




Paying Your Employees: Charter Schools Cannot Follow District Policies! - March 16, 2016 , 11:00 am-12:15 pm

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Essential Payroll Policies and Practices

- Employee Classifications
- Required Wage Notice for Hourly Workers
- Minimum Wage and Overtime
- Meetings/Travel/Shift Work
- Meal and Rest Breaks
- Timekeeping
- Pay periods/Monthly Pay
- Pay Stubs
- Payroll Deductions
- Final pay



Classifications of Employees

- Independent Contractor v. Employee
- Full-time v. Part-time
- Permanent v. Probationary
- Certificated v. Classified
- Exempt v. Non-Exempt



Independent Contractors - Factors

- Is this work an employee normally performs?
- Does school control the performance or just the results?
- Does school provide supplies/equipment?
- Is it an at-will relationship?
- Is the work part of the school's primary purpose?
- Is worker paid by job or by the hour?
- Is there a particular skill required?
- Do the parties believe the worker is an independent contractor?



Independent Contractors – Penalties For Misclassification

- Fines from \$5,000 to \$25,000
- Unpaid Employment Taxes and Penalties
- Liability for unpaid wages, failure to pay minimum wage, unpaid overtime or missed meal and rest breaks
- Publication of violation on website and/or physical location
- Possible revocation of charter



Exempt Employees - Requirements

- Must meet Salary and Duties Tests
 - Salary: must earn double the minimum wage of a full-time employee per week/month
- Must meet duties requirements
 - Typical Exemptions: Executive, Professional or Administrative exemption



Hourly Workers Wage Requirements

- Wage Notice
- Minimum Wage
- Overtime
- Meal and Rest breaks
- Timekeeping



Wage Notice For Hourly Workers

- Labor Code Section 2810.5 requires Employer to provide notice to new employees of:
 - Rates of pay
 - Regular payday
 - Name of employer (include all dba's)
 - Employer's physical and mailing addresses and telephone number
 - Name, address and phone number of worker's compensation insurance provider



Wage Notice For Hourly Workers

- Must provide notice of any changes within 7 days unless information is provided on a timely wage statement
- Form available at http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf
- Must be in language you usually use to communicate to employee
- Does not apply to most public employers
 - Recommend Compliance For Charter School



Minimum Wage

- Must be paid at least \$10.00 per hour for each hour worked as of January 1, 2016
- Liquidated damages = to amount of wages owed
- Attorney's fees
- Can go back 4 years



Overtime Requirements - Time And A Half

- Over 8 hours a day
- Over 40 hours a week
- The first 8 hours worked on the 7th consecutive day worked in a single workweek



Determining the Workday/Workweek

- Workday is a consecutive 24 hour period starting at the same time each calendar day
 - Presumed to be 12:01 a.m. to 12:00 midnight
- Workweek is any 7 consecutive 24 hour period
 - Presumed to be Sunday through Saturday
- Workweek cannot be artificial



Potential Minimum Wage and Overtime Violations

- Stipends
- Meetings
- Travel
- Volunteer work
- Interns



Reporting Time Pay

- Required when employee reports for work as scheduled
 - But is not put to work
 - Or is give less than ½ the scheduled hours
- Must pay
 - At least ½ hours scheduled
 - But never less than 2, nor more than 4
- You can schedule an employee for 1 hour of work without having to pay reporting time pay



Travel Pay

- Pay for extra travel time less normal commute
- If air travel required, pay from time they leave house until they reach destination or until they no longer perform work
- Travel pay may be less than normal rate of pay
 - But must be at least minimum wage
- Mandatory mode of transportation compensable



On Call or Standby Pay

- Geographic restrictions on the employee's movements
- Required response time
- Any other limitation on the employee's ability to use the time for his/her own benefit
- Industry practice



Split Shift Pay

- Any 2 work periods separated by more than a 1 hour meal period
- Employee is entitled to at least 1 hour's pay at no less than minimum wage for the time between shifts
- Can use employee's hourly wage in excess of minimum wage as an offset



Make Up Time

- At Employer's option
- May inform employee of option, but may not encourage or solicit
- Employee must provide a signed written request for each occasion
- Document hours paid as make up time versus hours paid as overtime



Make Up Time

- Employee may not work more than 11 hours on another workday or 40 in one week to make up the time off
- Must be made up in same workweek

- NO COMP TIME !!!!



