

# HR Issues in a Minute

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# Current Must Knows for YOU

- o I-9
- o Independent Contractor vs. Employee
- o Volunteers
- o Exempt vs. Non-Exempt
- o Non-exempt staff policies
- o FMLA

# I-9

- o What is an I-9?
  - o Documentation that each new EE is authorized to work in the US
- o When must it be completed?
  - o Any time *after* the offer of employment but within 3 days after the actual hire date
- o Who fills it out?
  - o Employee & Employer
- o Storage
  - o Separate files
  - o Current EE – retain while working plus 1 yr or 3 yrs from first day of work, whichever is longer

# Independent Contractors

- o Very specific requirements
- o Basic 20 question test - examples
- o Shouldn't work on ER premises
- o Should have multiple clients
- o Can't work under your direct control
- o What affect does their work have on your success
- o Length of assignment
- o Full time vs. part time
- o How are they paid?

# Employment agreements

- Why use agreement?
- Standards are the same as employment
- Hire dates and termination dates are given
- Usually notice of termination included, typically 2-4 weeks
- Rate of pay is noted
- Wage and hour compliance required, minimum hourly rate and salary

# Volunteers

- Individuals who volunteer or donate their services, usually part time, for *public service, religious or humanitarian objectives*
- Not employees
- No compensation of pay
- Not considered employees of said religious, charitable or non-profit organization

# Volunteers

- o Examples:
  - o Nursing home – personal services for elderly
  - o Parents volunteer at schools
  - o Help with youth at summer camp or pathfinders
  - o Sabbath school leader
  - o Stuffing envelopes

# Exempt vs. Non-Exempt

- o FLSA (fair labor standards act) governs whether positions are exempt or non-exempt
- o If exempt, it means employees are NOT entitled to overtime pay.
- o If non-exempt, it means you must pay overtime to your employee's for time over 40 hrs/week, 8 hours/day in CA.(unless different work day approved by state)



# Exempt vs. non-exempt criteria

- o Depends on:
  - o How much they are paid
  - o How they are paid
  - o What kind of work they do

# Exempt

- o Salary test:
  - o Paid at least \$455/wk
  - o Paid on salaried basis (guaranteed minimum)
  - o Perform exempt level work

# Exempt classifications

- o Executive
  - o Regularly supervises 2 or more employees
  - o Management is their primary duty
  - o Input into personnel matters
- o Professional
  - o Doctors, Lawyers, Accountants

# Exempt classifications, cont'd

- o Administrative
  - o Office, non-manual work directly related to mgmt or operations
  - o Exercises independent judgment about matters of significance
- o Outside Sales
  - o Does not apply to inhouse sales person working within the company

# Hourly Issues

- o Travel
- o Training time
- o Inclement weather
- o Vacation
- o Sick

# Travel policies

- o Day Trips
  - o Travel to airport for day trip is considered commute
  - o Clock starts ticking when EE arrives at airport
  - o No payment for lunch
  - o Travel back to airport and flight home, paid
  - o Travel back from airport to house, commute
  - o If you ask an EE to pick up an item on the way to work, EE is paid from the time they pick up the item

# Travel

- o Travel on non work day
  - o If the travel cuts across the EE's normal work hours, regardless of the day of the week, it's compensable and applicable towards counting over time. For example, if the normal work day is 8-6 then any travel during those hours is paid time to the employee.

# Travel

- o Remember some state laws are different in regards to how you count work time while travelling so check with local legal counsel.
- o Organizations may chose to be more generous, for example providing a full day of pay on any day an hourly employee travels.
- o Organizations may also state that the employee is paid for their travel time and then have the afternoon off for example and come back to work for the evening meeting.



# Training time

- o Must compensate for work related training that falls within normal work hours
- o Homework hours must be paid for as well
- o If it's not mandatory you don't have to pay for time
- o Pre-hire training is not paid time

# Inclement weather time

- o ER closes, it's paid time
- o EE chooses to leave, it's vacation time

# Vacation Accruals

- o Based upon years of service & 38 hr week
- o During first four-year period 2 weeks
- o During next five-year period 3 weeks
- o After nine years of service 4 weeks
- o If operating a 4 day work week, 2 weeks = 8 days for exempt employees

# Vacation Rollovers

- o Vacation time may only be earned and accumulated from year to year up to a maximum of 150% of the annual vacation entitlement including current year accruals
- o Exempt employees are assumed to have taken all their vacation unless they ask for carryover

# Sick Leave

- o 2 weeks year for hourly
- o Keep sick and extended sick leave banks separate
- o Paid leave bank
- o Extended sick maxes at 1000 hours
- o Short term sick paid out at time of departure
- o Extended sick may be transferred but not paid out
- o Sick leave for exempt not addressed in WP

# Death of Employee

- o Regular full time employee who dies in service, exempt or non-exempt
- o Life insurance continuation on spouse for two months
- o Payment equal to 5 months remuneration
- o Health care up to 6 months
- o Tuition assistance through the end of current school year

# Employee Disability Income Plan

- o Regular full time employees (35 hrs)– exempt and non-exempt
- o 90 day elimination period – how is salary paid, exempt & non-exempt
- o Coordinates with WC, SS, Group insurance
- o Employee's own occupation for the first 2 years and any occupation after that

# EE Disability Income

- o Benefits:
  - o 66 2/3 % of salary
  - o Retirement contributions for 18 months
  - o Life insurance continuation for 18 months
  - o Health care continuation for 24 months
  - o Optional insurances must be converted within 31 days



# FMLA (family & medical leave act)

- o Who qualifies?
  - o All EE's working more than 1250 hours year
  - o Exempt and non-exempt
- o When do you qualify?
  - o Serious health conditions
  - o Hospitalization and extended illnesses
- o How long can you be absent?
  - o As long as your MD says
  - o Up to 12 weeks in a 12 month period

# A good JD format should include..

- o Job Title
- o Department
- o Immediate Supervisor
- o Remuneration Category
- o Salaried or Hourly
- o Position Summary
- o Authority/Accountability
- o Major Job Functions
- o Essential Job Functions
- o Education
- o Experience
- o Knowledge, Skills, Abilities
- o Working Conditions
- o Disclaimer

# Essential Job Functions

Fundamental duties of the job that are:

- o Performed regularly
- o Require significant amounts of time
- o Cannot be easily assigned to another employee
- o Are necessary to accomplish the job

# Generic vs. Non-Generic JD

- o If you have several jobs that are the same you can use the same JD. It's actually easier to have generic than individualized descriptions.
- o Less work for HR, keeps the pay issues level.
- o Example: staff auditors – their responsibilities are the same, it's just the locations that are different.

# Bottom Line

- o It is imperative to keep up with the legalese of employment
- o It is imperative to keep up with NADWP changes
- o Keep your employee's especially hourly employees up to speed on how policies affect them
- o Create and provide JD's
- o Communicate clearly & often