

ENFORCEMENT MANUAL REVISIONS

Section No.	Date Revised	Subject	Change
2.4.1.1	5/2/07	WAGES: Definition of Wage	Added section to conform to ruling in <i>Murphy v. Kenneth Cole</i> (2007) 2007 WL 1111223
4.3.4.1	5/2/07	PENALTY FOR FAILURE TO PAY WAGES ON TERMINATION: Any Wages	Added section to conform to ruling in <i>Murphy v. Kenneth Cole</i> (2007) 2007 WL 1111223
6.1	11/22/05	COMPENSATING TIME OFF	Delete reference to O.L. 1996.05.29
7.6	4/28/08	WAGE PAYMENTS – CONDITIONS AND TIME AND PLACE. Wage Payment Where Holidays Occur	Added reference to California Code of Civil Procedure section 12a(a)
9.1.8	9/9/08	METHOD OF PAYMENT OF WAGES: § 213 – Not All Payments Subject To Section 212	Correction of quoted language of Labor Code § 213(d)
9.1.9.4	9/9/08	METHOD OF PAYMENT OF WAGES: Exceptions To Payment Directly To Employee In Case Or Negotiable Instrument.	Correction consistent with provisions of Labor Code § 213(d)
11.1.1	1/9/09	DEDUCTIONS FROM WAGES: Labor Code Section 224	Revisions consistent with enactment of federal Pension Protection Act of 2006
11.1.1.1	1/9/09	DEDUCTIONS FROM WAGES: Labor Code Section 224	New section consistent with enactment of federal Pension Protection Act of 2006
11.1.1.2	1/9/09	DEDUCTIONS FROM WAGES: Labor Code Section 224	New section consistent with enactment of federal Pension Protection Act of 2006
11.1.2	1/9/09	DEDUCTIONS FROM WAGES: Legal Deductions	Revisions consistent with enactment of federal Pension Protection Act of 2006
11.3.1	11/22/05	DEDUCTIONS FROM WAGES: Specific Deductions	Delete reference to O.L. 1993.02.22
11.3.3	1/9/09	DEDUCTIONS FROM WAGES: Allowable Deductions	Revisions consistent with enactment of federal Pension Protection Act of 2006
15.1.1	3/1/06	VACATION WAGES: Prorate Vacation	Deletes reference to O.L. 1988.07.25

MARCH, 2010

Section No.	Date Revised	Subject	Change
15.1.4	11/22/05	VACATION WAGES: Use-It-Or-Lose-It Policies Are Not Allowed	Delete references to O.L. 1993.02.16-1 and O.L. 1993.05.17
15.1.4.1	11/22/05	VACATION WAGES: Time Periods For Use Of Vacation	Delete second sentence and delete reference to O.L. 1993.05.17
15.1.8	11/22/05	VACATION WAGES: DLSE Has The Right To Determine Whether An Employer's Plan Is, In Fact, Subject To ERISA	Delete reference to O.L. 1993.05.17
15.1.9	3/20/07	VACATION WAGES: Statute of Limitations	Amended to conform to current law and delete reference to OL 1991.02.25
15.1.10	3/1/06	VACATION WAGES: Many Issues Arise In Vacation Pay Disputes	Deletes references to withdrawn O.L. 1987.01.14 and O.L. 1988.08.31-1
17.3	7/16/08	DISCRIMINATION – PROTECTED RIGHTS: Some Specifically Prohibited Discharges Or Disciplines	Deleted reference to DLSE Guide To Investigating Discrimination Complaint Manual
19.3.1	3/1/06	GRATUITIES AND TIPS: Statute Prohibits Employers Or Their Agents From Taking Or Receiving Tip Money Left For Employee	Added reference to O.L. 2005.09.08 and pertinent language
43.6.3	11/22/05	ENFORCEMENT OF WAGES, HOURS AND WORKING CONDITIONS REQUIRED BY THE INDUSTRIAL WELFARE COMMISSION ORDERS: Workers Employed by Indian Tribes or Businesses Owned by Tribes	Add language: "...for work performed on a federal enclave or where state and civil law jurisdiction has been reserved or retroceded.:
43.6.8	3/1/06	ENFORCEMENT OF WAGES, HOURS AND WORKING CONDITIONS REQUIRED BY THE INDUSTRIAL WELFARE COMMISSION ORDERS: Students	Deletes reference to O.L 1993.09.07
45.1.1.1	5/2/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Reporting Time Pay In Connection With Call Back	Added section to conform to ruling in <i>Murphy v. Kenneth Cole</i> (2007) 2007 WL 1111223

