

California Workplace Solutions

Practice Overview





California Workplace Solutions

With decades of experience in employment counseling and practical workplace solutions, Seyfarth Shaw LLP is uniquely situated to advise companies who operate in California. Seyfarth's California Workplace Solutions ("CWS") group consists of select and highly-skilled attorneys dedicated to proactive, preventative advice and business consulting. CWS attorneys collaborate to deliver useful, up-to-date advice at the cutting edge of new developments in the California legal environment. With a significant California footprint—offices in Century City, Los Angeles, Sacramento and San Francisco—the CWS group is exceptionally positioned to address all legal issues faced by California employers.

Employment litigation is distracting and expensive. Employers need effective human resources strategies to avoid litigation, government investigations, and other interferences with business operations. By providing sensible, comprehensive advice and solutions, CWS attorneys help California employers focus on their business first.

Seyfarth Shaw operates at the forefront of California employment law. We are experienced in every employment-related legal issue and all federal and state laws that govern employment relationships. Our CWS attorneys use industry knowledge and legal acumen to provide practical advice and proactive strategies to assist with compliance and manage litigation risk. Our lawyers have broad experience in creating and reviewing all forms of contracts, employment policies and procedures, handbooks, job applications, performance evaluation forms, offer letters, separation agreements, timekeeping documents, and all other documents that affect the employment relationship.

Attorneys in our CWS group have developed key products and services to help clients anticipate trends and respond effectively to a wide range of legal issues. Our clients can take advantage of the following CWS offerings:

Assessment, Audit and Compliance Tools

- California-oriented compliance reviews and assessments in the areas of wage/hour, Labor Code compliance, performance management, leave management, and classification of employees and contingent workers.
- Customized California Compliance Systems for clients who require a dedicated team of attorneys. Services include process analysis and management, updates and visits, periodic training (as needed), and advice hotlines.

Innovative Advice Tools

- Flat-fee based California Hotlines for clients needing a fast response and frequent employment advice.
- Real-time trend analyses and updates on the matters Seyfarth's Labor & Employment Department is handling, plus forecasts of emerging issues.
- **"Lessons learned"** analysis from employment disputes. At minimal cost to the client, a CWS counselor will analyze any situation that led to litigation or other dispute, and recommend adjustments to avoid similar problems going forward. Our team will partner with the client at the beginning, conclusion, or at any other strategically optimal point in the lifecycle of a matter to implement suggested practices or policy changes and provide customized training to decrease the likelihood of a similar issue recurring.

The Latest Legal (and Practical) Information

- A concise summary of need-to-know information updated annually, entitled "Cal-Peculiarities: How California Employment Law Is Different."
- Regular webinars focusing on California's legal climate and enforcement trends, required and recommended policies, and best practices.
- California-specific Management Alerts that address late-breaking news of legal developments and practical solutions.

We also offer a suite of products for employers who are "getting started" in California. Geared toward California employers with fewer than 50 employees, the suite includes an employee handbook, key policies, and checklists and forms that address employer obligations in hiring, employing, and terminating California employees, as well as attorney consultation time for customization.

Wage and Hour

- California has unique complexities in the areas of wage and hour law. For example:
- California requires premium pay for daily as well as weekly overtime,
- California imposes an especially high minimum wage,
- California requires employers to provide employees with rest breaks and meal periods, and to pay an additional hour of pay for violations, and
- The California Labor Code extends into myriad areas not covered by federal laws.

With decades of experience in employment counseling and supplying practical solutions, Seyfarth Shaw's CWS group is uniquely situated to respond to any counseling needs of companies who operate in California.

Seyfarth's CWS attorneys provide assessments and compliance reviews in these and many related wage and hour areas. For instance, CWS lawyers assist employers with reviewing employee classifications and, if reclassification is advisable, we guide clients in effective communications and implementation of the changes.

Leaves of Absence

California creates a new level of complexity for leave laws already complicated enough under federal law. California's leave statute, the California Family Rights Act (the "CFRA"), resembles the federal Family and Medical Leave Act (the "FMLA"), but has numerous technical differences from the FMLA. California law:

- Creates a right to unpaid leave for pregnancy-related disabilities (for up to four months) (in addition to any leave available under CFRA);
- Enables employees on authorized family leave to be paid by the State (for up to six weeks),
- Creates a right to unpaid leave for employees married to military personnel (up to ten days);
- Permits employees who accrue paid sick leave to use up to one-half their annual entitlement to attend to sick relatives, and
- Requires leave for employees who wish to participate in drug and alcohol rehabilitation programs, literacy programs and many other unique situations.

