

Supporting Employers Since 1940

Hire Right the First Time

Best Practices for Hiring and Onboarding





COMPLIMENTARY HUMAN RESOURCES
HOTLINE FOR EMPLOYERS
888.217.6899

The Monterey County Workforce Development Board has partnered with the **California Employers Association** to provide Monterey County employers a **NO-COST HR HOTLINE!**

Providing guidance on:

- Hiring & Firing Processes
- Paid Sick Leave Laws & FMLA
- Breaks, Lunches & Overtime
- Employee Handbooks
- Harassment Prevention
- Remote Workers

California
Employers
Association™



Call Today
888.217.6899





Real Talk. Real Resources.

CEA provides ***Peace of Mind*** with exceptional human resource compliance solutions, training and recruiting services. Members receive unlimited phone support with HR experts, onsite assistance, and a multitude of online resources.

WHAT WE OFFER

- Quick and responsive answers to HR questions
- Employment forms, policies, handbooks, guidelines, and fact sheets
- Training for supervisors, managers, and employees
- Consultation on workplace issues and negotiations

CONTACT US

employers.org | 800.399.5331 | ceainfo@employers.org



California
Employers
Association™



Stuff Our Lawyers Make Us Say

This presentation should not be relied upon as legal advice. Consult an attorney about any issues of legal significance to you & your company.

CEA is not a law firm and does not dispense legal advice. Therefore, conversations with CEA are not attorney-client privileged. The information CEA provides via trainings/presentations, forms, telephone calls, written messages (such as email and letter) is informational and educational in nature, and not specifically tailored to an employer's needs. CEA is not an insurer and is not responsible for any claims or actions arising out of an employer's human resources matters. Employers use our information at their own risk, and in conjunction with their own legal and human resource advisors. These materials are licensed for this webinar, but not for republication or creation of derivative works.



Today's Agenda

- Determining What You Need
- Advertising Your Job
- Screening Applications
- Conducting A Successful Interview
- Making the Job Offer
- Starting Off on the Right Foot



Determine What You Need

Types of Employees & Skills

Do you need:

- A temporary or regular employee?
- Independent contractor?*
- Part time or full time?
- Exempt or non-exempt?
- Entry level?
- Skills required?
- Degrees required?
- Physical abilities test?
- Employing minors – extra steps and compliance requirements!



- Employee
- Independent Contractor

CEA Members: Use our Employing Minors Tool Kit



California
Employers
Association™

employers.org • 800.399.5331
© California Employers Association

The “ABC” Test

General rule: “A person providing labor or services for [pay] **shall be considered an employee** rather than an independent contractor unless the hiring entity demonstrates that **all** of the following conditions are satisfied” (ABC Test)

- A. Is free from control and direction of the hirer,
- B. Performs work that is **outside** the **usual course** of the hiring entity’s business, **AND**
- C. Is customarily engaged in a trade, occupation, or business of the same nature as the work performed.

**CONSULT COUNSEL: extensive misclassification penalties!
Plus many statutory exceptions.**

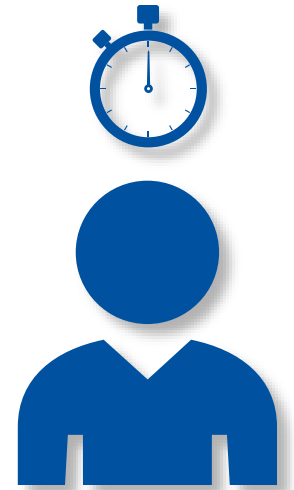
Exempt (Salary) v. Non-Exempt (Hourly) Employees *(continued)*

Exempt

- Must pass exemption test which has a **duties** test **and** a **salary** test
- Paid a flat salary for the **skill** they bring to the job
- Overtime, meal and rest breaks, etc. **don't apply**
- **Fewer** compliance issues

Non-Exempt

- Paid by the **hour** for work performed
- **Overtime** laws apply
- Meal and rest **breaks**
- Stringent **recordkeeping** requirements



“White Collar” Exempt Categories



Executive — primary duty is managing two or more full-time employees in business or permanent unit



Administrative — work directly relates to management policies or general business operations



Professional — in a field of science or learning, and have a license or advanced degree



Exempt Duties Test

- Primary duties must be administrative, professional or executive
 - **51% of job duties**
- Independent judgment and use of discretion
- Office managers?
- **Exemption worksheets on CEA's Website**



2023 Minimum Wage/Salary

All Employers – Regardless of Size!