MARCH, 2010

Section No.	Date Revised	Subject	Change
45.2	7/25/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Meal Periods	Added reference to and cited language of Labor Code section 512(a)
45.2.1	7/25/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Employers Must Provide Meal Periods By Making Them Available, But Need Not Ensure That They Are Taken	Replaces previous section 45.2.1 to conform to ruling in <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___
45.2.1	12/18/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Employers Must Provide Meal Periods By Making Them Available, But Need Not Ensure That They Are Taken	Changes consistent with Supreme Ct. acceptance to review <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___
45.2.3.2	5/16/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Collective Bargaining Situations	Correction of typographical errors
45.2.3.2	3/20/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Collective Bargaining Situations	Added language and reference consistent with <i>Bearden v. Borax</i> , 138 CA 4 th 429
45.2.6	3/1/06	WORKING CONDITIONS UNDER THE IWC ORDERS: Lunch Time Training or Client Meetings	Corrected incorrect cite to O.L. 2002.03.15 to correct O.L. 2001.03.19
45.2.6	3/20/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Lunch Time Training or Client Meetings	Amended to conform to current law and to delete reference to O.L. 2001.03.19
45.2.7	5/2/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Premium for Failure Of The Employer To Provide The Meal Period	Added sentence at the end of the section to conform to ruling in <i>Murphy v. Kenneth Cole</i> (2007) 2007 WL 1111223
45.2.9	7/25/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Premium Is Imposed For Failure to Provide Meal Period In Accordance With Applicable IWC Orders	Section eliminated to conform to ruling in <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___

Section No.	Date Revised	Subject	Change
45.2.9	12/18/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Premium Is Imposed For Failure to Provide Meal Period In Accordance With Applicable IWC Orders	Changes consistent with Supreme Ct. acceptance to review <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___
45.2.9.1	7/25/08	WORKING CONDITIONS UNDER THE IWC ORDERS: Relationship Between Record-Keeping Requirement And Meal Period	Revised to conform to ruling in <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___
45.2.10	5/2/07	WORKING CONDITIONS UNDER THE IWC ORDERS: Wage Order 16-2001 Meal Period Requirements	Eliminated last sentence re CBA opt-out
45.3.1.	7/25/08	WORKING CONDITIONS UNDER THE IWC ORDERS: "Major Fraction"	Replaces previous section 45.3.1 to conform to ruling in <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___; deleted reference to Opinion Letter 1999.02.16
45.3.1.	12/18/08	WORKING CONDITIONS UNDER THE IWC ORDERS: "Major Fraction"	Changes consistent with Supreme Ct. acceptance to review <i>Brinker Restaurant Corp. v. Superior Court of San Diego County (Hohnbaum)</i> , (2008) ___ Cal.App.4 th ___; reinstates previously withdrawn Opinion Letter 1999.02.16
45.3.3	3/1/06	WORKING CONDITIONS UNDER THE IWC ORDERS: The Rest Period Is A "Net" Ten Minutes	Corrected incorrect cite to O.L. 2002.02.25 to correct O.L. 2002.02.22
46.1.1	3/1/06	HOURS WORKED: The DLSE Interpretation of Hours Works	Deletes reference to O.L. 1994.03.03
46.3	3/1/06	HOURS WORKED: Extended Travel Time	Corrected incorrect cite to O.L. 2002.02.15 to correct O.L. 2002.02.21
46.3.1	3/1/06	HOURS WORKED: Extended Travel Time	Corrected incorrect cite to O.L. 2002.02.15 to correct O.L. 2002.02.21
46.3.2	3/2/06	HOURS WORKED: Different Pay Rate For Travel Time Permissible	Corrected incorrect cite to O.L. 2002.02.15 to correct O.L. 2002.02.21

