



New California Laws for 2025 and Beyond: What Employers Should Know

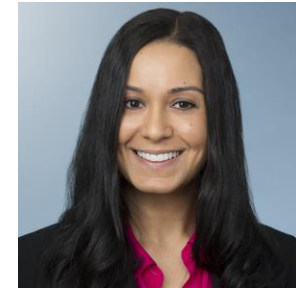
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Meet the Team



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PAGA Reform



PAGA Reform (AB 2288 and SB 92)

- Significant PAGA reforms based on a compromise reached by plaintiffs and employer groups to avoid ballot measure on November 2024 ballot which would have potentially gutted PAGA.
- Standing:
 - AB 2288 provides that plaintiffs will need to have personally experienced the alleged Labor Code violations they are seeking to pursue on a representative basis in order to have standing. There is an exception for PAGA actions brought by certain nonprofit legal aid organizations.
 - AB 2288 expressly provides that a PAGA plaintiff must have personally experienced each alleged violation within one year of filing a PAGA notice with the LWDA in order to have standing.
- Manageability: AB 2288 explicitly endorses trial courts' power to limit both the scope of PAGA claims and the evidence presented at trial to ensure the claims can be effectively and manageably tried.



PAGA Reform

New Penalty Structures:

- An employer who (1) cures an alleged violation and (2) takes “all reasonable steps to be prospectively in compliance” either before or within 60 days of receiving a notice of a claimed PAGA violation will not be liable for any penalty.
- Penalties will be capped at 15% of the applicable penalty amount if an employer demonstrates that it “has taken all reasonable steps to be in compliance” with the law prior to receiving a PAGA notice or a request for personnel records.
- Penalties will be capped at 30% of the applicable penalty amount if, within 60 days after receiving a PAGA notice, an employer “has taken all reasonable steps to prospectively be in compliance with all provisions identified in the notice.”
- Penalties will be reduced by 50% if an employee’s regular pay period is weekly rather than biweekly or semimonthly, equalizing the potential penalties for employers who pay employees on a weekly basis as opposed to every two weeks or twice a month.



PAGA Reform

New Penalty Structures:

- Penalties will be capped at \$15 per employee per pay period if an employer cures the alleged violations but does not take “all reasonable steps to prospectively be in compliance” with the law.
- Penalties for wage statement violations under Labor Code Section 226 that do not cause injury will be capped at \$25 per employee per pay period (note: there is no cap on penalties for a failure to provide wage statements).
- The penalty for isolated errors that do not extend beyond the lesser of 30 days or four consecutive pay periods will be capped at \$50.
- PAGA’s heightened penalty of \$200 will be assessed only after (1) a court or agency “has issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful” within the five years preceding the allegation violation, or (2) the court determines an employer acted maliciously, fraudulently or oppressively.



PAGA Reform

New Penalty Structures:

- Employees may not receive penalties for “derivative” violations for (1) failure to timely pay wages at termination; (2) failure to timely pay wages during employment if the violation was neither willful nor intentional; or (3) wage statement violations that are neither knowing or intentional, or a failure to provide a wage statement.
- The share of penalties allocated to the LWDA will decrease from 75% to 65%.
- Aggrieved employees’ share of penalties will increase from 25% to 35%.

Injunctive Relief:

PAGA plaintiffs may seek injunctive relief for the first time.



PAGA Reform

Cure Provisions:

- Employers will be able to cure violations of Labor Code Section 226 (wage statement violations); Section 226.7 (failure to pay meal/rest period premiums); Section 510 (overtime violations); and Section 2802 (expense reimbursement violations) by correcting the violations alleged, complying with the underlying statutes specified in the notice, and making each aggrieved employee whole through payment of all wages due under the specified statutes going back three years from the date of the notice, plus 7% interest, any liquidated damages as required by statute, and reasonable attorneys' fees and costs.



