



H.R. UPDATE

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Employee Request to Inspect Personnel File

California law provides that current and former employees (or a representative) have the right to inspect and receive a copy of the personnel files and records that relate to the employee's performance or to any grievance concerning the employee. Inspections must be allowed at reasonable times and intervals, but not later than 30 calendar days from the date the employer receives a written request. Employers are required to keep accurate payroll records on each employee, and such records must also be made available for inspection by the employee upon reasonable request.

Employment records may be subpoenaed from a current or former employer by a third party. If employment records are subpoenaed, the employee must be notified and has the right to object to production of the records.

The following are some examples of "personnel records" (this list is not all inclusive):

1. Application for employment
2. Payroll authorization form
3. Notices of commendation, warning, discipline, and/or termination
4. Notices of layoff, leave of absence, and vacation
5. Notices of wage attachment or garnishment
6. Education and training notices and records
7. Performance appraisals/reviews
8. Attendance records

TO DO: Upon request, schedule a suitable time to review the personnel file. If there are questions about the file contact your consultant at HR Alternatives.

Who is an Exempt Employee?

An exempt employee is normally an executive, administrative or professional employee, and some outside salespeople. All other employees generally fall under the nonexempt category. All nonexempt employees are covered by the state and federal wage and hour laws. To avoid paying overtime premiums, an employee must be exempt from the overtime requirements of both state and federal law.

Exempt employees generally must earn a minimum monthly salary of no less than two times the state minimum wage for full-time employment, and the salary must be a pre-determined sum. There are different rules for some employees, such as physicians, computer professionals and outside salespersons. However, placing an employee on a salary does not exempt that employee from wage and hour laws. A nonexempt employee placed on a "salary" earns overtime just as hourly wage earners do.

Job titles alone do not designate an employee as exempt or nonexempt. Most exemptions require the employee to be "primarily engaged" in exempt duties. This is considered the amount of time the employee spends on exempt work, as well as your realistic expectations and the realistic requirements of the job. The employee must spend more than 50 percent of his/her time performing exempt duties.

TO DO: Do not classify employees as Exempt based on Job Title or Salary status, base the classification on job duties. If there are questions about Exempt classifications contact your consultant at HR Alternatives.

As the primary HR Consulting firm for small and mid-sized employers throughout Southern California our goal is to support the growth of your business and navigate the challenges that can prevent you from accomplishing your objectives. HR Alternatives has been solving workplace issues since 1993.