakening its potent power.

How Do We Calculate Working Time Under FLSA?



For many employers, the FLSA remains the single biggest source of day-to-day legal compliance headaches. One recurring problem that we've been discussing with our clients, is the determination of which hours should be paid, such as for breaks and travel time.

The Fair Labor Standards Act (FLSA) requirements for nonexempt employees seem fairly straightforward. You must pay nonexempt employees for all time actually worked, and you also must pay overtime for all hours worked over 8 in one day and over 40 in a single workweek.

But, do you know how to treat time when the nonexempt employee is not really performing his or her stated job duties? For example, do you have to pay an employee who has to travel to his or her first work appointment? Or, what about the time an employee spends "on call" waiting to work if needed?

In this Newsletter, we will give you the basic definition of working hours, when non exempt employees must be paid before and after normal working hours, and when waiting time must be compensated.

In future newsletters, we will address pay for meal and rest breaks, training time and travel time.

1. What is the basic definition of working hours?

The Supreme Court provided the definition for working hours adopted by the FLSA regulations in a long-standing decision. In that case, the Court determined that working hours include all time during which a nonexempt employee is engaged in physical or mental exertion controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer and its business. Also, the time an employee spends after clocking in, getting to his/her job, and preparing for it generally is compensable. However, the time which the employee spends waiting, just because he or she arrived early, is not.

2. What if a nonexempt employee begins working before his regularly scheduled start time or continues working at the end of his shift?

According to the FLSA regulations, if you allow or permit employees to perform work, you must count this time for compensation and overtime purposes, even if you did not request or schedule the work. Therefore, if you are aware that an employee is working more time than is required, you should compensate the employee, even if you did not specifically require the additional work.

3. Do we have to pay nonexempt employees for time spent waiting?

Your obligation to pay for waiting time depends on the particular circumstances. According to FLSA regulations, "facts may show that the employee was engaged to wait or they may show that he waited to be engaged. Such questions must be determined in accordance with common sense and the general concept of work or employment."

Examples include:

- A Secretary who reads a book while waiting for dictation is working.
- A messenger who works a crossword puzzle while awaiting assignments is working.
- A repairperson is working while waiting for the employer's customer to get the premises ready.
- On call time. An employee who is required to remain on call on the employer's premises is working while on call and must be paid for that time. In addition, an employee who must remain on call so close to the employer's premises that he cannot use the time effectively for his own purposes is also working while on call. However, if the employee is not required to remain on the employer's premises but only is required to leave word at home or with his employer where he may be reached, he is not working while on call and does not have to be paid.

How To Motivate Any Employee In Your Company



It's a fact: Different needs motivate different people. Some crave power, others want money. Some want constant praise; others want to be left alone. It's crucial for managers to figure out what motivates individual employees. Ninety-nine percent of employees are motivated by one of the following needs:

- 1. The need for achievement.** These employees want the satisfaction of accomplishing projects successfully. They want to exercise their talents to attain success. They are self-motivated if the job is challenging enough, so **provide them with the right work assignments and they will consistently produce.**
- 2. The need for power.** These employees get satisfaction from influencing and controlling others. They like to lead and persuade, and are motivated by positions of power and leadership. **Give them the opportunity to make decisions and direct projects.**
- 3. The need for affiliation.** These employees derive satisfaction from interacting with others. They enjoy people, and find the social aspects of the workplace rewarding. **Motivate them by giving them opportunities to interact with others; teamwork projects, group meetings, and so on.**
- 4. The need for autonomy.** These employees want freedom and independence. **Allow them to make their own choices, set their own schedules, and work independently of others.**
- 5. The need for esteem.** These employees need recognition and praise. **Give them ample feedback and public recognition whenever possible.**
- 6. The need for safety and security.** These employees crave job security, a steady income, health insurance, and a hazard-free work environment. **Give these people predictable work with little risk or uncertainty. Also, salary and fringe benefits are very important to them.**
- 7. The need for equity.** These employees want to be treated fairly. **They probably compare work hours, job duties, salary, and privileges to those of other employees – and will become discouraged if they perceive inequities.**

A Thought To Ring In The New Year...

"We will open the book. Its pages are blank. We are going to put words on them ourselves. The book is called Opportunity and its first chapter is New Year's Day."

Contact Us



ADVISORS

877.344.8324

info@hradvisors.comwww.hradvisors.com

Human Resources

Payroll

Benefits

Recruiting

Background
Investigations

Research

"Innovative, Strategic Staffing & HR Solutions"

[HR Advisors, Inc. is a 25-year old consulting firm specializing in Human Resource & Recruiting Consultation, Payroll & Benefits Administration & Business Research of all types.](#)

HR Advisors Human Resources Division: Our HR practice works with your organization on- or off-site, on either an ongoing or project basis. Whether it's HR on Demand, an employee handbook or an entire HR team, we have the bandwidth to assist you with whatever your HR needs may be.

- HR on Demand
- Benefits and Payroll Administration
- HR Compliance Audits
- Employee Handbook
- Compensation Projects
- Sexual Harassment Training
- Government Compliance

Small to Medium-sized businesses have neither the time nor the resources to stay current with the rapidly changing laws and processes that directly affect their company and their employees. HR Advisors can provide the building blocks you need to select, manage, and retain valuable employees and to increase your confidence and control over employment issues. To assist our clients with this challenge, we provide HR ON-DEMAND. This program allows our clients to contact us for answers to "people" questions and issues as they arise. HR ON-DEMAND is part of a company's Risk Management solution. For a nominal fee, we will work with you to take a proactive role to help prevent employee claims before they happen!

HR Advisors Recruiting Division: With respect to recruiting, since we bill on an hourly basis, not per individual hired, the cost-per-hire is **significantly** lower than using traditional (contingent/retained) search firms. In cases where organizations have an aggressive hiring plan, we offer not only our experienced consultants, but also the tools, support and resources to build, maintain and run a successful staffing process.

Scalability - Not only are we scalable in size, but also in service. We can support an existing recruiting department with administrative support, generating fresh research, or providing extra bandwidth for a difficult to fill position/s. If a company chooses, they can outsource positions, a department or all of their recruiting by using our bundled solution.

HR Advisors Research Division: Direct Source Research, Market and Business Research, Cybrarian Research and Support.

Direct Source Research- Direct Source Research is the process of identifying qualified candidates by penetrating targeted, competitor companies to obtain valuable organizational information as well as valuable business information.

Our Research Team is staffed with highly skilled, AIRS© Certified research and cold call specialists. Our researchers have an average of 15 years research experience.

For more complete information on any of the services offered above please contact us at info@hradvisors.com or call us at 949.497.7329

About Our Company...

HR Advisors, Inc. is a 25-year old consulting firm specializing in human resource and staffing consultation.

Just as many businesses outsource functions such as payroll and benefits, our clients outsource all or part of their HR and Staffing functions to HR Advisors.

HR Advisors works with your company to provide the bandwidth needed to produce results quickly and efficiently. We become an integral part of your organization, working with you and your staff on-site to understand requirements and help you build a winning team.