PAGA Reform

Cure Provisions:

- Small employers (those with under 100 employees during the PAGA period) may, within 33 days of receipt of an employee's PAGA notice, submit to the LWDA a confidential proposal to cure one or more of the alleged violations. The LWDA may set a conference with the parties to determine, among other things, (1) whether the proposed cure is sufficient, (2) what additional information may be necessary to evaluate the sufficiency of the cure, and (3) the deadline for the employer to complete the cure. If the LWDA determines that the employer's proposal is not sufficient or does not act upon the employer's cure proposal, the employee may proceed with filing a PAGA action in court.
- Large employers (those with more than 100 employees during the PAGA period) may, after a PAGA claim is filed in court, file a request for an "early evaluation conference" and a request for a stay with the court, requiring the court to stay all discovery and responsive pleading deadlines.



PAGA Reform

Effective Dates:

- AB 2288 and SB 92 provide that the amendments to PAGA will apply to actions brought on or after June 19, 2024 (unless the plaintiff gave notice to the LWDA prior to that date).
- Further, the early resolution provisions became operative on October 1, 2024.

FAQs: <https://www.labor.ca.gov/resources/paga/paga-faqs/>



PAGA Exemption: Construction Industry Employees (AB 1034)

- Until January 1, 2028, PAGA contained an exemption for employees in the construction industry with respect to work performed under a valid collective bargaining agreement in effect any time before January 1, 2025.
- The CBA must, among other things, expressly provide for the wages, hours of work and working conditions of employees, premium wage rates for all overtime hours worked, and for employees to receive a regular hourly pay rate of not less than 30% more than the state minimum wage rate.
- Any claim would have to be resolved by binding arbitration.
- AB 1034 deletes the January 1, 2025, date and extends the sunset of the exemption until January 1, 2038.



Discrimination



Unlawful Discrimination and Paid Sick Days: Victims of Violence (AB 2499)

- AB 2499 moves certain requirements regarding jury duty, court duty and time off for victims of crime from the Labor Code to the CA Fair Employment and Housing Act (FEHA).
- Expands protections to cover not just victims themselves but employees whose family members are victims.
- Expands list of crimes for which victims of crimes and their family members can take time off, replacing “crime or abuse” with “qualifying act of violence.”
- Defines “victim” as an individual against whom a qualifying act of violence is committed.



Unlawful Discrimination and Paid Sick Days: Victims of Violence (AB 2499)

- Defines “qualifying act of violence” as any of the following, regardless of whether anyone is arrested for, prosecuted for or convicted of committing any crime:
 - 1) Domestic violence
 - 2) Sexual assault
 - 3) Stalking
 - 4) An act, conduct or pattern of conduct that includes any of the following:
 - i. In which an individual causes bodily injury or death to another individual
 - ii. In which an individual exhibits, draws, brandishes or uses a firearm, or other dangerous weapon, with respect to another individual
 - iii. In which an individual uses — or makes a reasonably perceived or actual threat to use — force against another individual to cause physical injury or death



Unlawful Discrimination and Paid Sick Days: Victims of Violence

- Adds a prohibition for employers with 25 or more employees on discriminating or retaliating against an employee for taking time off for various reasons related to a family member being the victim of a qualifying act of violence and expands the list of crimes for which victims or their family members can take time off work.
- Defines “family member” to mean a child, parent, grandparent, grandchild, sibling, spouse or domestic partner, as those are defined by the California Family Rights Act, or a designated person. Under this new law, “designated person” is defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests leave, and an employer may limit an employee to one designated person per 12-month period.



Unlawful Discrimination and Paid Sick Days: Victims of Violence

- Limits this leave to 12 weeks total; five days for the purposes of helping a family member relocate, if the family member is a victim and the employee is not a victim; and 10 days if the employee's family member is a victim who is not deceased, and the employee is not a victim.
- Expands California's paid sick leave requirements to cover the above additional purposes and expands the eligibility for reasonable accommodations to include an employee who is a victim or whose family member is a victim of a "qualifying act of violence."
- Requires employers to notify employees of these rights upon hire, annually, at any time upon request, and at any time an employee informs the employer that the employee or the employee's family member is a victim. The CRD is required to develop and post a model form by July 1, 2025.



