

City of Los Angeles Enacts COVID-19 Related Worker Retention and Right of Recall Ordinances

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The City of Los Angeles has enacted two Ordinances requiring fair employment practices in response to job and economic insecurity due to COVID-19 related shelter in place orders. The Ordinances, which go into effect on June 14, 2020, apply to four categories of businesses and employers which the City found have been especially impacted by the COVID-19 pandemic:

1. **Airport:** defined by the Ordinances as a business or employer that provides any service at the City of Los Angeles Department of Airports and each airport it operates in the City, or provides any service to any business or employer servicing the Airport, and is required to comply with the Los Angeles Living Wage Ordinance. Airlines and businesses or employers that are parties to an agreement with the Airport that contains a worker retention or rehire agreement are not covered by the Ordinances.
2. **Commercial Property:** defined by the Ordinances as an owner, operator, manager, or lessee (including a contractor, subcontractor, or sublessee) of a non-residential property in the City that employs 25 or more janitorial, maintenance, or security service workers. Only the janitorial, maintenance, and security service workers who perform work for a Commercial Property business or employer are covered by the Ordinances.
3. **Event Center:** defined by the Ordinances an owner, operator, or manager of a publicly or privately-owned structure in the City of more than 50,000 square feet or with a seating capacity of 1,000 seats or more that is used for public performances, sporting events, business meetings, or similar events. An “Event Center Business” includes, but is not limited to, concert halls, stadiums, sports arenas, racetracks, coliseums, and convention centers.
4. **Hotel:** defined by the Ordinances as an owner, operator or manager of a residential building in the City designated or used for public lodging or other related service for the public and either contains 50 or more guestrooms or has earned gross receipts in 2019 exceeding \$5 million.

This category includes the owner, operator, manager, or lessee of any restaurant physically located on hotel premises.

Under the Worker Retention Ordinance, when a covered business experiences a Change in Control as defined by the Ordinance, covered employees are given preference in hiring by the successor business employer for a period of 6 months and must be retained for at least 90 days, unless there is cause for termination (which the Ordinance does not define).

The Right of Recall Ordinance requires a covered employer to offer positions that become available on or after the June 14, 2020 effective date to qualified employees who were laid off on or after March 4, 2020. A laid-off employee is deemed qualified and must be offered a position – in the order of priority below – if the employee:

1. Held the same or similar position at the same location when the employee was laid off; or
2. Is or can be qualified for the position with the same training that would be provided to a new worker hired into the position.

If more than one laid-off employee is entitled to preference for a position, the employer must offer the position to the laid-off employee with the greatest length of service in the position and then to the laid-off employee with the greatest length of service with the employer at the employment site.

Under both Ordinances, a collective bargaining agreement in place as of the June 14, 2020 effective date that contains a worker retention provision, or a right of recall provision will supersede.

Other than in connection with a collective bargaining agreement, no waiver of the right of retention or the right of recall will be enforceable.

Notably, both Ordinances provide for a private right of action in state courts for any violations of the Ordinances, following notice and a 15-day cure period. Available remedies include hiring and reinstatement rights, lost income and benefits, reasonable attorneys' fees and costs, and under the Right of Recall Ordinance, punitive damages.

The full text of the Worker Retention Ordinance can be found [here](#) and the Right of Recall Ordinance [here](#).

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