



**2011 EMPLOYER BREAKFAST SEMINAR**  
(Tuesdays, 7:30 to 10 a.m. - except as noted)

**UPCOMING EVENTS**

**October 18<sup>th</sup>**

Sexual Harassment Prevention Training  
Concord Hilton

**November**

No Seminar

**December**

Member Appreciation Event  
Concord Hilton

For Registration Information,  
Contact Jim Ranger at 925-602-3996 or  
email: [james.ranger@edd.ca.gov](mailto:james.ranger@edd.ca.gov)

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Following is the link to the newly launched web site  
for the Workforce Development Board -  
[www.wdbccc.com](http://www.wdbccc.com).

The Workforce Development Board brings together  
leaders from business, economic development,  
education, labor, community-based organizations,  
and public agencies to align a variety of resources  
and organizations to enhance the competitiveness  
of the local workforce and support economic vitality  
in our region.

**Checking An Applicant's Credit History-  
Assembly Bill 22**

The California Legislature approved Assembly Bill 22 ("AB 22"), which if signed by Governor Brown, will dramatically limit a California employer's ability to use an applicant's credit history in the hiring process. AB 22 prohibits most private sector employers from conducting credit checks on applicants for employment. The bill makes exceptions for positions in law enforcement or with the state Department of Justice, certain management positions and for positions in which the employee will have access to money, other assets or confidential information.

AB 22 has been opposed by the California Chamber of Commerce on the grounds that employers routinely and legitimately rely on credit reports as one factor in gauging the overall responsibility and trustworthiness of an applicant for employment. The California Labor Federation has been a supporter of the bill and has argued forcefully that many individuals are blameless victims of the recent economic collapse and their credit history should not be used to limit future employment opportunities. The Legislature sent similar bills to Governor Schwarzenegger, but he vetoed each such bill. The sponsors of this bill are hoping for a different decision by Governor Brown and are pushing the idea that the bill is particularly important in the current economic climate.

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For the most recent labor market visit

<http://www.labormarketinfo.edd.ca.gov/>

**Contra Costa County Employer Advisory Council Board Members**

**2010-2012**

Chair, **William Truesdell**, The Management Advantage, Inc. – [tmainc@management-advantage.com](mailto:tmainc@management-advantage.com)  
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Representative at-Large, **Bart Gragg**, Blue Collar University - [bart@bluecollaru.com](mailto:bart@bluecollaru.com)

## Summer Time Is EEO-1 Time

The Equal Employment Opportunity Commission (EEOC) wants employers to remember that the **September 30 deadline** to submit the annual EEO-1 Report.

The EEO-1 Report — formally known as the "Employer Information Report" — is a government survey requiring certain employers to provide a count of their employees by job category, ethnicity, race, and gender. Generally, it must be filed by employers with 100 or more employees, and federal government contractors with 50 or more employees. The report must use employment numbers from any pay period in July through September.

Employers who have reported previously are encouraged to file the EEO-1 online. If you haven't filed before, here's the page for filing an EEO-1 Report for the first time - <https://egov.eeoc.gov/eo1/register.jsp>

For more help, email the EEO-1 Joint Reporting Committee or call 1-866-286-6440 toll-free.

The EEOC also has detailed instructions to complete the report, a handy job classification guide and a sample report form. For more information, visit the 2011 EEO-1 Survey page.

"The EEO-1 survey provides valuable employment data by race, ethnicity, gender, and job categories," said Deidre Flippen of the EEOC's Office of Research. "In addition to helping the EEOC enforce Title VII, the EEO-1 Report is utilized by researchers, private attorneys, and employer human resource staff. We encourage employers to do everything possible to meet the September 30 deadline for submission of the EEO-1 Report."

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### **Basic Provisions of California's AB 1825**

AB 1825's sexual harassment training requirements apply to organizations that regularly employ 50 or more employees (Independent contractors and temps are included in the 50+ number).

Employers must provide two hours of training to each supervisory employee, every two years.

New supervisory employees must receive sexual harassment training within six months of their assumption of a supervisory position, and thereafter, every two years.

The training mandated by California's AB 1825 must be of a high quality, conducted via "classroom or other effective interactive training".

Send your managers and supervisors to the CCCEAC Seminar on October 18<sup>th</sup> to comply with the Harassment Prevention law.

## Remember to calculate overtime pay based on your employees' "regular rate of pay"

Employers sometimes assume that an employee's rate of pay for overtime work is simply 150% of his or her hourly wage for hours worked in excess of eight in a day or 40 in a week, or 200% of the hourly wage for hours worked in excess of 12 in a day or in excess of eight on the seventh consecutive day within a single work week.

When a non-exempt employee is entitled to overtime compensation, the hourly rate of pay from which the overtime compensation is calculated is known as the employee's "regular rate of pay." If an employee subject to California's Wage Orders works nine hours in a day, for example, he or she would be entitled to payment at 150% of his or her regular rate of pay for the ninth hour of work during the day.

In general, an employee's regular rate of pay is equivalent to his or her total compensation during the week divided by the total number of hours worked. Although an employee's regular rate of pay will often be equal to his or her straight-time hourly wage, the regular rate of pay can vary from the straight-time wage, since it includes other forms of compensation as well.

If an employee earns commissions, for example, his or her regular rate of pay will be equivalent to the sum of hourly wages plus commissions, divided by total hours of work. Bonuses (if based on current productivity) can also be included in an employee's regular rate of pay, and the Labor Commissioner has taken the position that stock option profits also constitute income that must be included in the calculation of an employee's regular rate of pay. Since commissions, bonuses and the like often vary from week to week, an employee's regular rate of pay can also vary from week to week, posing obvious challenges for the employer.

Employers whose non-exempt personnel receive compensation which includes items other than straight-time hourly wages should confer with counsel to assure that they are calculating overtime compensation using the appropriate regular rate of pay. Failure to include items such as commissions and productivity-based bonuses in overtime calculations will result in underpayment of overtime wages. Errors in calculating the regular rate of pay, or overlooking the issue in its entirety, are common and are increasingly the subject of claims by employees.