Discrimination: Driver's License (SB 1100)

- The FEHA prohibits various forms of employment and housing discrimination, including various types of discrimination because of national origin, defined to include discrimination on the basis of possessing a driver's license that requires the DMV to issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law, as specified.
- SB 1100 makes it unlawful for an employer to include a statement in a job advertisement, posting, application or other material that an applicant must have a driver's license unless: (1) the employer reasonably expects the duties of the position to require driving; and (2) the employer reasonably believes that satisfying that job function using an alternative form of transportation would not be comparable in travel time or cost to the employer.
- For purposes of the new law, "alternative form of transportation" includes, but is not limited to, all the following:

Using a ride hailing service

Using a taxi

Carpooling

Bicycling

Walking



Discrimination Claims: Combination of Characteristics (SB 1137)

- SB 1137 amends the Unruh Civil Rights Act, the provisions of the Education Code prohibiting discrimination in public education, and the FEHA to prohibit discrimination on the basis not just of individual protected characteristics, but also on the intersectionality or combination of two or more protected characteristics.
- Specifically relevant to employers, this bill amends the FEHA to clarify that the protected characteristics enumerated in the law include a combination of those characteristics.
- This bill makes California the first state to explicitly recognize "intersectionality" in antidiscrimination laws.



Race Discrimination: Hairstyles (SB 1815)

- Under prior law, the FEHA and antidiscrimination provisions of the Education Code defined the term "race" to include "traits historically associated with race," including, but not limited to, hair texture and protective hairstyles.
- AB 1815 removes the term "historically" from the definitions of race, thus defining race to include traits associated with race, including but not limited to hair texture and protective hairstyles (which include but are not limited to such hairstyles as braids, locs and twists), and would add those definitions for "race" and "protective hairstyles" to the Unruh Civil Rights Act.



California Dignity in Pregnancy and Childbirth Act (AB 2319)

- The California Dignity in Pregnancy and Childbirth Act was enacted to promote respectful and equitable maternity care and establishes protections for pregnant individuals, with a particular focus on preventing racial and ethnic disparities in maternal health outcomes.
- The Act emphasizes the importance of providing maternity care in a respectful manner that acknowledges and supports the dignity of all pregnancies, regardless of race, ethnicity or background, with the goal of eliminating racial disparities in childbirth and maternity care.
- The Act requires hospital and alternative birth centers to provide annual, evidence-based implicit bias training to care staff. The training is intended to address unconscious biases that may affect the quality of care provided to pregnant women of color.
- The initial basic training for the implicit bias program must be completed by June 1, 2025, for current health care providers, and within six months of their start date for new health care providers, unless exempted.



California Dignity in Pregnancy and Childbirth Act (AB 2319)

- This bill also requires that, commencing on February 1, 2026, and each year thereafter, specified facilities provide the Attorney General with proof of compliance with training.
- The Act further requires health care providers to provide patients with information about their rights in pregnancy and childbirth, including to have their individual needs considered in care decisions.
- Hospitals and health care providers must also collect and report data on maternal health outcomes by race and ethnicity.
- The Act authorizes the Attorney General to pursue civil penalties, as well as attorney's fees and costs, for violations of these provisions. Civil penalties will be assessed at \$5,000 for the first violation and \$15,000 for the second and each subsequent violation.
- The Attorney General is also authorized to post on its website: a list of facilities that did not timely submit proof of compliance, a list of facilities required to pay penalties for violating the Act, or any other compliance data the Attorney General deem necessary.



Slavery



Formal Apology for Gross Human Rights Violations and Crimes Against Humanity (AB 3089)

- AB 3089 creates the “Apology Act for the Perpetration of Gross Human Rights Violations and Crimes Against Humanity, with special consideration for African Slaves and their Descendants.”
- The bill provides that the state of California recognizes and accepts responsibility for the harms and atrocities committed by the state, its representatives thereof, and entities under its jurisdiction who promoted, facilitated, enforced and permitted the institution of chattel slavery and the enduring legacy of ongoing badges and incidents from which the systemic structures of discrimination have come to exist.
- AB 3089 requires, among other things, that:
 - (a) a plaque memorializing this apology to be publicly and conspicuously installed and maintained in the State Capitol Building;
 - (b) the Legislature to prepare the formal apology and be signed by specified state leaders; and
 - (c) the Secretary of State to submit a final copy of this formal apology to the State Archives, where it would be available for viewing by the general public in perpetuity.



