



# Documentation Beyond Timekeeping Saves Dollars

Insights

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California employers continue to learn the hard lessons resulting from the failure to adequately keep time records or monitor off-the-clock activities. Timekeeping errors that occur systematically and continue unchecked can accumulate hundreds of thousands of dollars in liability, not to mention potential penalties and attorneys' fees in defending class action complaints addressing such deficiencies. The failure to keep accurate time records almost certainly is the direct result of an employer's failure to train, retain, and monitor effective first line supervisors.

But there are other types of documentation required by California wage-hour regulations beyond simple daily time records, which can occasionally be ignored or overlooked. When training your supervisors regarding wage-hour compliance, be sure to pay attention to these additional documentation requirements that, if lacking, could result in liability for additional unpaid wages.

## A Quick List

Here are some of the mandatory documents, which must be produced during a wage-hour audit if requested, or during discovery if you are sued.

*Make-up time agreements.* Employees who lose time during a work week due to their legitimate personal obligations may enter into an agreement to make up the work time in the same work week the time is lost up to 11 hours per day and 40 hours per week without incurring any overtime obligation, as long as the agreement is reduced to writing and the employer has not solicited the employee's use of the make-up time.

*On-duty meal agreements.* In addition to satisfying all of the other requirements (including that the nature of the work prevents relief from all duty), an on-duty meal period agreement between an employer and an employee must be in writing containing special language in order to be valid.

*Alternative work week election documents.* Employees generally may agree to work up to 10 hours (and in some cases 12 hours) per day and 40 hours per week without incurring daily overtime liability, but this can only be accomplished by following all procedures including holding a secret-ballot election. You must also meet with employees and provide written documents describing the schedule at least 14 days before the election. The decision must pass by a 2/3 vote. The election

results must be reported to the Division of Labor Statistics and Research and the election documents retained permanently as proof regarding the election.

*Wage-deduction authorizations.* All deductions from wages for repayment of loans, adjustments for non-returned tools or equipment, adjustments for overpayments in prior pay period, or to satisfy other arrangements benefiting the employee, require a signed authorization by the employee. The validity of an authorization for wage deductions depends on specific rules and may vary in special situations. The authorizations should be retained to show compliance.

*Employee handbooks.* Although employee handbooks once were mentioned little, they have now become central to showing employer compliance for vacation administration, meal and rest period policies, and time keeping. These documents, with signed authorizations of receipt, can show an employer's general policies directed at compliance and can assist to defeat class actions.

Other documents that indirectly impact on labor compliance include California work permits for minors, and licenses for automobile salespersons.

### **Not Required, But Preferred**

There are other types of documentation that are not mandatory, but rather, are recommended in order to establish conditions of employment that impact on payment of wages, such as certain compensation plans, meal and rest-period schedules, first-and-second-meal-period conditional waivers, acknowledgments for each pay period regarding timekeeping and meal and rest-period compliance, an exempt employee's periodic acknowledgment or self-appraisals regarding satisfaction of mandated exempt duties, and maintenance of vacation and sick leave request forms.

Vigilant maintenance of mandatory and recommended documents will go far to avoiding lawsuits and liability for systematic non-compliance. As insurance, add this compliance area to your checklist for supervisory training. California employers who take measures to do this will not regret it, and should save big dollars down the road.

### ***Related People***

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