LBAEE
Monthly Newsletter
June 2025 News

UPDATES

- LBAEE concluded conversations with the city about a proposed revival of the Floor Warden Program that includes a flat-rate skill pay for days when chosen employees perform Floor Warden related duties.
- LBAEE reviewed proposed modifications to the Cybersecurity Training Program for administrative uniformity.
- LBAEE reviewed proposed changes to the Recruitment Incentive Program that now is extended to non - career employees.
- LBAEE reviewed updated bulletins for Senior Program Management and Civil Engineer.
- Volunteer still needed for the Director position for the Public Works Group. Contact us!!!
- LBAEE launched a new scholarship. Details below.

LBAEE 2025 SCHOLARSHIP

LBAEE is establishing a **scholarship** for relatives or dependents of members that have been accepted to an Engineering Degree program (or a related field that qualifies them to apply for a classification covered by LBAEE (e.g. Geology, Construction Management, Biology, etc.) during 2025.

Request and/or submit applications by replying to the originator of this message or emailing directly lbaee@lbaee.org

Completed applications are due **June 30, 2025**

Five Points to Remember About Workers' Compensation

If you are injured on the job, you may be entitled to workers' compensation benefits, regardless of fault. An injured worker may receive medical care, temporary disability payments, and permanent disability payments. Dependents of a deceased worker may receive death benefits if the death was caused by a work-related injury. This month, we highlight five important points to remember about your rights to workers' compensation.

Brief Overview: Injured workers are entitled to reasonable medical care needed to cure or relieve the effects of a work-related injury or illness. This may even include lifetime medical care for a work-related medical condition. Medical care can include doctors, hospitals, chiropractors, nurses, medicine, braces, canes, and hearing aids. A doctor may include physicians and surgeons, psychologists, optometrists, dentists, podiatrists, acupuncturists, and chiropractic practitioners. Injured workers may also be reimbursed for transportation to and from medical appointments and pharmacies. However, an employer is not required to pay for the time an injured worker spends traveling to and from, or while attending, medical appointments during work time.

Temporary disability (TD) benefits provide some wage replacement benefits while the injured worker is unable to perform their job duties while recovering from a work-related injury or illness. The injury must be accepted by the insurance company. Benefits begin on the fourth day the injured worker is absent from the job due to a work-related injury or illness. There is no compensation for the first three days unless the injured worker misses 14 days of work or is hospitalized overnight. TD benefits are two-thirds of the injured worker's average weekly salary, up to the legal maximum. The first payment is paid no later than 14 days after the employer is made aware of the injury and accepts liability. Additional payments must be made at least twice a month. These benefits are non-taxable. TD payments are made until the injured worker returns to work, until their condition reaches a point of maximum recovery, or until the condition becomes permanent and stationary. Benefits are payable for up to two years within a five-year period from the date of injury.

Permanent disability (PD) benefits are designed to compensate the injured worker for their permanent loss or impairment. The benefit amount (rating) is calculated in part on the American Medical Association Guidelines, which are intended to provide an "objective basis" for evaluating loss of overall body function. Disability caused by subjective symptoms (pain) without objective findings may not be compensated. The final PD rating, a percentage between 1% and 99%, establishes the amount of the award and the length of time benefits will be paid. An injured worker may still be eligible to receive PD benefits even after returning to work. These benefits are non-taxable. An injured worker must disclose previous disabilities upon request, and employers are liable only for the portion of permanent disability caused by the workplace injury. Any prior PD award is now presumed to exist at the time of a subsequent injury. Successive awards may never exceed 100% for multiple injuries to any one region of the body.

If an injured worker dies on the job from a work-related injury, or from a heart attack, cancer, stroke or other disease caused or aggravated by work, the surviving spouse, minor children or other dependents may be entitled to receive death benefits. Dependents who are good-faith members of the household also may be eligible for benefits, even partners who are not legally married to the injured employee. For example, the family of an employee with three or more dependents may be entitled to benefits of $320,000. If the job-related injury was not the main cause of the death, but contributed to the cause of death, a dependent spouse and children still may be entitled to full death benefits. Even survivors who are only partially dependent on support from a deceased worker may be eligible for this benefit. There is also an allowance for reimbursement of burial expenses.

1. Pre-Designating Your Own Doctor: One of the best actions you can take is to pre-designate your own doctor prior to any on-the-job injury. Pre-designating your own doctor means advising your employer in writing before an injury that, if hurt on the job, you wish to be treated by your own personal physician. Your doctor must agree to be the treating physician, in writing. They must also be your regular physician, with an existing medical record and history of care. Pre-designated physicians may refer you to appropriate specialists and therapists for other treatment, as needed. You can pre-designate a doctor if you have group medical coverage. You should complete a pre-designation form and make two copies (one for your records and one for your doctor's files) stamped with the date you file the form with your employer. You can pre-designate

your own doctor using the state issued form from the California Department of Industrial Relations. You can access the state form here: https://www.geklaw.com/workers-comp-forms/pre-designation.html. Your employer may also have a standard form you can use.

