Human Resources Top Ten To Do List

Stay Out of Trouble

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Other Logos:
1. California SBDC
2. Small Business Development Center at Cabrillo College
3. Business & Entrepreneurship Center at Cabrillo College
4. Santa Cruz Public Libraries
5. FSCPL
6. Santa Cruz
7. Think Local First
8. Independent & Locally Owned County of Santa Cruz
Human Resources Legal Terms

Pre Employment

Recruiting

On the Job

Comp and Benefits

Pre Employment
2012 ALERTS
COMPENSATION

HOURS OF WORK

EXEMPT vs. NON EXEMPT

OVERTIME

RECORD KEEPING

I-9’s

PAYROLL
DEDUCTIONS

STARTING SALARIES
MEAL AND REST BREAKS NON-EXEMPT EMPLOYEES

APRIL 12, 2012  Brinker Restaurant Corp vs. Superior Court

Most critical part of decision:
• Must relieve the employee of all duty for
• the designated period BUT need not ensure
• that the employee does no work.

Pitfalls:
• Vague policies
• No specific meal and rest break policy
• Document that the meal period was provided
• Working off the clock
ACTION STEPS:
• Examine meal and rest policies
• Require employees to accurately record time
• Regularly audit timecard records
• Educate managers about their obligations
• Discipline managers who do not follow policy
• Update or create Employee Handbook

“PROVIDE” A MEAL PERIOD MEANS:
• Relieves employee of all duties
• No control over their activities
• Permits them an uninterrupted 30 min break
• No discipline if they take their break
TIMING OF MEAL PERIODS:

• 1\textsuperscript{st} - No later than the employees fifth hour of work

• 2\textsuperscript{nd} - No later than the employees tenth hour of work

Employee works five hours has the choice of an off duty meal period

*Employee may choose to waive if one hour or less ends the shift
MEAL AND REST BREAKS

Must provide a 10 min break for each 4 hours worked

Must fall in the middle of work period “in so far as practicable”
EXEMPT vs. NON-EXEMPT

Determined by Actual Job Duties

Based on Guidelines in your IWC Order
www.dir.ca.gov/iwc/wageorderindustries.htm

Covers Exemptions, Overtime, Work Hours, Meal Breaks Etc…
OVERTIME

- Do you know which employees are non-exempt?
- EDD worksheet available?

- Does your Employee Handbook Explicitly State that
  Employees may not work Overtime unless pre-approved?
- Do you know you are liable even if they did not get approval?

- Are employees expected to take a work cell phone home and
  answer customer calls?

- Do employee’s typically work 20 to 30 minutes extra?
“Congressional budget includes $14 million to combat misclassifications, including $10 million for grants to states to identify misclassifications and recover unpaid taxes and $4 million for personnel at the DOL Wage and Hour Division to investigate misclassifications” according to BLR.

Includes:
- Exempt/Non-Exempt issues
- Independent Contractors
- Overtime payments
- Summer Interns
According to the EEOC the indicators that a worker is an employee are:

- The work does not require a high level of skills
- You furnish the tools, materials and equipment
- Work is performed on your premises
- The worker and you have a continuing relationship
- You have the right to assign additional projects
- You set the hours of work and length of the job
- The worker is paid by the hour, week, or month instead of a set fee for a particular job
- The work done is part of your regular business
- The worker does not have a distinct business of their own
- You provide benefits such as insurance, leave, WC
- You withhold federal, state or Social Security taxes
Mandatory:
✓ Workers Compensation
✓ Certain Leaves of Absence
✓ Pending Health Care Coverage

Other Commonly Offered Benefits
✓ Vacation
✓ Sick Leave
✓ Holiday
✓ Jury Duty
✓ Family Grievance
HOW TO AVOID TROUBLE

- Use applications forms
- Make sure it is totally completed
- Ask about gaps
- Avoid making promises or guarantees (family, permanent)
- Create and follow an interview checklist
- Check references and consider formal background check
- Be prepared with all the required booklets when you hire
- Research market salary data prior to interviewing
- Free source: Santa Cruz-Watsonville MSA
- Occupational Employment Statistics (OES) Survey
PERSONAL DEVICES AT WORK

- Develop policies that fit your environment
- Written agreement on use
- Limit who can use devices to need-to
- Inspection part of exit interview
- Not allow storage of company info

Right to access information limited to who owns device

SOCIAL MEDIA POLICY

- Some activity protected by freedom of speech laws
- Check with legal counsel
Non-compete Clauses

At-Will

Exit Interview

Discipline

References
Limited use of Credit Checks in Hiring process (AB 22)

Pregnancy Disability Leave for employers 5 or more employees
  - SB 299 must continue health coverage during leave

Fines increase for Independent Contractors misclassifications
  - SB 459 increases penalties of $5000 to $25,000

AB 469 requires a notice to all NE employees at time of hire

Two new protected classes: “gender identity” and “gender expression”
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