

WEBINAR SERIES

PAGA California 2024 Reform

What You Need to
Know in 2025

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Today's Presenters



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Today's Agenda

- Understanding PAGA and the 2024 Reform
- PAGA Exposure Under the Previous Law
- New Penalty Reductions for Taking “Reasonable Steps”
- Common Employer Mistakes That Trigger PAGA Claims
- Judicial Tools to Limit PAGA Litigation
- Employer Action Plan for 2025 and Beyond

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

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Understanding PAGA And The 2024 Reform

What is PAGA?

- PAGA stands for the **Private Attorneys General Act**, which was enacted in California in 2004.
- It allows employees to sue their employers on behalf of the state for violations of the Labor Code.
- Employees can bring claims on behalf of themselves and other affected coworkers.
- Any penalties recovered are divided: 75% goes to the state, and 25% is awarded to the employees.

Why PAGA Matters to Employers?

- Employers can be penalized for even minor or technical violations of the Labor Code.
- Employees are not required to prove harm or damages in order to bring a claim.
- A single employee may file a lawsuit for violations that affect hundreds of coworkers.
- These lawsuits can lead to significant financial exposure and costly legal fees.



How PAGA Works?

- The employee must first file a notice with the Labor and Workforce Development Agency (LWDA).
- If the agency does not act within 65 days, the employee may proceed with a lawsuit.
- The lawsuit can include multiple Labor Code violations, such as missed meal or rest breaks and paystub errors.
- PAGA lawsuits often become representative actions, similar in structure to class actions.

PAGA Lawsuits Have Grown Rapidly

- More than 6,000 PAGA notices are filed with the LWDA each year.
- Penalties can accumulate rapidly—typically \$100 to \$200 per pay period, per employee.
- Legal fees, settlement costs, and the time spent on defense can severely burden small businesses.
- Example: A small company paid \$500,000 to settle a PAGA case involving missed meal breaks over a two-year period.

2024 Reform – What Changed?

- **June 18, 2024** – The California Legislature passed a landmark PAGA reform bill following months of negotiation.
- **June 19, 2024** – Governor Gavin Newsom signed the bill into law, marking a significant shift in how PAGA is enforced.
- The reform introduces several key changes: reduced penalties for employers who take “reasonable steps” to comply with the law, new standing requirements for employees bringing claims, and expanded judicial authority to limit unmanageable cases.
- The law aims to reduce frivolous and abusive litigation while preserving employees’ ability to enforce legitimate Labor Code violations.
- These reforms reflect a compromise between employer and labor groups, intended to avert a costly and divisive ballot initiative scheduled for November 2024.

Effective Date

- The reform applies to all PAGA lawsuits filed on or after June 19, 2024.
- Lawsuits filed before this date will continue to be governed by the prior PAGA rules.
- Employers should carefully document the exact filing date of any PAGA notice or claim.
- This information is critical for determining available legal defenses and calculating potential penalties.

Why the Reform Happened

- Employer groups raised concerns about widespread abuse of the law and the high costs of compliance.
- In response, a 2024 ballot initiative was proposed to significantly limit or repeal PAGA.
- Business and labor organizations ultimately negotiated a compromise, resulting in meaningful reform without the need for a public vote.
- The goal was to establish a fairer and more balanced system for enforcing labor laws.



PAGA Exposure Under the Old Law

How Exposure Was Calculated Under the Old Law

- Penalties were **\$100 for the first violation**, and **\$200 for each subsequent violation per pay period**.
- If multiple employees were affected, penalties could multiply quickly across pay periods.
- **Example:** 10 employees × 26 pay periods × \$200 = **\$52,000 in penalties for a single type of violation**.
- Penalties could be assessed even when no actual harm was caused to employees.

No Requirement for Personal Violation

- Under the previous law, employees could sue for Labor Code violations they had not personally experienced.
- This allowed plaintiffs to include claims on behalf of other workers, even in departments or roles they never worked in.
- As a result, many lawsuits were filed by former employees alleging widespread violations across entire organizations.
- This created broad liability for employers—often without clear notice or direct evidence of the alleged violations.



No Limit on Group Size

- A single employee could represent hundreds or even thousands of workers in a PAGA case.
- Unlike class actions, there was no requirement to show how each individual employee was affected.
- Employers were often forced to defend against claims spanning long time periods and large portions of their workforce.
- This frequently resulted in substantial settlements, as companies sought to avoid prolonged and costly litigation.

