

AVOID WORKPLACE FIREWORKS – MAKE YOUR HOLIDAY POLICY CLEAR

TRUE OR FALSE?

1. For certain holidays, employers are required to grant their employees a day off with pay.

False. While many employers give employees paid days off on certain holidays, there is no obligation to do so.

2. If a holiday falls in the middle of the week (like this year's Fourth of July), employers must not only grant that day off but must also grant another day off, either right before or right after the holiday.

False, for the reasons stated above.

3. If an employee wishes to work on a paid holiday and instead take another paid day off, that is completely legal.

True. As long as the employer policy permits this practice.

4. If an employee works on a day normally designated by the employer as a paid holiday, the employer must pay double time to that employee.

False. However, if the employee was originally entitled to that day off with pay, the employer must find a way to give the employee the equivalent benefit. This could be done by either paying the employee for the hours worked as well as the holiday pay or granting another day off with pay.

5. It is legal for an employer to have a policy that although certain holidays will be given as days off with pay, employees will not get an extra day off if the holiday happens to fall on a weekend.

True. However, since many employers do designate either the Friday before or the Monday afterward as a paid holiday, it is particularly important to make your policy very clear.

6. If an employer's policy is to pay time-and-a-half to employees for holiday work and the employee also works more than 40 hours that workweek, the employer can credit the holiday pay towards that week's overtime obligation.

It depends. While employers are legally obligated to pay overtime, they are free (as mentioned above) to use their discretion in setting the terms of any holiday benefits. Therefore, there is nothing wrong with employers having a policy stating that any holiday pay earned during a workweek will be offset against any overtime earned in that same workweek. But if an employer simply offsets these two payments without any forewarning, there is always a chance that employees might believe that this benefit – which they thought had been unconditionally offered – was arbitrarily taken away from them.

7. Paid holidays do not need to be counted towards overtime.

True. Employers only need to count the hours actually worked by the employee in that workweek to determine their overtime obligations.

8. Since employers are free to decide the holidays for which they will give their employees the day off, they are also free to deny an employee's request for time off on a "non-designated" holiday.

True, unless the employee's request is based on the fact that his or her religion recognizes that day as a religious holiday, or for some other religious purpose. In that event, the employer may have a requirement to "reasonably accommodate" the employee's religion, if that accommodation does not create an undue hardship. Although this obligation is not as strict as the obligation to accommodate an employee with a disability, it would still be wise to contact your attorney before denying such a request.

For more information on this and other important issues affecting Oregon employers, please visit our website at www.oregon.gov/boli/ta. You may also call us at 971-673-0824.