Fisher Phillips

Insights, News & Events

CALIFORNIA EMPLOYER GUIDE TO LATEST UPDATE ON PROPOSED PAGA REGULATIONS: 7 KEY POINTS ON THE LWDA'S NEW MODIFICATIONS

Insights
Aug 7, 2026

California Employer Guide to Latest Update on Proposed PAGA Regulations: 7 Key Points on the LWDA's New Modifications

California officials just announced significant changes to a proposed rule that aims to clarify administrative requirements and procedures under California's Private Attorneys General Act of 2004 (PAGA). The original version of the proposed rule brought a mixed bag for California employers, with some provisions aiding employers and possibly decreasing PAGA litigation, and others stymying settlements and leading to more court costs. The California Labor Workforce Development Agency's (LWDA) latest modifications to the proposed regulations address some of these concerns while raising others. The modifications, announced on August 3, have now entered a short public comment period that ends August 18. This Insight covers some quick background and gives employers seven key points on the modified proposed rule.

Quick Background

- **PAGA and the LWDA.** PAGA allows employees to sue their current or former employers to recover civil penalties for alleged violations of the state's Labor Code. PAGA actions are monitored by the LWDA and subject to certain administrative requirements.

- **2024 PAGA Reforms.** Governor Gavin Newsom signed legislation in July 2024 that made significant changes to

Related People

Nazanin Afshar

Partner

818.230.4259

Benjamin M. Ebbink

Partner

916.210.0400

PAGA as part of an effort to avoid a contentious PAGA-related proposition from appearing on the ballot later that year. The reforms offered much-needed relief to employers, such as restructured penalties and various measures aimed at reducing litigation, but also created some new challenges.

- **2026 Proposed Regulations.** The LWDA issued a proposed rule in February 2026 that aims to bring long-awaited clarity to the administrative requirements and procedures under PAGA, especially in light of the 2024 reforms. The proposed rule was subject to a public comment period, which closed on March 23 (see FP's submitted comment here), as well as a public hearing on April 9 where the LWDA accepted additional public comments.

The Latest: 7 Key Points on the Modified Proposed PAGA Regulations

The LWDA issued a notice on August 3 about new modifications to the proposed PAGA rule.

The agency is now accepting comments relevant to these modifications, and the 15-day comment period will close on August 18. Here are seven key takeaways for employers, followed by information on how FP can assist with submitting comments to the LWDA.

1. Filing Requirements for Employers and Claimants

Employers (and claimants) would be required to file various documents related to PAGA claims with the LWDA through an online PAGA filing portal, and employers would need to submit responses via a specific link. As modified, the rule would also require employees to specify on their PAGA notices if they are asserting certain OSHA violations and list the specific Labor Code sections or violations allegedly violated by the employer.

These proposals, especially as modified, may help employers in identifying and correcting any alleged violations.

2. Measures to Reduce Abusive Filing Tactics

The original proposed rule included welcomed measures to rein in abusive tactics employed by "high-frequency filers"

Ashton M. Riley

Partner

949.798.2186

Hannah Sweiss

Partner

818.230.4255

Service Focus

Government Relations

Litigation and Trials

Related Offices

Los Angeles

Irvine

Sacramento

San Francisco

San Diego

and “vexatious filers.” The modified proposed rule ramps up these measures by:

- expanding “high-frequency filers” to include any attorney who has filed 100 or more (in addition to any law firm that has filed 200 or more) PAGA notices in the preceding 12 months; and
- making it harder for “non-compliant filers” (replacing “vexatious filers”) to circumvent prefiling screening requirements.

However, the term “non-compliant filers” appears to be narrower in some respects than the “vexatious filers” term it replaced. For example, a vexatious filer was an attorney or firm that simply repeated non-compliant PAGA notices whereas to be deemed a non-compliant filer, an attorney must file three or more non-compliant PAGA notices in preceding 12 months and then *continue* to file non-compliant notices after warning from the LWDA.