MARCH, 2010

Section No.	Date Revised	Subject	Change
47.4.2	3/1/06	CALCULATING HOURS WORKED: Difference in Enforcement Positions	Deletes reference to O.L. 1994.03.03
47.5.1.1	3/1/06	CALCULATING HOURS WORKED: May Be Subject To Different Rate of Pay	Corrected incorrect cite to O.L. 2002.02.15 to correct O.L. 2002.02.21
49.1.2.4	5/23/07	COMPUTATION OF REGULAR RATE OF PAY AND OVERTIME: Payments That Are To Be Excluded in Determining "Regular Rate"	Reformatted to delete section 49.1.3 and add as No. 8 in list in 49.1.2.4
49.1.2.4	3/17/10	COMPUTATION OF REGULAR RATE OF PAY AND OVERTIME: Payments That Are To Be Excluded in Determining "Regular Rate"	Added new section 49.1.2.4 (8); renumbered old section (8) to (9)
49.1.3	5/2/07	COMPUTATION OF REGULAR RATE OF PAY AND OVERTIME: Reporting Time Pay, Extra Hour For Failure To Provide Meal Period, Extra Hour For Failure To Provide Break and Split Shift Pay Need Not Be Included	Added language to conform to ruling in <i>Murphy v. Kenneth Cole</i> (2007) 2007 WL 1111223
49.1.3	5/23/07	COMPUTATION OF REGULAR RATE OF PAY AND OVERTIME: Reporting Time Pay, Extra Hour For Failure To Provide Meal Period, Extra Hour For Failure To Provide Break and Split Shift Pay Need Not Be Included	Section deleted and reformatted as 49.1.2.4, No. 8
49.2.1.2	11/22/05	COMPUTATION OF REGULAR RATE OF PAY AND OVERTIME: Methods Used in Computing Regular Rate of Pay	Deletes reference to O.L. 1993.02.22
50.3	4/28/08	WAGE PAYMENT – SPECIAL CONDITIONS	In No. 6(a), updated hourly wage for employees in computer software fields per SB 929 change to Labor Code section 515.5

MARCH, 2010

Section No.	Date Revised	Subject	Change
50.9.2.1	4/25/06	IWC ORDER EXEMPTIONS State of California: California Code of Regulations, Title 13	Deleted language re must regularly be engaged (50% of time) in driving; substituted entitlement to overtime pursuant to <i>Crooker v. Sexton Motors, Inc.</i>
50.9.2.1	12/28/06	IWC ORDER EXEMPTIONS State of California: California Code of Regulations, Title 13	Added language re conforming to California law workday requirement
50.9.2.1	3/20/07	IWC ORDER EXEMPTIONS State of California: California Code of Regulations, Title 13	Correction of minor drafting error
51.6.15	3/1/06	DETERMINING EXEMPTIONS: Any Work Performed In The Time Period Will Preclude Reduction Of The Salary	Added language from Conley v. PG&E that allows for deduction from vacation bank for absences of 4 hours or more
54.4	2/25/09	PROFESSIONAL EXEMPTION: Computer Software Workers	Changed rate of pay consistent with AB 10 - Chapter 753, Statutes of 2008, Labor Code section 515.5(a)(4) and annual adjustment
54.6	2/25/09	PROFESSIONAL EXEMPTION: Physicians	Changed rate of pay consistent with Labor Code section 515.6(a) and annual adjustment
54.8.1	12/28/06	PROFESSIONAL EXEMPTION “Learned” exemption “advanced degree” requirement	Deleted language specifying a degree “above a BA or BS degree.” Added language reference to requirements of Section 54.1. Delete reference to O.L. 1992.07.06
54.8.2	12/28/06	PROFESSIONAL EXEMPTION “Professional” Under Order 16- 2001	Deleted word “new” in first sentence and changed “Discussed” to “discussed.”
54.8.5	12/28/06	PROFESSIONAL EXEMPTION “Learned Professions”	Deleted last two sentences. Deleted footnote. Delete reference to O.L. 1992.07.06
54.10.1	12/28/06	PROFESSIONAL EXEMPTION Work in a recognized field of artistic endeavor	Added language indicating the need to consider all media utilized in artistic endeavors.