If you do not pre-designate, your employer may select a physician for you and require you to be treated for any work-related injury by that physician. Under current law, an employer can set up a Medical Provider Network (MPN) to treat injured employees. Many public agencies have established these networks. Under an MPN, an injured worker may be treated only by a doctor in the network unless they pre-designate a doctor. The employer must also send specific notices to the injured worker before requiring treatment within the MPN. The intent of employer-controlled MPNs is to provide prompt and effective medical care. However, injured workers often complain that they do not get that type of prompt, effective care from doctors or clinics in the employer's MPN. Many injured workers learn after-the-fact that they would have been better served using their own doctor. Pre-designate your own doctor before you get injured on the job.

2. Immediately Report the Injury: If you are injured on the job, one of the most important steps to take is to report the injury to your employer immediately. Report your work-related injury or illness to your supervisor immediately, regardless of the nature or severity. Request a form entitled "Employee's Claim for Workers' Compensation Benefits" from your supervisor. Verbally reporting the injury is not sufficient to trigger an employer's obligation to initiate benefits. Keep a copy of the form for your records. It will be one of the most important documents in your workers' compensation case.

This is typically straightforward for a workplace accident. However, some workplace injuries might not manifest themselves or be apparent until some time has passed. Also, many employees do not fully understand their rights and fear retaliation from their employer if they report an injury or file a claim. Others fail to pursue legitimate claims out of a misguided sense that filing a workers' compensation claim is an attempt to take advantage of their employer or "the system."

What you may not know is that workers' compensation exists to protect employers, not penalize them. In most instances in California, employees who are injured on the job are legally prohibited from suing their employer in civil court for their injury. This is true even

when an employee is injured through the employer's gross negligence. This prohibition from suit protects employers from incurring prohibitively expensive litigation costs whenever an employee sustains a work-related injury. The tradeoff for an employee losing the right to pursue a lawsuit is that the law requires employers to maintain insurance or be adequately self-insured to allow injured workers to promptly receive benefits, including medical care and wage replacement payments. The employer must provide medical care within 24 hours of the filing of the claim and pay up to $10,000 in treatment for the alleged condition—even if they have not accepted the claim—until the claim is rejected. Within 14 days of receipt of the claim, the employer must accept, reject, or delay a decision regarding the claim. If the claim is delayed, the employer has 90 days to determine whether to accept it. During this time, the employer must continue to pay up to $10,000 for care. The employer is not required to provide temporary disability payments during this time, but an employee may be entitled to wage replacement benefits under the State Disability Insurance system or the employer's disability policy.

If you wait to report an injury to your employer as a workplace injury, you run the risk that the employer will contest the claim, which can lead to delays and unnecessary litigation. If you wait to report an injury, it may also lead to you not receiving the medical care or temporary disability payments you are entitled to by law. If you do not report an injury within 30 days, you could lose your right to receive benefits altogether.

3. Disclosing Your Medical History: Injured workers who file a workers' compensation claim are often asked to sign a broad medical release that provides the insurance company with their entire medical file. Under California workers' compensation law (*Labor Code §3300 et seq*), both the injured worker and the insurance company are entitled to engage in discovery. This is the process in which either party tries to gather information to support or reject a claim for a work-related injury. The law says injured workers shall, upon request, disclose all previous permanent disabilities or physical impairments. But how much must be disclosed can be a subject of significant litigation.

Last year, the Workers Compensation Appeals Board held that California law requires disclosure of specific disability or impairment, but the law does not require disclosure of all prior medical treatment. The insurance company must show a reason for the inquiry to support their request. The court may find that specific written disclosures are unduly

burdensome when the insurance company has not shown why other discovery methods would be inadequate, such as a deposition of the injured worker. If an insurance company suspends or denies benefits based on a failure to comply with a broad request for all prior medical treatment, the injured worker may be able to present this bad faith denial before a workers' compensation judge to try and get benefits reinstated.

In any event, the discovery process should not prevent you from pursuing a valid claim for benefits. However, it is important to keep in mind that you will have to disclose a fair amount of your medical history to the insurance company, and you may be questioned under oath about your injury and related medical history. This can be more involved in two instances. First, for "stress claims" – claims for psychological injury. Second, for claims where there may be both work and non-work causes of the injury.