3. Pre-Litigation Notice Rules

The proposed rule would require every PAGA notice to contain a short and plain statement of the facts and theories supporting each violation alleged and personally suffered by the claimant. As modified, it would also require:

- attorneys filing on behalf of aggrieved employees to include their name, State Bar membership number, and specific contact information in the PAGA notice and on the online submission form when filing through the portal;
- the PAGA notice form to describe the available prelitigation administrative review procedures available, including the employer’s right to respond to the notice and any cure opportunities; and
- claimants who receive notice from the LWDA of deficiencies in their PAGA notice to file an amended notice within 30 days.

These changes should help employers investigate the nature of allegations and make informed decisions on whether to exercise their cure rights, while also allowing matters to proceed more efficiently.

4. Small Employer Cure Procedures

Silicon Valley

Woodland Hills

The proposed regulations would fill gaps left by the 2024 PAGA reforms regarding cure procedures for employers with fewer than 100 employees during the applicable one-year period. The rules would specify details related to submitting a confidential cure proposal, how the LWDA will review a cure proposal, scheduling cure conferences, preliminary cure determinations, and the process for resolving disputes over the cure process.

None of these proposed provisions were impacted by the LWDA's recent modifications.

5. Wage Statement Cure Procedures

The PAGA reforms allow employers of any size that have had a PAGA notice filed against them to cure alleged violations related to certain pay stub requirements. The proposed regulations add new procedural details related to these types of cure opportunities, such as setting a timeframe for filing the cure notice (within 33 days of the postmark date of the PAGA notice) and expanding the information required to be included in the cure notice.

While these proposals will increase administrative requirements for employers, they at least provide clarity on how to properly and timely cure alleged violations related to wage statements.

6. New Rules That Could Stymy Settlements and Increase Litigation

The proposed regulations establish specific rules and details related to the existing statutory requirement that proposed settlement agreements of PAGA civil actions be submitted to the LWDA. While the modifications addressed some of FP's initial concerns, these proposals still may have negative consequences for employers.

For example, one proposal would require the plaintiff proposing to settle PAGA claims to notify by email all other persons who have civil actions asserting PAGA claims pending against the same employer at that time, and anyone who receives such notice may submit comments to the LWDA within 21 days. **This could be problematic for employers because it could potentially lead to fewer settlements and increased litigation.**

Another proposal would prohibit claimants from amending a PAGA notice to add violations not alleged, or parties not included, "in a prior PAGA notice as part of or at any time after the claimant has reached a proposed settlement agreement with the employer in a pending civil action." However, the LWDA's recent modifications add an exception here that would allow a claimant to amend a PAGA notice if the amended notice includes specific information and statements. Here are two important considerations:

- **This modification is a welcome change for employers**, because the original version's blanket ban on settling plaintiffs amending PAGA notices would have led to piecemeal settlements and inadequate protection for employers.

- **However**, even the modified proposed rule could lead to **increased litigation and expenses for employers** (some plaintiffs may be unable or unwilling to satisfy the new requirements for filing an amended PAGA notice), **as well as delayed settlements** (especially because the modified proposal states that amended PAGA notices will be subject to the 65-day review, and, if applicable, 120-day investigation period.)

7. No Retroactivity Once Finalized

If finalized, the PAGA regulations would apply to all matters or cases pending at or filed after the rule's effective date. This was clarified in the recent modifications to the proposed rule. We expect the LWDA to issue final regulations later this year after reviewing all comments relevant to the modifications received by August 18.

> If your business supports or opposes the LWDA's recent modifications to the proposed PAGA rule, or would like to identify anything that may lead to uncertainty, you may consider **submitting a public comment by August 18, 2026**. Reach out to our FP Gov Team for guidance and best practices for submitting comments to the LWDA.

Conclusion

We will continue to monitor the LWDA's proposed PAGA regulations and provide updates as warranted, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in any of our California offices.