

Let's Talk Turkey: Wage/Hour and Other Laws to Feast on Over Thanksgiving

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We all know that employers do not receive “time off” from applicable employment laws during the holidays. To avoid unnecessary holiday headaches, be mindful of the following issues as you conduct your workplace holiday staffing and planning.

Comply with your Policies and Collective Bargaining Agreements

Remember to abide by the applicable holiday provisions of your policies, agreements, or collective bargaining agreements. Pay for unworked time on recognized holidays; how time worked on holidays is computed or paid; and eligibility requirements for receipt of holiday pay are often a matter of policy or contract. Breaching such provisions—or disparately enforcing them—can give rise to a claim, charge, or grievance.

Think Beyond your Holiday Policy—Comply with Wage Laws

Be mindful of wage payment laws when you are planning office closures to ensure that you do not run afoul of state requirements governing the time, frequency, and method of paying earned wages. Also, remember that time worked on a holiday should be counted as “hours worked” for purposes of overtime laws, regardless of whether you provide a holiday premium or other benefit. Further, be careful about making deductions from exempt employees’ salaries for time off around the holidays so as not to jeopardize the exempt status—a company closure for the holidays is not listed among the Department of Labor’s enumerated instances of proper reasons to make deductions under the salary basis rules of the Fair Labor Standards Act.

No Break from Meal and Rest Period Laws

Even if your employees are frantically setting up holiday displays or assisting eager consumers on Black Friday, provide meal and rest periods in accordance with state law. Many states require that employers provide meal and break periods, and the frequency and timing of such periods are often dependent upon the total number of hours worked in a day. For instance, Illinois employers must allow a meal break for employees working 7.5 continuous hours or longer within 5 hours of starting work; New York’s Department of Labor guidelines specify requirements for a “noonday” meal period between 11:00 a.m. and 2:00 p.m., with additional meal periods for shifts extending into specified

evening hours.

Also, while bona fide meal breaks of a sufficient duration can generally be unpaid, beware that restrictions, duties, or parameters on such breaks might run afoul of your state's law and can make a meal period compensable.

A “Blue” Christmas

If your business has operations in one of the few states that impose “Blue Law” requirements for business operations on holidays, then be aware of obligations or restrictions that might apply. For instance, if you operate in Massachusetts, then you might be required to obtain a local permit and/or be subject to extra pay or other standards for employees working on a holiday. In Rhode Island, you might be subject to an overtime pay rate on holidays or other requirements.

Be sure to check your state and local laws to confirm applicable standards.

Accommodate Observation of Holidays Due to Religious Beliefs

Finally, remember that Title VII of the Civil Rights Act of 1964 and many state or local laws require employers to reasonably accommodate employees' sincerely held religious beliefs, unless doing so would cause an undue hardship. “Religion” can include not only traditional, organized religions such as Judaism, Islam, Christianity, Hinduism, and Buddhism, but also sincerely held religious beliefs that are new, uncommon, not part of a formal church or sect, or only held by a small number of people.

Thus, while your company may be closed on Christmas Day, you may need to allow an employee time off to celebrate a religious holiday that your company does not recognize. Businesses can accommodate in the form of time off, modifications to schedules, shift substitutions, job reassignments, or other modifications to workplace policies or practices.

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