4. When to Hire an Attorney: Although you should immediately report the on-the-job injury to your employer, you may not need to hire a workers' compensation lawyer right away. As a general rule of thumb, you may not need a lawyer at all if (1) the employer accepts your claim and does not contest that it was work-related; (2) you get the medical treatment you need (see above about pre-designating your own doctor); and (3) the injury is not likely to result in any significant permanent impairment. If you are not sure if you need an attorney, contact your professional staff for guidance.

If you do not pre-designate your own doctor, and you are injured on the job, and you do not get the medical care you need, consult a workers' compensation attorney. The law defines reasonable and necessary treatment based on approved medical treatment guidelines. (*Labor Code §4600*). Understanding these treatment guidelines ensures that care is being authorized properly. Doctors and lawyers specializing in workers' compensation cases rely on this understanding to ensure that injured workers get the necessary medical care for their injuries. A workers' compensation attorney can advise if you are getting the appropriate medical care and assist you in getting that care if needed. If you do need to hire an attorney, know that workers' compensation law sets the attorneys' fees for "applicant attorneys" (*i.e.*, those who represent injured workers). The attorneys' fees are typically paid from the workers' compensation settlement or award. The injured worker typically does not pay out-of-pocket fees.

As noted above, injured employees sometimes fear retaliation if they report an injury to their employer. California law prohibits employers from retaliating against an employee for filing a workers' compensation claim. (*Labor Code §132a*). A recent state law also now requires employers to include in the notice they post in the workplace a statement that an injured worker has the right to consult a licensed attorney to advise of their rights under workers compensation laws. (*AB 1870*). If you experience retaliation for reporting an injury or filing a claim, contact your professional staff, who can help stop any further retaliation and refer you to a qualified applicant's attorney for possible legal action.

5. Returning to Work: Once you are declared permanent and stationary (meaning your condition is not likely to improve with further treatment) by the workers' compensation physician, your temporary disability payments will stop. At this point, your employer will likely request an interactive process meeting if they have not done so already. The Americans with Disabilities Act (ADA) and California Fair Employment & Housing Act (FEHA) affirmatively requires employers to engage in a good faith interactive process to reasonably accommodate an employee's disability. This may include:

- restructuring a job
- modifying when and/or how an essential job function is performed
- modifying an employer policy
- providing a part-time or modified work schedule
- providing additional training
- permitting an employee to work from home
- providing unpaid leave for treatment or recovery
- reassignment to a vacant position
- adjusting the workstation (*e.g.,* by providing special equipment or devices)

Whether any accommodation is reasonable depends on the specific circumstances. Accommodation is not reasonable if it places undue hardship on the employer. An employer can still require you to perform the essential functions of your job. So, if you cannot perform those duties with or without accommodation, you may need to look at other options such as reassignment. Be sure to look at any reports issued by the workers' compensation doctors. These reports are often titled QME (Qualified Medical Examiner) or AME (Agreed-upon Medical Examiner). Although it is important to look beyond the written restrictions to determine whether you can perform the essential functions with or without accommodation, these reports and any written restrictions do affect whether any accommodation is reasonable. So, pay close attention to what gets documented.

Workers' compensation attorneys are focused on how to maximize your workers' compensation settlement or award. They are not focused on your return to work with or without accommodation under the ADA and FEHA. This is something you will need to discuss with your employee organization's professional staff. Keep in mind that what you (or your workers' compensation lawyer) say or do in your workers' compensation case *will* affect what you can do in the interactive process. With workers' compensation, the focus is on securing the highest Permanent Disability rating, which can be contrary to the goal of the interactive process, which is to return you to work with or without accommodation. A high Permanent Disability rating (while good for your workers' compensation case) makes it harder to establish that you can perform the essential functions of your job (not good for your ability to return to work).

News Release - CPI Data!

The U.S. Department of Labor, Bureau of Labor Statistics, publishes monthly consumer price index figures that look back over a rolling 12-month period to measure inflation.

2.3% - CPI for All Urban Consumers (CPI-U) Nationally

2.1% - CPI-U for the West Region

3.0% - CPI-U for the Los Angeles Area

1.3% - CPI-U for San Francisco Bay Area

2.5% - CPI-U for the Riverside Area (from March)

3.8% - CPI-U for San Diego Area (from March)

Heat Illness Prevention

The U.S. Department of Labor (DOL) and Occupational Safety & Health Administration (OSHA) have published best practices to prevent heat illness at work. The best practices are designed to help employers reduce the risk of heat-related illness for workers as we head deep into the summer months. Suggestions include:

Did You Know?

Train All Workers. Employers should train supervisors and workers on how to control and recognize heat hazards. This includes first aid.

Follow the 20% Rule. On a worker's first day of working in extreme heat, no more than 20% of the duration of their shift should be at full intensity in the heat. The duration of time at full intensity should be increased by no more than 20% a day until workers are used to working in the heat.