MARCH, 2010

Section No.	Date Revised	Subject	Change
56.2	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Not All IWC Orders Provide For Alternative Workweek Arrangements	Add reference to Wage Order 17.
56.2.1.2	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Order 15 Employees	Delete 10 hour limitation on proposed alternative workweeks.
56.3.1	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS 12-Hour Day Limit	Revised language to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.3.2	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Employees In The Health Care Industry: Up to 12-Hour Days	Added language to make clear that overtime premium pay is not required between 10 and 12 hours.
56.7	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Election Procedures	Corrected incorrect reference to 56.6.3
56.7.2	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Proposal Must Designate A Regularly Scheduled Alternative Workweek Of A Specified Number Of Regularly Recurring Work Days	Revised examples to conform with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.7.2.6	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.7.2.7	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Regular Schedule	Deleted language to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.7.3	1/30/07	ALTERNATIVE WOOKWEEK ARRANGEMENTS Regular Alternative Schedules Need Not Always Be Four 10-Hour Days	Revised language to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.7.4	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Overview Of Alternative Workweek Requirements	Revised table to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8

Section No.	Date Revised	Subject	Change
56.11	11/22/05	ALTERNATIVE WORKWEEK ARRANGEMENTS: Employer May Not Reduce An Employee's Regular Hourly Rate Of Pay As A Result Of Adoption, Repeal Or Nullification Of An Alternative Workweek Arrangement	Added reference to O.L. 2002.01.21
56.11.1	11/22/05	ALTERNATIVE WORKWEEK ARRANGEMENTS: Unilaterally Imposed Alternative Workweek Schedules	Added reference to O.L. 2002.01.21
56.23.1	11/22/05	ALTERNATIVE WORKWEEK ARRANGEMENTS: Occasional Changes in Schedule	Delete sentence beginning: "For enforcement purposes..."
56.23.3.1	11/22/05	ALTERNATIVE WORKWEEK ARRANGEMENTS: Employees In The Health Care Industry	Add "...for a 12-hour <u>shift in any one</u> workday..."; Delete rest of sentence beginning: "...and for the first eight hours..."
56.23.8	12/28/06	ALTERNATIVE WORKWEEK ARRANGEMENTS: Days And Hours Worked Outside Of The Regularly-Scheduled Alternative Workweek	Delete reference to O.Ls 1988.08.31, 1991.04.10, 1993.05.25-1
56.23.8	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS: Days And Hours Worked Outside Of The Regularly-Scheduled Alternative Workweek	Revised language to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.25	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Hours In Excess Of Regular Schedule	Revised language to comply with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.26.1	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Examples Of Illegal Alternative Workweek Schedules	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.26.2	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8

MARCH, 2010

Section No.	Date Revised	Subject	Change
56.26.3	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS Overtime Hours On A “Regularly Recurring” Basis In Excess Of the Daily Regular Schedule Will Result In Loss Of The Exception	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.27	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS DLSE Enforcement Policy	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
56.28	1/30/07	ALTERNATIVE WORKWEEK ARRANGEMENTS	Deleted section as inconsistent with <i>Mitchell v. Yoplait</i> (2004) 122 Cal.App.4 th Supp 8
Opinion Letter Chart	5/28/09		Delete reference to O.L. 2002.01.21 chart. Correction of oversight – reference not deleted at time of 1/30/07 elimination of Section 56.27