**Non Exempt /
Hourly**

\$15.50

**Exempt /
Salary (Yearly)**

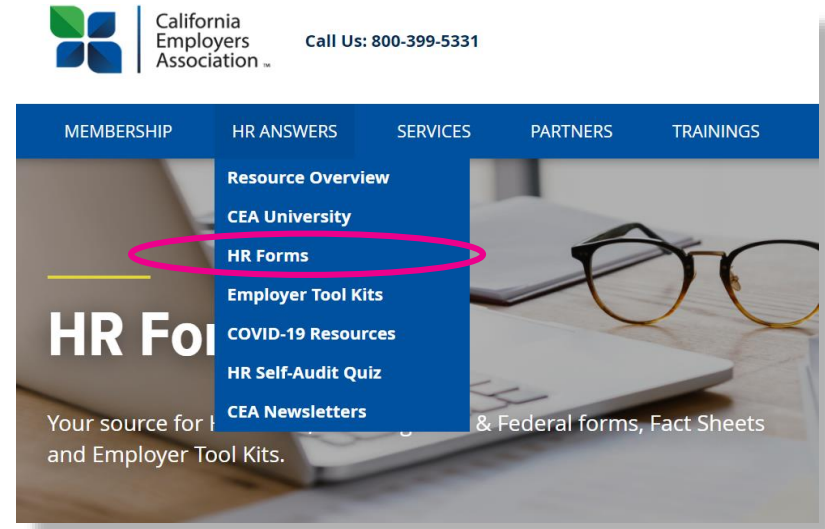
\$64,480

**Transitioning Exempt to Nonexempt, Employee Relations Tips -
bit.ly/Exempt_to_Nonexempt**



35+ Local Minimum Wage Laws & Counting...

- About **35** local ordinances may apply!
- **Minimum wage**, paid sick leave, predictive scheduling, flex time



- The **local minimum wage** is based on where the employee is physically working (e.g., home residence).

URL - bit.ly/2023_Local_Min_Wage_PSL

Licensed Medical and Computer Professionals



Physicians/Surgeons:

Minimum hourly pay for licensed physicians / surgeons increased from \$91.07 to **\$97.99**



Computer Software Professionals:

- Minimum hourly rate of pay increased from \$50.00 to **\$53.80**
- Minimum monthly salary increased from \$8,679.16 to **\$9,338.78**
- Minimum annual salary increased from \$104,149.81 to **\$112,065.20**

Think About Your Deal-breakers

Job posting should include:

- Job responsibilities
- Work expectations
- Physical requirements
- Essential functions
- Job is exempt/non-exempt
- To whom do they report?
- Work days, hours, etc.
- Other duties as assigned – important to include
- **2023 – Salary range required**



Advertise the Position

- One size **does not** fit all
- Advertise **internally**
 - In house referral program
 - Advancement from within
- Advertise **externally**
 - Traditional methods – local newspaper, trade assoc.
 - Online (LinkedIn, Zip Recruiter, Indeed)
 - America's Job Centers – free



CEA Members: use Recruiting and Hiring Toolkit on our website



2023 Salary Range Requirement

All employers:

- Must provide the pay scale to any **job applicant or current employee** *upon request.*

15 or more employees: Must include the position's pay scale in **any job posting.**

15 or More Employees: Job Postings

What does **15 or more employees** mean?