No Manageability Standard

- Under the old law, courts had no authority to limit or dismiss PAGA claims based on complexity or manageability.
- Judges were required to hear full cases, even when they involved multiple legal theories and large groups of employees.
- This often resulted in lengthy and costly litigation—even in cases with limited evidence or questionable merit.
- **Example:** A single claim alleging overtime, pay stub, and break violations across multiple departments had to proceed in its entirety.

Stacked Penalties for Multiple Violations

- Employers could be penalized separately for each type of Labor Code violation.
- A single employee could trigger claims for missed meal and rest breaks, unpaid wages, and wage statement errors.
- In many cases, the total penalties far exceeded the employee's actual earnings.
- **Example:** An employee earning \$3,000 per month filed a PAGA claim seeking \$80,000 in penalties due to multiple alleged violations.



New Penalty Reductions for “Reasonable Steps”

Employers Can Reduce Penalties by Taking “Reasonable Steps”



- The 2024 reform allows courts to reduce or eliminate penalties if an employer took **reasonable steps** to comply with the law.
- Such steps may include written policies, employee training, regular payroll audits, and prompt correction of identified issues.
- Courts can now consider the employer’s intent and good-faith efforts—not just the violation itself.
- **Example:** If a company maintained a compliant meal break policy but a single manager failed to follow it, penalties may be reduced or waived.

Proactive Steps to Ensure Labor Code Compliance?

- **Maintain a Labor Code-Compliant Policy**
 - Include a written, compliant policy in your employee handbook.
- **Train Management**
 - Educate managers and supervisors on:
 - Wage and hour laws
 - Rest and meal break requirements
 - Accurate timekeeping practices
- **Conduct Payroll Audits**
 - Regularly audit payroll to identify and correct compliance issues.
- **Internal Reporting System**
 - Provide employees with a clear and accessible way to report labor violations.

Penalty Reduction Through Early Action

- **Examples of “Reasonable Steps”**

- Payroll audits
- Documented policies
- Management training
- Corrective actions taken

- **Penalty Caps for Compliance Efforts**

- 15% Cap: If actions are taken before receiving a PAGA letter
- 30% Cap: If actions are taken within 60 days after receiving a PAGA letter

Why It Matters

Early prevention and prompt response significantly reduce potential penalties under the Private Attorneys General Act (PAGA).

Reasonable Steps Toward Compliance – Strategic Considerations

- **Definition of “Reasonable Steps” is Flexible**
 - Courts now have discretion to evaluate what qualifies as compliance efforts.
- **Open Questions Remain**
 - How thorough must an audit be?
 - What level of training counts as “reasonable”?
- **Legal Risk: Attorney-Client Privilege**
 - Using legal advice to prove compliance may waive privilege — document carefully.
- **Best Practice**
 - Document audits, policies, training, and corrective actions without revealing privileged communications.

Reasonable Steps Toward Compliance – Impact on Penalties

- **Timely Corrections Matter**
 - If a violation is corrected within 60 days of receiving a PAGA notice, courts may reduce or eliminate penalties.
- **Examples of Timely Corrections**
 - Issuing back pay
 - Revising wage statements
 - Retraining management
- **Courts Consider Good Faith**
 - Demonstrating prompt, sincere compliance efforts can weigh in your favor.
- **Real-World Example**
 - A company that reimbursed unpaid business expenses within 60 days avoided \$75,000 in potential penalties.

Minimum Compliance Required for Penalty Caps

- No caps if employer has non-compliant policies, conducts no training, skips audits, or fails to correct violations.
- Courts may deny reductions if efforts are superficial or clearly lacking.
- Best practice: Maintain logs and records of training, audits, and policy updates.
- Prestige PEO can support you in meeting these minimum compliance standards.





Common Employer Mistakes That Trigger PAGA Claims

Misclassification of Employees

- One of the most common and costly PAGA violations is misclassifying workers as exempt or as independent contractors.
- Exempt employees (e.g., salaried managers) must meet both duties and salary tests — many don't.
- Independent contractors are often misclassified when they should be treated as employees under California's ABC test.
- **Example:** A delivery company labeled drivers as contractors but controlled their schedules, leading to a \$1M PAGA settlement.

Inaccurate or Incomplete Wage Statements – Required Information

California Labor Code §226 requires pay stubs to include 9 specific items:

1. Gross wages earned
2. Total hours worked (for non-exempt employees)
3. Number of piece-rate units earned and applicable rates (if applicable)
4. All deductions (itemized)
5. Net wages earned
6. Inclusive dates of the pay period
7. Employee's name and only the last four digits of their SSN or employee ID
8. Employer's full legal name and address
9. All applicable hourly rates and corresponding hours worked

Inaccurate or Incomplete Wage Statements – Risks & Prevention

- **PAGA Penalties**

- Even unintentional omissions or errors can trigger penalties of \$100–\$200 per pay period.