Seyfarth's CWS attorneys advise clients on these complex and ever-changing leave of absence laws. California attorneys in the CWS group regularly counsel clients on complex and counter-intuitive issues, draft and review leave forms and policies, handle federal and California state agency claims or inquiries, and defend leave-based litigation. Our CWS attorneys regularly exchange information concerning both federal and state family leave compliance and have given hundreds of training sessions on leave law compliance.



Background Checks

Seyfarth's CWS attorneys regularly advise employers on how to comply with the Fair Credit Reporting Act (FCRA), the California Investigative Consumer Reporting Agencies Act (ICRAA), and other statutes that govern obtaining and using information about applicants and current employees. Unlike the FCRA, which limits the definition of an "investigative consumer report" to information gathered from personal interviews with the subject's neighbors and associates, the ICRAA definition extends to collection of information from any source. Violations of the ICRAA, which imposes other detailed requirements beyond those found in the FCRA, can result in significant exposure since the statute imposes not only an action for actual and punitive damages plus attorney fees, but also civil penalties of \$10,000 per violation. Our CWS attorneys regularly counsel on how to comply with the FCRA, ICRAA, and other similar laws, while recognizing the importance of background checks to the efficient operation of a business.





Disability Law/ Accommodations Counseling

Seyfarth attorneys regularly advise employers on issues arising under the California Fair Employment and Housing Act (FEHA), the federal Americans with Disabilities Act (ADA) and other state and local laws governing non-discrimination based on disability, including reasonable accommodations. Many of these issues are highly complex and often involve the interplay between the FEHA and the ADA with federal and state leave laws and state workers' compensation laws. California has unique laws that make the analysis even more difficult. For instance, California defines "disability" more broadly. California expressly requires employers to engage in an interactive process with respect to accommodations requested by disabled employees, and that can include requiring employers to communicate with an employee on leave through the employee's attorney.

We help clients balance the legal and employee relations concerns involved in dealing with persons with disabilities. We help employers develop and implement disability discrimination policies and procedures, and defend disability-related claims filed against employers with federal, state, and local agencies and courts. Additionally, our attorneys advise employers on safety-sensitive positions and on the public accommodation provisions of the ADA.

Policy Manuals

Seyfarth has developed and reviewed human resources policies and employee handbooks for hundreds of clients with multi-state operations. Attorneys in our CWS group include some of the nation's leading authorities on developing human resources policies—including knowing how careful drafting can avoid litigation or help to defend it.

Privacy Rights

The California Constitution expressly protects the individual's right to privacy, and rights of privacy in the workplace are usually strong. For example, California employers may not inquire into arrests that did not lead to a conviction and may not generally conduct random drug testing.

Seyfarth regularly counsels clients on employee privacy, protected activities and confidential information. The CWS group advises how to implement policies governing the use of email, voicemail, the Internet, social media, texting and other new technology.





Vacation/Sick/PTO

Seyfarth CWS attorneys advise clients on the unique aspects of California sick time and vacation laws, including (1) the treatment of vacation time as earned wages vested on a daily basis, (2) the duty to pay all unused vacation upon termination of employment at the final rate of pay, regardless of when the vacation was earned, (3) the equivalence of vacation and PTO, and (4) the ban on “use it or lose it” vacation provisions.

Employee Access to Information

California provides employees access to their personnel and payroll records upon request, and to copies of employment documents that the employee has signed. California also requires employees to post a wide variety of notices.

In Conclusion

Seyfarth’s CWS attorneys serve our clients with an unequalled breadth and strength of legal, practical and business acumen. We are experienced in all aspects of employment and labor law, and routinely draw on the knowledge of our many colleagues who specialize in related areas, such as employee benefits, tax, diversity and affirmative action, workplace safety, workers’ compensation, corporate and business law, and California legislative developments. We pride ourselves on providing effective, efficient and practical solutions to our clients’ workplace legal issues. ■

About Seyfarth Shaw

Seyfarth Shaw LLP (“Seyfarth”) was founded in 1945 by three lawyers and has grown to more than 850 lawyers across 13 markets in the U.S. and abroad. We handle issues for our clients in all key areas including labor and employment, litigation, construction, corporate, employee benefits, environmental, government contracts, intellectual property, commercial litigation, real estate, securities litigation, trade secrets, trusts and estates, and workouts and bankruptcy, among others.

Our success is the result of a constant, unrelenting focus on the needs of our clients. Our commitment to excellence and our belief in the strength of a team-based approach to the delivery of our services offers an atmosphere of creative and innovative thinking.

Our clients are our partners in business and we are committed to listening to their needs and to aligning the skills and abilities of our people to respond to those needs. Our clients range from *Fortune* 100 to midsize companies, and include publicly traded and privately held companies and various types of funds. We represent clients of all sizes across all industries and we are diligent in providing the same level of commitment to each client.



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