



Fall 2006

Basic Employer Requirements

The following is a review of items that every employer should be aware of. Some are mandated by state or federal law while others can prevent or minimize an employer's liability in the event of claims by employees.

Posters

Employers are required to notify employees of their rights under various laws by displaying informational posters. Although all administrative agencies enforcing these laws will provide you with free copies of these posters, you can also obtain an "all-in-one" poster from organizations such as the Chamber of Commerce. That poster does not include the applicable IWC Order for your industry or employees in certain occupations or other posters that may be required for particular types of operations, e.g., if you use forklifts. These posters delineate many of the legal obligations you have as an employer.

Applications

Although there is no statutory requirement to have a written application, it is highly recommended. This allows the employer to gather specific data about an applicant and to advise him/her about requirements for employment with your company. The application must be carefully drafted, however, to avoid claims of discrimination or other contractual claims.

Orientation

When a new employee is hired, the employer must provide the employee with informational pamphlets and take steps to ensure that the employee is aware of safety issues in the workplace. A Form I-9 verifying the employee's right to work in the United States must also be properly completed.

Classification of Employees

The most important determination is whether the employee should be classified as exempt (from the payment of overtime) or non-exempt. In order to be classified as exempt the employee's job duties must meet specific requirements under state and federal law and be paid on a salary basis. In California an exempt employee also must have a base monthly salary of twice the minimum wage.

Handbook

Although not legally required, well-drafted policies in an employee handbook are essential to avoid or minimize liability on claims such as wrongful termination or sexual harassment. Other policies define the particular needs and requirements of the employer and describe employee benefits.

Safety

All California employers are required to implement an Injury and Illness Prevention Program (IIPP). This must include management commitment to safety and procedures on communicating with employees, training employees, preventing and investigating accidents, and recordkeeping.

Hours of Work

Most non-exempt employees (there are some exceptions for certain occupations) must be paid time and a half (or double time) after a certain number of hours have been worked. Additionally, these employees must receive a meal period (which need not be paid) after no more than five hours of work (and additional meal periods when a certain number of hours are worked) and rest periods for every four hours worked, or major fraction thereof.

Payment of Wages

The California Labor Code also specifies when and how employees must be paid on a regular basis. Employees who are terminated by the employer must be paid at the time of termination. An employee's final paycheck must include all wages due, including accrued but unused vacation.

Personnel Files

All employees have a statutory right to inspect their own personnel files. Medical information should be kept in a separate file due to confidentiality requirements.

Recordkeeping

Employers are required to keep records such as applications, payroll records and workplace injuries for various periods of time. With regard to hours worked, time records for non-exempt employees must show specific times in and out, including meal periods.

For assistance in meeting your legal obligations as an employer, contact Jeanne Flaherty at Employer's Legal Advisor, Inc.



Jeanne Flaherty is an attorney and President of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.