- **Common Pitfall: Automation**

- Automated payroll systems may not guarantee compliance with all §226 requirements.

- **Solution: Regular Audits**

- Conduct periodic reviews to ensure wage statements meet all legal requirements and prevent costly violations.

Missed or Shortened Meal and Rest Breaks

- Non-exempt employees must receive a 30-minute meal break by the 5th hour and a 10-minute rest break for every 4 hours worked.
- Employers must relieve employees of all duties during breaks; “on-duty” breaks are generally not allowed.
- Simply having a break policy is not enough — it must be followed in practice and tracked.
- **Example:** A restaurant allowed servers to take breaks only after shifts — violating break laws and paying \$250,000 in penalties.

Off-the-Clock Work

- Employees must be paid for all time spent working, including before and after shifts.
- Common examples include checking emails, preparing for work, closing down, or traveling between job sites.
- Employers who don't track or compensate for this time risk multiple violations under PAGA.
- **Example:** A retail chain required employees to attend unpaid security checks at the end of shifts — resulting in a statewide PAGA suit.



Unreimbursed Business Expenses

- California law requires employers to reimburse all necessary business expenses, including phones, mileage, and internet use.
- This applies even when employees use personal devices or vehicles for work purposes.
- Many employers overlook these obligations for remote workers and hybrid roles.
- **Example:** A remote customer service team sued for not being reimbursed for home internet and cell phone use.

Poor Recordkeeping and Inadequate HR Processes

- Employers must keep accurate records of hours worked, breaks taken, and wages paid.
- Without proper documentation, it's nearly impossible to defend against PAGA claims.
- Lack of internal complaint systems may also be viewed as lack of “reasonable steps” under the new law.
- **Example:** A small manufacturer without time records had no defense in a \$150,000 PAGA settlement for alleged break violations.



Judicial Tools to Limit PAGA Litigation

Standing Before vs. After the Reform

- Before 2024:
 - Plaintiffs could bring PAGA claims for violations they never experienced (e.g., *Huff v. Securitas*). Even settled or time-barred claims could still be pursued representatively (*Kim v. Reins*; *Johnson v. Maxim*).
- After 2024:
 - Employees must prove they personally experienced each violation listed in the complaint.
- Violations must have occurred within 1 year of the lawsuit being filed.
- This significantly narrows who can file PAGA lawsuits and what they can include.

New Manageability Standard Introduced

- Courts now have the explicit authority to require PAGA cases to be “manageable.”
- Judges can limit the scope of claims to ensure they can be fairly and efficiently handled.
- Previously, courts had no power to manage or narrow overly complex cases under PAGA.
- Example: A judge may now restrict a PAGA claim to only one location or job type instead of the entire company.

Courts Can Limit or Strike Overbroad Claims

- Judges may now dismiss or strike claims that are unmanageable, vague, or lack specific facts.
- Claims must clearly explain the who, what, when, and how of the alleged Labor Code violations.
- This helps employers avoid defending against baseless or fishing-expedition lawsuits.
- **Example:** A vague claim of “missed breaks” across departments without details may now be stricken early in litigation.

Streamlined Process for Smaller Cases

- Courts are encouraged to handle narrow and specific PAGA claims more efficiently.
- Smaller claims can be resolved quicker and with fewer procedural hurdles under the reform.
- Judges can separate smaller, valid claims from broader ones to ensure fairness to employers.
- **Example:** A claim focused on one employee's missed wage statement violations might proceed, while broader break claims are stayed or dismissed.

What is Curing? (AB 2288 and SB 92)

- Employers can fix certain violations to reduce or eliminate penalties.
- Applies to pay violations and wage statement errors (e.g., name/address, wage rates).
- Must correct violations, make employees whole, and comply with the law.
- Example: Pay back wages, 7% interest, liquidated damages, and provide corrected wage statements.

Cure Process for All Employers (SB 92)

- Employers must act within 33 days of receiving a PAGA notice.
- Must notify employee and LWDA by certified mail and online of corrective actions.
- LWDA has 17 days to review; process can be extended by 3 days.
- Can only cure once in a 12-month period for the same violation type.

Cure Process

Small Employers (99 or fewer employees)

- May submit a confidential cure proposal to the LWDA.
- If accepted, have up to 45 days post-conference to correct violations.
- Must provide audits and sworn declarations showing compliance and payment.