- 15 or more employees *located anywhere*, so long as you have **at least one** employee currently **located in CA**.
- Count everyone on your payroll – full and part-time, regular and temporary, exempt and non-exempt, etc.

Requirement:

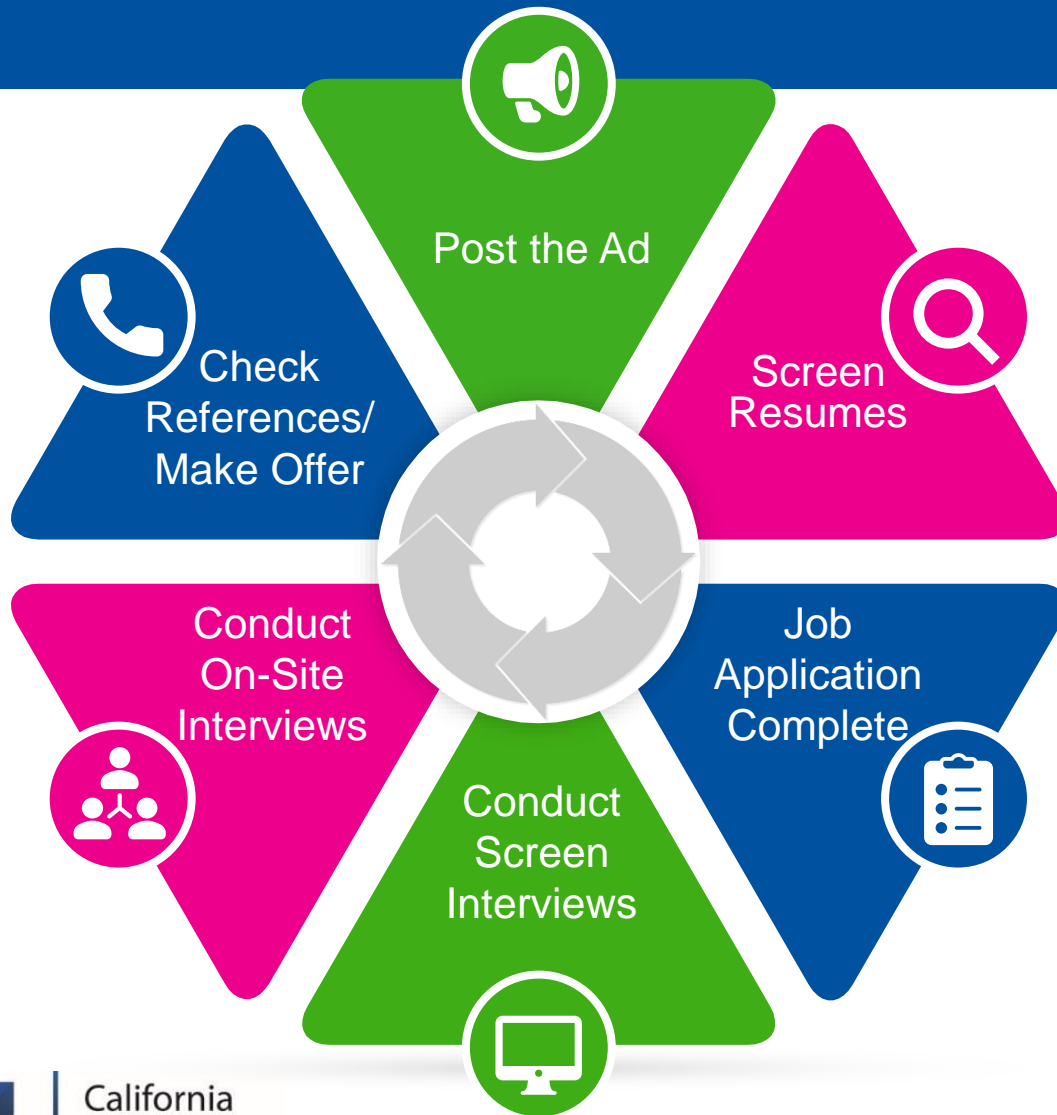
- Must include the pay scale in any **job posting**, including when using third-party recruiters.
- Pay scale has to be listed **in the posting itself** – cannot link to it or use a QR code.
- Applies to any position that could be **filled in CA** – whether physically or remotely.





