

# Deciding Whether to Train Manufacturing Workers Where Work Happens or Subsidize Off-Duty Training

By Lisa Barnett Sween

May 21, 2021

## Meet the Authors



### Lisa Barnett Sween

Office Managing Principal

(415) 796-5405

Lisa.Sween@jacksonlewis.com

## Related Services

COVID-19

Manufacturing

Wage and Hour

Workplace Training

Manufacturers face increasing difficulty in finding employees with the skills they need, where they need them to be. The skills gap has become a bigger issue as more manufacturers are looking to build where they sell, and policymakers are focused on the COVID-19-pandemic economic recovery and job creation.

Like the farm-to-table movement that swept the agricultural industry over the last two decades, many manufacturers are increasingly looking to build and sell locally or regionally. This shift allows faster time-to-market and often requires lower working capital. It also means an even greater need for skilled workers on the floor.

What can businesses do to bridge the skills gap and attract a skilled workforce, especially as the economy opens up? Is it practical to train employees on the floor during the workday, providing hands-on, tailored training in line with the specific needs and culture, but likely slowing down the line? Or is it more cost-effective to subsidize off-hours training, which may allow more efficiency during the workday?

One factor to consider is balancing the wage-and-hour implications. Generally, all employees of companies that engage in producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person, are covered by the federal Fair Labor Standards Act (FLSA). The FLSA requires that all non-exempt employees be paid at least minimum wage (currently, \$7.25 an hour) for all work performed. In most states, including California, the state minimum wage is considerably higher (California's minimum wage is \$14 an hour for companies with at least 26 employees).

An employee may work in two or more different positions during the same workweek at different rates of pay, but doing so will affect how overtime is calculated. The general rule is that all hours worked in all positions and at all rates are counted toward the weekly total for the purpose of determining whether the employee is owed overtime. Therefore, tracking "in-house" training time is important to ensure the employee is being paid at the proper hourly and overtime rates. When considering the lost productivity associated with training (not only by the person conducting the training, but also lost productivity by pulling the employee to be trained off the line), is this the most cost-effective method to gain a skilled workforce?

Alternatively, the employer may choose to send an employee offsite for training. While training after hours allows the employee to not skip a beat during the regular workday, it has its own wage-and-hour implications. For example, if the training is "mandatory," simply paying for the training program may not be sufficient. An employer also may be required to pay the employee at least minimum wage to account for time spent in the class and, in many

situations, count that time toward when 40 hours might be reached during the workweek to then trigger overtime.

Some states (including California, Nevada, and Texas) provide funding to employers to assist in upgrading the skills of their frontline workers through training. These programs typically are funded by employers through a special payroll tax. Businesses determine their own training needs and how to provide training. The fund reimburses the cost of employer-driven training for incumbent workers. In [California](#), a business may earn training funds after a trainee completes all training and is retained for a minimum time (normally, 90 days) at a required wage in a job using the skills learned in training. Further, community colleges in many states work with employers to offer programs at little or no out-of-pocket costs to employees or even employers.

With production often moving closer to the consumer, time is of the essence to build a skilled workforce within the manufacturing industry, especially as the focus turns to economic recovery and job creation following the COVID-19 pandemic.

Jackson Lewis attorneys are available to answer inquiries regarding this and other workplace issues.

©2021 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.