Large Employers (100+ employees)

- Cure must occur before or with the first legal response.
- May request early evaluation conference and stay of proceedings.
- Must submit cure plan and evidence to neutral evaluator and serve plaintiff.

Employer Action Plan for 2025 and Beyond

Conduct a Full Labor Law Compliance Audit

- Review compliance on meal/rest breaks, wage statements, classifications, and payroll practices.
- Ensure alignment with the one-year statute of limitations under PAGA reform.
- A thorough audit qualifies as a “reasonable step” and may cap penalties at 15–30%.

PrestigePEO Helps

Full audits, including classification and wage statement reviews.

Update Handbooks, Policies, and Agreements

- Ensure handbooks and policies meet current California Labor Code standards.
- Address new PAGA rules, including documentation and penalty reduction criteria.
- Distribute updated policies to managers and staff for proper acknowledgment.

PrestigePEO Helps

Custom policy creation
and onboarding support.

Train Supervisors on Legal Requirements

- Train supervisors on wage and hour laws, break rules, and timekeeping compliance.
- Regular training demonstrates good faith and reduces liability.
- Interactive, tailored training increases retention and compliance.

PrestigePEO Helps

Supervisor-specific training
and webinar tools.

Strengthen Internal Complaint Procedures

- Create clear, safe channels for employees to report labor violations.
- Investigate and respond promptly to all complaints in writing.
- Early internal resolution helps avoid PAGA escalation.

PrestigePEO Helps

Confidential reporting systems and HR-led response protocols.

Document All Reasonable Steps Taken

- Keep records of all training, policies, audits, and corrective actions.
- Courts require proof to qualify for PAGA penalty caps.
- Incomplete or missing documentation may disqualify you from reductions.

PrestigePEO Helps

Secure tracking tools
for audit trails and
compliance logs.

Review Employee Classifications and Pay Structures

- Misclassification is a leading cause of PAGA claims.
- Apply the ABC test and duties/salary tests for proper classification.
- Address pay equity, overtime eligibility, and contractor status.

PrestigePEO Helps

Classification audits and payroll setup support.

Regular Check-Ins with HR Consultants

- Set quarterly or semi-annual compliance reviews with HR.
- Keep training, documentation, and handbooks current.
- Monitor regulatory updates and court interpretations of “reasonable steps”.

PrestigePEO Helps

Ongoing access to HR
Business partners and
compliance alerts.

Prepare a PAGA Risk Response & Cure Plan

- Know how to respond to a PAGA letter: assign roles, contact legal, gather facts.
- Employers have 33 days to cure some violations under SB 92.A successful cure can eliminate or reduce penalties to \$0–\$15/pay period.



Final Takeaway – Compliance is Protection

- PAGA reform rewards proactive employers who show good faith and follow through.
- A strong compliance program is your best defense and minimizes risk.
- Focus on training, tracking, auditing, and internal resolution.

Questions

Resources Provided by Prestige PEO

PrestigePEO supports clients with:

HR Compliance Guidance

Best practices for wage and hour laws, rest/meal break compliance, and employee classification.

Policy and Handbook Review

Best practices for wage and hour laws, rest/meal break compliance, and employee classification.

Payroll Processing and Audits

Help identifying discrepancies and improving wage statement accuracy.

Manager Training Resources

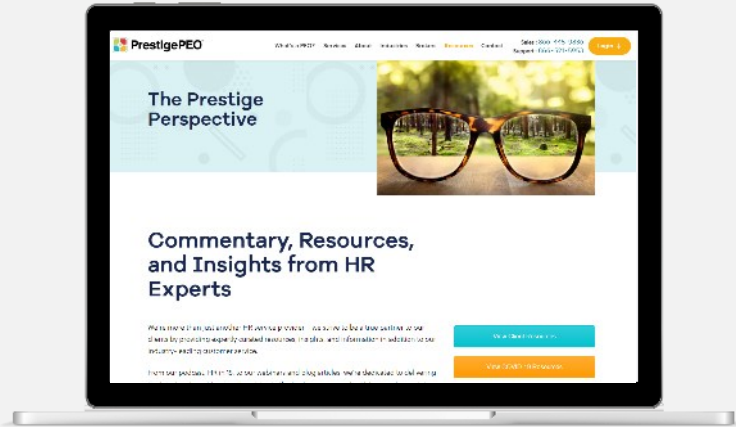
Materials and guidance for effective labor law training and documentation.

Important Note:

Some complex legal matters — especially those involving potential litigation or legal interpretations — should be reviewed by outside counsel.

PrestigePEO can **recommend trusted legal counsel** to help address those issues with expertise and confidentiality.

Questions / Comments / Discussion?



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