



# Five Reasons Employers Should Have Job Descriptions

Publication

10.01.13

No state or federal law “requires” job descriptions. However, job descriptions can be helpful tools for employers for both practical and legal reasons.

This article will outline five of the many ways in which job descriptions can benefit employers.

## **Job Descriptions Can Be Useful Communication Tools**

Aside and apart from any *legal* reasons to have job descriptions, practical reasons weigh strongly in favor of having them. For example, job descriptions can be useful communication tools to tell employees exactly what tasks the employer expects them to perform. Job descriptions may also address quality or quantity of performance standards or even work rules that apply to a particular job. Without such clear communications, employees may not perform to the employer’s expectations.

## **Job Descriptions Can Help Identify The Right Employees For A Job**

Job descriptions can help identify particular skills or abilities that are necessary for a position or what environmental pressures apply to the position. A good job description tells the applicant what the position may involve or require. After reading the job description, some applicants may decide that they are not a good fit for the position or are not interested in it. If an applicant withdraws his or her application, then the employer cannot be held liable for any “adverse action” under any applicable laws.

## **Job Descriptions Can Help In The Interactive Process**

If the employer is covered by state or federal laws that require reasonable accommodations for qualified individuals with disabilities, a job description can help with the interactive process. A job description serves as a starting point for what the employer believes to be the essential job duties. The applicant or employee then must identify which of the listed duties he or she cannot perform. Once those duties are identified, the employer and individual with a disability can begin an interactive dialogue about what accommodations may help the individual to perform those duties without being an undue hardship on the employer or without creating a direct threat to the individual or others.

A job description can also be helpful in soliciting the advice of professionals such as physicians, chiropractors, counselors or rehabilitation therapists about whether the individual can actually perform a particular job.

perform a particular job.

### **Job Descriptions Can Describe Legitimate Minimum Qualifications**

If a job requires a particular certification, such as a Commercial Drivers License (CDL), a particular degree or professional designation, it should be listed in a job description. Similarly, if a negative drug test is required before starting or continuing work, that should be stated in the job description. Other objective, minimum qualifications can be listed as well. Then, if a person seeks a position and does not possess the required certification or qualifications, the employer has a legitimate, non-discriminatory reason for not placing the person in the job.

### **Job Descriptions Can Help With Justifying An Employee's Exempt Status**

Job descriptions will *not*, by themselves, determine whether a person should be exempt or non-exempt under applicable wage and hours laws. A job description must first *accurately* reflect the duties of a particular position.

In addition, other elements of the applicable exemptions must also be present with respect to each individual worker to qualify as exempt.

However, if an employer claims a person is exempt from minimum wage, timekeeping and overtime requirements under the "executive" exemption to the Fair Labor Standards Act, the job description should state that the employee "manages a recognized department or subdivision thereof" and regularly supervises at least two or more full time equivalent employees each and every week. Other managerial duties should also be referenced in the job description.

Similarly, for employees the employer is attempting to qualify as exempt under the "administrative" exemption, the job description should state that the employee "regularly exercises independent judgment and discretion about matters of significance" or words to that effect. Again, describing duties that involve such independent judgment and discretion, such as "negotiates" or "decides," would also be helpful.

### **Conclusion**

This brief article outlines only a few of the legal and practical reasons that employers should have job descriptions. If you do not have accurate and up-to-date job descriptions in place for all of your employees, you should get them as soon as practical.

Bert Brannen can be reached at [dabrannen@fisherphillips.com](mailto:dabrannen@fisherphillips.com) or 404.240.4235.

This article was also featured on *MultiBriefs*.

### ***Related People***





**D. Albert Brannen**

Partner

404.240.4235

Email