Meal Period Requirements

- 30 minute unpaid meal break if work 5 hours
 - Must start by the end of the 5th hour
- Second 30 minute unpaid meal break if work 10 hours
 - Must start by the end of the 10th hour
- Must be relieved of all duties
- Must be free to leave the premises



Meal Period – Waiver

- Employee can waive the first meal period if no more than 6 hours is worked
- Employee can waive the second meal period only if
 - He didn't waive the first
 - He worked no more than 12 hours

Recommend that any waiver be in writing and signed by employee !



Rest Breaks

- 10 minute paid rest break for each 4 hours or major fraction thereof worked
- Employee must work at least 3½ hours to be entitled to first rest break
- “Major Fraction” is any work period exceeding two hours
- Employee who works more than six hours is entitled to two rest breaks



Rest Breaks

- Must make good faith effort to allow breaks to be taken in the middle of each work period
- May require employee to remain on premises
- “Net” break – starts when employee reaches break area
- Bathroom breaks are not rest breaks!



Rest Breaks – Breastfeeding

- Employees who are breastfeeding are entitled to
 - A “reasonable” period of time in addition to 10 minute rest break to express breast milk
 - A private place to express that is near to workplace and is not a bathroom
- Additional time may be unpaid
- Employer may refuse if it seriously disrupts the work environment



Failure By Employee To Take Meal/Rest Period

- *Brinker Restaurant Corp. v. Sup. Ct.* – 4/12/12– must “provide”, but need not “ensure”
- Can owe up to 2 hours of pay per day for failure to comply
- Inaccurate pay stubs
- Failure to pay wages upon termination
- Can reach back 4 years



Meal Period – Paid

- If Employee can't leave premises
 - Meal break must be paid
 - Must be a designated eating place
- If Employee can't leave premises or isn't relieved of all duties
 - Meal break must be paid, and
 - Employee must be paid one extra hour of pay



Time Keeping Requirements

- Must keep payroll records for 4 years at place of employment or central location in California
- Must be in English
- Must be in ink or some other indelible form
- Must reflect hours worked and compensation paid
- Must reflect start and stop time of meal periods
- Recommend having employees sign timesheets.



Paydays

- Certificated and Exempt Staff
 - May be paid on a monthly basis
 - May be paid on a 10, 11 or 12 month basis
- Recommend Non-Certificated and Non-Exempt Staff be paid at least twice a month



Paystubs

- Pay stub information is governed by statute
 - Violations can be punished by fines and damages
 - Must include name and address of employer, gross wages earned, total hours worked (if hourly), all deductions, net wages earned, dates of period of payment, employee name, last 4 of ssn's, all hourly rates in effect during the pay period and the number of hours worked at each rate and sick leave accrued.



Paycheck Requirements

- Must be drawn on bank with California branch
- Name and address of bank must be on paycheck
- No fee for cashing
- No direct deposit unless written authorization
 - Cannot require direct deposit



Docking Exempt Employees' Salary for Absences

- Docking leave bank v. docking salary
- General Rule: must be paid full salary for any week in which employee performs any work
 - Employee need not be paid for a week in which no work is performed



Wage Deductions

- No deductions unless authorized by law or by employee's written consent to cover medical plans or insurance
- Limited to other deductions not amounting to a rebate or deduction from the wage paid to the employee
 - Employee debts or loans
 - Employee tardiness – 30 minute minimum
 - Recoupment of overpayment



Final Pay

- Involuntary termination – last day of employment
- Voluntary termination
 - If more than 72 hours notice, on last day of employment
 - If less than 72 hours notice, within 72 hours of being given notice



Final Pay

- No deductions for unreturned equipment
- No deductions for negative leave balance
- No deductions for employee loans or debts
- Cannot hold pending return of equipment or signing of documentation



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