

EMPLOYEE WELFARE

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(LEGAL)

Wellness Programs	A covered entity, including a college district, may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site in accordance with 29 C.F.R. 1630.14(d). <i>29 C.F.R. 1630.14(d)</i>
ADA	
GINA	The general prohibition against requesting, requiring, or purchasing genetic information does not apply where a covered entity offers health or genetic services, including such services offered as part of a voluntary wellness program as described by 29 C.F.R. 1635.8(b). <i>29 C.F.R. 1635.8(b)</i>
State Law	
<i>Definitions</i>	
“Employee”	“Employee” means a person who, for compensation, performs services for an employer under a written or oral contract, whether express or implied. <i>Civ. Prac. Rem. Code 142A.001(1)</i>
“Employee Wellness Program”	“Employee wellness program” means a program established by an employer that provides an incentive to an employee that promotes wellness or a healthy lifestyle. <i>Civ. Prac. Rem. Code 142A.001(2)</i>
Limitation on Liability	A civil action may not be brought against an employer for establishing, maintaining, or requiring participation in an employee wellness program unless: <ol style="list-style-type: none">1. The program discriminates on the basis of a prior medical condition, gender, age, or income level; or2. The cause of action is based on intentional or reckless conduct. <i>Civ. Prac. Rem. Code 142A.002(a)</i>
State Agency Veteran’s Liaison	Each state agency, including each college district, that has at least 500 full-time equivalent positions shall designate an individual from the agency to serve as a veteran’s liaison. A state agency that has fewer than 500 full-time equivalent positions may designate an individual from the agency to serve as a veteran’s liaison. Each state agency that designates a veteran’s liaison shall make available on the agency’s Internet website the liaison’s individual work contact information. <i>Gov’t Code 657.0046</i>
Hazard Communication Act	
Notice	An employer, including a college district, shall post and maintain adequate notice, at locations where notices are normally posted, informing employees of their rights under this chapter. If the Texas Department of State Health Services (DSHS) does not prepare the notice under Health and Safety Code 502.008, the employer shall

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prepare the notice promulgated by DSHS in the workplace. *Health and Safety Code 502.017(a)*

Education and
Training

An employer shall provide an education and training program for employees who use or handle hazardous chemicals. "Employee" means a person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies, and includes a person working for a political subdivision of this state. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009(a)*

An employer shall develop, implement, and maintain at the workplace a written hazard communication program for the workplace in accordance with Health and Safety Code 502.009. An employer shall keep the written hazard communication program and a record of each training session given to employees, including the date, a roster of the employees who attended, the subjects covered in the training session, and the names of the instructors. Those records shall be maintained for at least five years by the employer. The department shall have access to those records and may interview employees during inspections. *Health and Safety Code 502.009(g)*

Workplace
Chemical List

For the purpose of worker right-to-know, an employer shall compile and maintain a workplace chemical list that contains the information described by Health and Safety Code 502.005 for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds or in excess of an amount that the HHSC executive commissioner determines by rule for certain highly toxic or dangerous hazardous chemicals. The workplace chemical list may be prepared for the workplace as a whole or for each work area or temporary workplace and must be readily available to employees and their representatives. All employees shall be made aware of the workplace chemical list before working with or in a work area containing hazardous chemicals. *Health and Safety Code 502.005(a), (c)*

The employer shall update the workplace chemical list as necessary but at least by December 31 each year. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. An employer shall maintain a workplace chemical list for at least 30 years. *Health and Safety Code 502.005(b), (d)*

Labeling

A label on an existing container of a hazardous chemical may not be removed or defaced unless it is illegible, inaccurate, or does not conform to the OSHA standard or other applicable labeling re-

quirement. Primary containers must be relabeled with at least the identity appearing on the safety data sheets (SDS), the pertinent physical and health hazards, including the organs that would be affected, and the manufacturer's name and address. Secondary containers must be relabeled with at least the identity appearing on the SDS and appropriate hazard warnings. *Health and Safety Code 502.007(a)*

Exception

An employee may not be required to work with a hazardous chemical from an unlabeled container except for a portable container intended for the immediate use of the employee who performs the transfer. *Health and Safety Code 502.007(b)*

Safety Data Sheets

An employer shall maintain a legible copy of a current manufacturer's SDS for each hazardous chemical purchased. If the employer does not have a current SDS for a hazardous chemical when the chemical is received at the workplace, the employer shall request an SDS in writing from the manufacturer or distributor in a timely manner or shall otherwise obtain a current SDS. Safety data sheets shall be readily available, on request, for review by employees or their designated representatives at each workplace. *Health and Safety Code 502.006(b)–(c)*

Protective
Equipment

Employees shall be provided with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

Note: For information on the emergency administration of epinephrine, see policy CGE.