Employer Communications / Whistleblower Protections



Employer Communications: Intimidation (SB 399)

- Employers have been prohibited from making, adopting or enforcing rules, regulations or policies that forbid or prevent employees from engaging or participating in politics or from becoming candidates for public office, and from controlling or directing, or tending to control or direct, the political activities or affiliations of employees.
- AB 399 enacts the California Worker Freedom from Employer Intimidation Act, which prohibits covered employers from subjecting, or threatening to subject, an employee to termination of employment, discrimination, retaliation or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's opinion about religious or political matters.
- The law also requires employers to pay an employee who refuses to attend any such meeting during the time the meeting is held, imposes a civil penalty of \$500 per employee for each violation by an employer, and creates a private right of civil action to seek injunctive or monetary relief, including punitive damages.



Whistleblower Protections (AB 2299)

- Prior law required employers to display a list of employees' rights and responsibilities under California's whistleblower laws.
- AB 2299 requires the Labor Commissioner to develop a model list of employees' rights and responsibilities under California's whistleblower laws.
- AB 2299 also states that an employer shall be deemed in compliance with the posting requirements if it posts that model policy.



Human Trafficking



Human Trafficking: Labor Trafficking Unit (AB 1888)

- AB 1888 establishes the Labor Trafficking Unit within the Department of Justice, which will receive labor trafficking reports and complaints from government entities and refer the reports and complaints to appropriate agencies for investigation, prosecution or other remedies.
- The bill requires coordination and collaboration among the unit and state agencies, including Department of Industrial Relations and the Civil Rights Department (CRD).
- Makes efforts to ensure the unit and local, state and tribal entities use a victim-centered approach when receiving and processing victim reports or complaints of labor trafficking and when reporting suspected labor trafficking to the unit.
- Requires collaboration with the Department of Industrial Relations and CRD to develop policies, procedures and protocols to track, record and report potential labor trafficking to the unit for further investigation or referred for civil action, criminal prosecution or other remedy.
- The bill's operation is contingent upon adequate appropriation by the Legislature, and if the Legislature does not appropriate adequate funding by January 1, 2030, the bill will be repealed.



Human Trafficking Notice Required by Primary Ticket Sellers (AB 1966)

- Prior law required specified businesses and other establishments to post a notice that contained information regarding nonprofit organizations that a person can call for services or support in the elimination of slavery and human trafficking.
- AB 1966 will require a primary ticket seller of a mobile or electronic ticket for an event at an entertainment facility to include the following notice with the ticket purchase confirmation electronically to the buyer:

If you or someone you know is being forced to engage in commercial sex or labor trafficking, text 233-733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373 to access help and services.

It is a felony in California to knowingly engage in commercial trafficking and perpetrators of this offense shall be prosecuted under the law.

- An entertainment facility is defined as an arena, auditorium, concert hall, live performance venue, museum, racetrack, stadium, theater or other place where entertainment events are presented for a price of admission.
- The notice must be provided in English, Spanish, and in one other language that is the most widely spoken language in the county where the entertainment facility is located and for which translation is required under federal voting laws.



Human Trafficking or Domestic Violence (SB 963)

- SB 963 requires all general acute care hospitals with an emergency department to adopt and implement policies and procedures to facilitate the self-identification of an emergency department patient as a victim of human trafficking or domestic violence to hospital personnel.
- The policies and procedures are required to meet certain minimum requirements, including, among others, providing for patient confidentiality and facilitating a reasonably prompt, private and voluntary interview of the patient by medical personnel for the purpose of providing certain information to the patient relating to local services and resources for victims of human trafficking or domestic violence, if any.
- SB 963 limits the liability of a general acute care hospital acting in compliance the law.



Leaves



Small Employer Family Leave Mediation Program: Reproductive Loss Leave (AB 2011)

- Prior law required that the CRD create a small employer family leave mediation pilot program to resolve alleged violations of family care and medical and bereavement leave requirements.
- The program is applicable to employers with between five and 19 employees.
- AB 2011 expands that program to include resolution of alleged violations of reproductive loss leave requirements.
- Under this program, the CRD is generally required to initiate mediation within 60 days following a request. Employees are prohibited from filing a civil action until mediation is complete or deemed unsuccessful, and the statute of limitations on the employee's claim is tolled during that time.
- AB 2011 also deletes the repeal date for the pilot program, extending the operation of the program indefinitely.



