Help Us Help You!

The Community Development Project is evaluating our legal assistance program in order to better meet your needs, particularly in light of the economic challenges that continue to face us all. Would you please take this short survey about the kinds of free legal services, publications and trainings that would be of most benefit to your nonprofit organization or board of directors in 2012? Thank you!

Employment Law Questions?
Register for our FREE Employment Law Clinic

Would you like to ask a lawyer for advice regarding worker classification, employment manuals, record-keeping or other employment law issues? If yes, contact us at 213-385-2977, x300 by Friday, February 10 to learn about our upcoming Employment Law Clinic, where attendees will be able to meet one-on-one with an attorney. Participation in the clinic will be limited, and advance registration is required.

Overview of New Employment Law Developments Affecting California Nonprofit Employers

Recently, California Governor Jerry Brown signed into law a number of bills that significantly impact California nonprofit employers. Below is an overview of some of these new laws, effective January 1, 2012. In light of these important legal changes, it is advisable to review and update your organization's employment policies and procedures. If your organization needs legal assistance with reviewing its worker classification practices, updating its employment...
Significant Penalties for Worker Misclassification

SB 459 provides penalties for employers who willfully (voluntarily and knowingly) misclassify employees as independent contractors.

Penalties start at $5,000 per violation and go up to $25,000 per violation where a pattern or practice of misclassification is found. SB 459 also requires an employer who has violated SB 459 to prominently display a notice on its website stating it has committed a serious violation of the law by engaging in willful misclassification of employees; that it has changed its business practices to avoid committing similar violations; and that any employee who believes he/she is misclassified as an independent contractor may contact the Labor Workforce Development Agency. If the employer does not have a website, the notice must be displayed prominently in an area that is accessible to all employees and the general public at each location where the violation occurred.

Mandatory Employee Notification Requirements

AB 469 ("Wage Theft Prevention Act") requires employers to provide a written notice to newly hired non-exempt employees at the time of hiring that specifies certain wage and hour information, including the rate of pay, whether compensation is paid by hour, salary or otherwise, the regular payday, the name of the employer's workers' compensation insurer, and any other information the Labor Commissioner deems material and necessary. An employer must also provide covered employees written notice if it makes changes to any of the information within seven days. Note that while exempt employees are not entitled to receive this notice, if an employee treated as exempt is later deemed non-exempt, then the employer will be subject to penalties for failure to provide the requisite notice. The Labor Commissioner has published answers to frequently asked questions about the notice, as well as a sample notice that complies with the new requirements.

AB 469 also adds new penalties for paying employees less than minimum wage; increases the amount of time the Department of Labor Standards and Enforcement has to collect penalties from employers for wage violations from one to three years; and requires employers to keep payroll records for three years instead of two.

Health Benefits During Pregnancy Leave

SB 299 makes it mandatory for employers with five or more employees to maintain and pay for health care coverage for the duration of an employee's Pregnancy Disability Leave, up to four months, at the same level and under the same coverage conditions that would have been

Legal Services for Nonprofits

The Community Development Project (CDP) builds strong foundations for healthy, vibrant and economically stable communities by providing comprehensive legal and capacity building services to organizations serving people with lower-incomes in the Los Angeles area. CDP provides assistance on a wide range of matters to community organizations, including:

Contract & Lease Renegotiation

Does your nonprofit need to terminate or renegotiate contractual or lease obligations? Do you know whether your nonprofit is legally permitted to sublet unused space?

Modification & Reduction of Workforce

Is your nonprofit exploring reduction of employee benefits, salaries or hours? Do you know the criteria to use when downsizing staff? Are you attempting to reclassify employees as independent contractors? Are you aware of the legal implications of all of these actions?

Corporate Governance

Is your board aware of its duties during a period of financial difficulty? Do your board members know how to conduct financial and programmatic oversight? Has your organization adopted a conflict of interest policy? Are your directors aware of the situations where they could incur personal liability for the acts of the corporation,
provided had the employee continued in employment continuously for the duration of the leave. Therefore, if an employer pays the entire premium for employee coverage, it must continue to do so during the leave. If the employee generally pays a portion of the premium, the employee may be required to continue making such contributions during the leave.

SB 299 also authorizes an employer to recover from an employee the health care premiums it paid where the employee chooses not to return to work for reasons other than taking protected leave and where the reason for not returning was within the employee's control, such as taking another job or choosing not to return to the workforce.

AB 592 makes it unlawful for employers to deny, restrain or interfere with employees' leave rights, including the right to take leave for a reasonable period of time for disabilities related to pregnancy, childbirth/childcare and related medical conditions.

**Laws Prohibiting Discrimination**

**AB 887** ("Gender Nondiscrimination Act") modifies the definition of "gender" as it is used to define "sex" in various provisions under the Labor Code, including the California Fair Employment and Housing Act (FEHA). AB 887 adds to the definition of gender one's "gender identity" and "gender expression." "Gender expression" is defined as "a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth." Thus, under AB 887, employers must allow employees to dress or appear consistent with that employee's gender identity and gender expression.

SB 559 amends FEHA to add genetic information as a protected class. Protected "genetic information" includes the individual employee's genetic tests, the genetic tests of the employee's family members, and the manifestation of a disease or disorder in the employee's family members. Under SB 559, discrimination in hiring or employment based on any of these characteristics is unlawful.

**Limits on Employer Use of Credit Reports**

**AB 22** prohibits employers and prospective employers from using consumer credit reports to screen applicants or to make other employment decisions, unless the employee or prospective employee falls within an excepted position. Excepted positions include managerial positions exempt from overtime, positions in which the person is or would be a named signatory on the employer's bank account, or authorized to enter into financial contracts on the employer's behalf, and positions that involve regular access to sensitive information (e.g., financial account information, Social Security numbers, and dates of birth) or $10,000 or more in cash. If the employer is permitted to obtain a credit report under one of the exceptions, it must provide advance written notice to the employee or prospective employee identifying which exception(s) apply.
Tips for Best Employment Practices to Achieve Compliance with the New Employment Laws

2. At the time non-exempt employees are hired, provide them with a compensation information notice.
3. At the time employees take Pregnancy Disability Leave, provide them with a notice specifying which benefits will be provided to them and for what benefits they will be required to pay.
4. Update your discrimination policies to include a person's genetic information as a protected class. Also, revise the definition of gender to include gender identity and gender expression.
5. Review your background check disclosures and authorizations. Only request consumer credit reports for appropriate persons, including those in managerial positions and those with access to $10,000 or more in cash.

Webinar on February 9:
Social Media - What Your Nonprofit Needs to Know

Join us on Thursday, February 9, from 9AM to 10AM for a FREE webinar on social media.

Social media is quickly becoming an important tool for nonprofits to communicate with supporters and clients, increase awareness of their mission and to raise funds.

At the same time, there are many legal issues a nonprofit should consider when using social media. Do the rules regarding copyrights and trademarks apply? Is a nonprofit responsible for material posted on its Facebook page? What are the privacy rules governing the collection and sharing of personal information from users of the nonprofit's website? What if an employee posts inappropriate information on the Internet during working hours? What policies should a nonprofit put in place to minimize its exposure to legal difficulties?

This webinar will help answer these questions and provide tips for successfully navigating the new world of social media. The webinar is designed for board members, executive directors and other nonprofit staff and volunteers responsible for marketing, communications and fundraising.

Advance registration is required. To register, please [click here](#). For additional information, including speaker bios, [click here](#). If you have any questions, please contact Lauren Paley at [lpaley@dcbar.org](mailto:lpaley@dcbar.org).