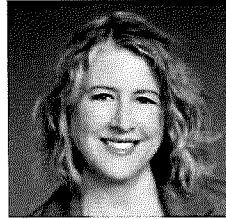


ALERT

On-Boarding Activities: Best to Wait for Employee's First Day of Work

By Erika Barbara - May 24, 2024



When we start a new employee, their first day is spent completing on-boarding paperwork and trainings. Can we streamline the process by having them do all that from home before they report for their first day of work?

Employers may be tempted to ask new hires to complete on-boarding activities, such as filling out paperwork and completing trainings, from home so that employees can begin working immediately when they arrive on their first day.

Best practice, however, is to have employees complete those activities as part of a new hire orientation process that takes place when the employee first reports to work — not before.

Employees Must Be Paid for All Hours Worked

First, and most importantly, if employees are completing on-boarding activities before their first day of work, they will need to be paid. This is because the time spent on those activities, at your direction as the employer, would be considered “hours worked” — and employees must be paid for all hours worked.

Under California law, “hours worked” is defined as time that an employee is subject to the control of their employer (even if they are not actually performing work) or time that an employee is “suffered or permitted to work.”

Increasingly, California courts are scrutinizing employer policies and practices that function to deprive employees of pay for such time — even arguably small amounts of time.

Thus, if employees are performing on-boarding activities (or any work) prior to their first day, you should take appropriate steps to ensure that employees are properly paid for the time spent on those activities.

Your non-exempt employees will need to track all time spent performing the activities and you must pay them for that time.

Exempt employees will not need to track the time spent on the activities (because they are paid on a salary basis), but they still will need to be paid for their time. Having exempt employees perform work prior to their first day is especially problematic given the general rule that if exempt employees perform any work in a work week, they must be paid for the entire work week.

Failing to track and properly pay employees for all time spent on these activities prior to their first day of work can create potential liability, including for unpaid wages and penalties. Waiting until employees report to work on their first day and are on the clock and being paid, is a best practice to eliminate that risk.

Include On-Boarding Activities in New Hire Orientation

Second, there are benefits to conducting these on-boarding activities as part of a new hire orientation process that begins when the employee reports for their first day of work.

The on-boarding process is about more than just completing forms — it's your chance to welcome the employee into the workplace and set the tone for their employment.

You can do so by creating a new hire orientation process that not only ensures that employees properly complete new hire paperwork and training, but also provides the opportunity for the company to review with the employee and explain the employee handbook and key workplace policies, such as your harassment prevention policy; provide necessary training, such as mandatory harassment prevention training; and answer any questions the employee may have about the company's policies and practices.

Your new hire orientation process also should ensure that employees receive all legally required new hire forms and pamphlets.

Unsure what to provide? CalChamber's New Hire Guide can help; it contains forms and pamphlets that must be provided to new hires, as well as other resources.

Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred members and above. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.