Paid Family Leave (AB 2123)

- Prior law established, within the state disability insurance program, a family temporary disability insurance program, also known as the paid family leave (PFL) program.
- PFL provides wage replacement benefits to workers who take time off work to care for certain seriously ill family members, to bond with a minor child within one year of birth or placement, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of certain family members.
- Prior law also authorized an employer to require an employee to take up to two weeks of accrued vacation before, and as a condition of, the employee's initial receipt of PFL benefits during any 12-month period in which the employee is eligible for these benefits.
- AB 2123 eliminates an employer's ability to require employees to use accrued vacation before receiving PFL benefits.



Paid Sick Leave for Agricultural Employees (SB 1105)

- SB 1105 expands California's paid sick leave requirements to allow agricultural employees who work outside to use paid sick leave to avoid smoke, heat or flooding conditions created by a local or state emergency.
- The law states that it is declaratory of then-existing law, given that sick days are already allowed to be used for "preventive care."
- This signals a potentially expansive interpretation of "preventive care," beyond things like doctors' visits and vaccinations.



Unemployment Insurance: Disability and Paid Family Leave (SB 1090)

- Existing unemployment compensation disability law requires workers to pay contribution rates based on, among other things, wages received in employment and benefit disbursement for payment into the Unemployment Compensation Disability Fund, for purposes of compensating in part for the wage loss sustained by any individual who is unable to work due to the employee's own sickness or injury, among other reasons.
- Prior law set forth standards for eligibility to receive unemployment compensation disability benefits.
- Prior law also established, within the state disability insurance program, the paid family leave program for the provision of wage replacement benefits for up to eight weeks to workers who take time off work for prescribed purposes, including to care for a seriously ill family member, to bond with child following birth, adoption or foster care placement, or to participate in a qualifying event because of a family member's military deployment.



Unemployment Insurance: Disability and Paid Family Leave (SB 1090)

- SB 1090 requires, for purposes of unemployment compensation disability benefits, the issuance of the initial payment for those benefits within 14 days of receipt of the claimant's properly completed first disability claim or as soon as eligibility begins, whichever is later.
- The new law also authorizes workers to file a claim for disability benefits or paid family leave up to 30 days in advance of the first compensable day with respect to the claim, applies the same initial payment issuance schedule applicable to unemployment compensation disability benefits to the paid family leave program, and repeals the requirement that eligible workers receive benefits generally in accordance with unemployment and disability compensation law.
- The law makes these changes operative when these changes are incorporated in the EDD's integrated claims management system as part of the EDDNext project.



Employee / Independent Contractors



Independent Contractors: Newspaper Distributors and Carriers (AB 224)

- Under the ABC Test, as established by the California Supreme Court in *Dynamex Operations W. Inc. v. Superior Court (2018)*, 4 Cal.5th 903 and later codified in Labor Code Sections 2775 *et seq.*, there is a presumption that a worker who performs services for a hiring entity is an employee and not an independent contractor.
- Prior law exempted specified occupations and business relationships from the application of the ABC Test.
- Newspaper distributors working under contract with a newspaper publisher and newspaper carriers have benefited from this exemption, which is set to expire on January 1, 2025.
- AB 224 extends the exemption until January 1, 2030, with additional extensions regarding prescribed information on carrier payroll taxes, wage rates and wage claims to the Labor and Workforce Development Agency (LWDA).



Disclosure of Delivery Drivers' Identity for Food Delivery Platforms (AB 375)

- The Fair Food Delivery Act of 2020 regulates third-party food delivery platforms that transport ready-to-eat foods.
- The Act defines a “food delivery platform” as an online business that acts as an intermediary between consumers and multiple food facilities.
- The Act also requires, among other things, for the food delivery platform to: (a) pay tips in their entirety to the person delivering the food / beverage; and (b) disclose to customers an accurate and itemized cost breakdown of each transaction.
- Commencing on March 1, 2025, AB 375 requires the platforms to disclose to the customer the driver's first name and picture when the customer is notified that their purchase is out for delivery.
- An exemption applies to food delivery platforms if: (a) the food facility uses its own delivery drivers for the delivery of the order; or (b) receives the order through the food facility's internet website or a third party that is not the food delivery platform.