Remember These Three Words: "Water. Rest. Shade." Workers should drink one cup of water every twenty minutes while working in the heat to stay hydrated. When the temperature is high, employers should have workers take frequent rest breaks in shaded, cool, or air-conditioned areas to recover from the heat.

Workers New to the Job are at Higher Risk. Workers who are new or returning to working in warm or hot environments need more time to adapt. More than 75% of heat-related fatalities occur during a worker's first week, which is why "acclimatization" – the process of building resistance to increased temperatures – is so important. Learn how to protect new workers from heat-related illnesses and monitor them until they are acclimated.

Hazardous Heat Exposure Can Happen Indoors or Outdoors. Though heat stress is typically related to outdoor work environments, and construction workers account for about one-third of heat-related deaths, workers in hot indoor environments like kitchens, laundry, warehouses, and electrical utilities are also at risk.

Engineering Controls and Modified Work Practices Can Reduce the Risk of Heat Illness. Employers should consider reducing physical activity as much as possible by planning for the work ahead and rotating job functions among workers to help minimize exertion.

If you encounter unsafe heat conditions, tell your employer immediately. If nothing changes, contact your professional staff for help, or call OSHA at 1-800-321-6742 (OSHA).

Questions & Answers about Your Job

Each month we receive dozens of questions about your rights on the job. The following are some GENERAL answers. If you have a specific problem, talk to your professional staff.

Question: I am an Inspector II. A few years ago, the employer merged the Inspector I, II, & III into a single job description – Inspector I/II/III. Originally, this was intended to allow for easier advancement within a job series versus having to wait for a vacancy to occur and the employer to post a recruitment. However, the route to advancement is very vague and ambiguous. Is there wording to propose to management that better identifies the proficiency necessary to flex upwards? What are some industry standards used to identify when someone can advance within a flexible series like this?

Answer: Flexible series positions like Inspector I/II/III typically follow an MOU provision or human resources policy that defines when and how employees can advance. A common criterion for determining eligibility to advance is how long an employee has been in that class or grade. The minimum period is often 6 months to a year at the current level before advancement. This ensures the employee has enough experience before advancing to the next grade. Another metric is demonstrated competency or proficiency. This ensures an employee who advances has mastered specific tasks or duties outlined in the job specification and knows how to operate the necessary equipment, tools, or software. This may be shown through performance evaluations of satisfactory or above or through testing. A third criterion is completing required certifications or training, such as state-mandated safety or inspection certifications, or in-house courses, *etc*.

Most policies allow management some discretion based on organizational need. This ensures the higher grade is budgeted and authorized by the public agency. Even if an employee is qualified, advancement may still depend on operational needs. For example, a department might not need all positions staffed at the III level. The policy may require a supervisor to recommend an employee for advancement, subject to department and HR approval. This ensures an employee meets the criteria and qualifications before it takes effect.

Question: I am currently in an "acting" assignment, which began nine months

ago. My partner and I recently had a baby, and I am taking baby bonding leave for a total of six weeks. Today, I received an email from HR stating that they will be pausing my acting assignment during my leave period and temporarily moving me back to my regular position. HR said I will be reinstated to the acting assignment once my leave concludes. Is it standard for an acting assignment to be paused during leave and for someone to be reverted to their regular role? When I accepted the acting assignment, I was at Step 5 of 9 of my regular position. Since then, I've had a successful performance review, and one is pending. What is the appropriate step placement for this temporary reassignment? If the employer says the acting assignment is no longer available when I return from leave, do I have any recourse?

Answer: Yes, it is standard practice for an acting assignment to be paused while an employee is on a leave of absence. Acting pay is usually only granted when you are actively performing the higher-level duties of the temporary assignment. If you go on baby bonding leave, you are not performing those duties during your leave. So, acting pay can be paused during that time.

Check your MOU or personnel rules for language about step advancement. At a minimum, you should be returned to your previous Step 5. However, you may have an argument that you should be put back at Step 6 based on your positive evaluation, and possibly Step 7, depending on what the language says. Ideally, you would be placed at the step you would be at had you not taken the acting assignment.

Under the California Family Rights Act (CFRA) and the Family Medical Leave Act (FMLA), the employer cannot reduce pay or benefits because an employee exercised their right to take protected leave. The employer must restore the employee to the same or substantially equivalent role, which includes equivalent pay. It sounds like your employer is saying it will do that. However, if the acting assignment is no longer available at the time you return from leave, the employer can return you to your previous position, especially if it results in no loss of pay. However, you may have a legal claim if the employer returns you to a lower-level (or lower paying) position – particularly if you can show that, if not for your protected leave, you would have been reinstated to the higher-level acting assignment.