Occupational Safety / Workers' Compensation



First Aid Materials: Opioid Antagonists (AB 1976)

- AB 1976 requires that:
 - Before December 1, 2027, Cal/OSHA submits a draft rulemaking proposal to revise specified regulations on first aid materials and emergency medical services to require first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist approved by the FDA to reverse opioid overdose and instructions for using the opioid antagonist.
 - In drafting the rulemaking proposal, Cal/OSHA needs to consider, and provide guidance to employers on, proper storage of the opioid antagonist in accordance with the manufacturer's instructions.
 - Cal/OSHA board consider for adoption the revised standards on or before December 1, 2028.
- AB 1976 provides that an individual who administers naloxone hydrochloride or another opioid antagonist approved by the FDA to reverse opioid overdose in a suspected opioid overdose emergency shall not be liable for civil damages.
 - Same for an individual who is licensed as part of a local emergency medical services agency unless the individual was acting as a paid first responder at the time of the action.



Workers' Compensation Notice Requirements (AB 1870)

- Employers participating in the workers' compensation system are required to display a notice in a location accessible to employees.
- The notice must outline details such as where to report injuries, the right to select or change a treating physician, and protections against discrimination.
- The Administrative Director of the Division of Workers' Compensation provides the form and content for this notice to employers.
- AB 1870 adds a requirement for the notice to include information about an injured employee's right to consult with a licensed attorney for advice regarding their workers' compensation rights. The bill also makes technical, non-substantive revisions to the existing provisions.



Labor Code: Alternative Enforcement (Occupational Safety) (AB 2738)

- AB 2738 strengthens enforcement mechanisms related to workplace safety for stage production workers in the live entertainment industry.
- This bill was motivated by tragic workplace accidents at major music festivals where stage workers died due to unsafe conditions, and aims to prevent such accidents.
- Entertainment vendors must certify that workers involved in setting up, operating or tearing down live events at public venues have completed required safety training. Heads of departments and leads must hold relevant Cal/OSHA certifications, including from the Entertainment Technician Certification Program.
- Vendors must certify in writing that they have verified the required training for all workers, including subcontractors.
- The bill extends enforcement authority to local public prosecutors to hold vendors accountable for safety violations. Penalties for violations may be imposed. Injunctive relief may be pursued as well as a maximum penalty of \$500 per violation. Prevailing plaintiffs in such cases are also entitled to recover reasonable attorney's fees.
- This law will remain in effect until January 1, 2029, and repealed as of that date, allowing time for the effectiveness of the measures to be assessed. That said, the repeal date shall not apply to any action initiated in court by a public prosecutor prior to January 1, 2029.



Civil Procedure



Summary Judgment Motion Deadlines (AB 2049)

- AB 2049 revises deadlines for motions for summary judgment / adjudication and requires such motions to be filed at least:
 - 81 days before the hearing,
 - oppositions at least 20 days before,
 - and replies at least 11 days before.
- The bill also limits parties to one summary judgment motion per adversary without court approval and prohibits introducing new facts in reply briefs to ensure fairness.



Civil Actions: Electronic Service (AB 2283)

- Prior law permitted California courts in a civil action to serve documents by electronic means pursuant to rules adopted by the California Judicial Council, and required a court, on and after July 1, 2024, to electronically transmit those documents to a party who is subject to mandatory electronic service, or who has consented to accept electronic service.
- According to Judicial Council, the sponsor of the bill, the courts are unable to meet the statutory deadline for implementing electronic service. AB 2283 extends the deadline until July 1, 2025, and it changes the court's obligation to electronically "transmit" documents to an obligation to electronically "serve" documents. This allow courts to complete service by sending a party a link to a download rather than emailing large documents (which may be too large to be sent over email).





Questions?