Screen Applications & Conduct Interviews

Recruiting Process



You **don't** have to interview everyone who applies!

You **do** have to keep applications on file for **4 years**.



Employment Applications

- Have all applicants you are considering for the position complete an application
- Review applications carefully
 - Does the application mirror the resume?
 - **No salary or conviction questions allowed!**
- Applications are often more telling than resumes
 - Reasons why applicant left a position
 - Ability to perform the job applied for
 - Lists references



Red Flags on Job Applications

Lacks information regarding past employer

Signature is missing

Applicant cannot recall the name of a former supervisor

Excessive cross-outs and changes

Reason for leaving past job left blank

Gaps in employment history*



Interview Awareness

Consider the following:

- Did the candidate arrive **early**?
- Did they bring copies of their **resume**?
- Were their answers **short** or **rambling**?
- When you ask questions, did candidate **answer right away or pause to think** about their answer?
- How did the candidate describe their **former employer(s)**?
- Were they **enthusiastic**?
- Be aware of the “**professional interviewer**”

Interview Pitfalls: Do Not Ask About



Protected Classifications (e.g., Age)



Economic Background



Family Planning



Criminal History



Salary History



No Salary Information Questions

- ALL employers are **prohibited** from asking about or relying on an applicant's salary history as a factor in hiring, unless information is public under state or federal law.
- Upon request, employers required to provide a position's **pay scale information** after initial interview.
- Employers should remove questions about salary from job **applications** and **interviews**.
- Does **NOT** apply to voluntary disclosures.





Make the Job Offer

Offer May Trigger Negotiations

- **Negotiations** are more common in a tight labor market.
 - *The art and science of securing agreements between two or more interdependent parties.*
- Know the market in your **industry/location**
- Be prepared to explain the **entire offer, including benefits**
- Be prepared for an applicant to negotiate the offer, **know beforehand** if you are willing to negotiate
- Be **comfortable** with silence

Reference Checks and Other Considerations

- At a minimum – **reference** checks
- Third-party background checks
- Driver's **license** check and/or motor vehicle report, if required for job
- Consider the **position**:
 - Will employee handle **cash**?
 - Will employee go into people's **homes**?
 - Will employee be working **unsupervised**?



Criminal History: Ban-The-Box

Prohibits employers with 5 or more employees from asking about **criminal convictions** on job applications.

- Can **NOT** ask about criminal conviction history information on job **applications** or in **interviews** until after a conditional employment offer is made.



- May deny employment if conviction history has “**direct** and **adverse** relationship with specific duties of job” (ex: driver position /DUI), based on an **individualized assessment**.
- However, if you deny employment based on criminal history = **required notifications/steps**.

CEA Members: Refer to Fact Sheet on our website

Post Offer/Pre-employment Testing

- Company must pay for all exams, employees must be subject to same exam for same job
- Drug/alcohol **post-offer/pre-employment testing allowed**
- Polygraph tests not allowed unless required by law
- Psychological Tests (ok but not religious belief or sexual orientation questions)
- **Marijuana** – for most CA employers, it is a matter of discretion whether you test for it.





Start Off on the Right Foot



Follow Consistent Onboarding Procedures

- **Required** Hiring Forms & Notices
- Review **Policies** & **Sign** Acknowledgments (i.e., anti-harassment, receipt of CPP/IIPP/employee handbook)
- **Direct Deposit** Authorization
- Trainings (i.e., including required by law – HPT)
- This is all **compensable time!**
- If hourly rate exceeds MW, you may **pay** the MW for **training time**, but must be in your policy.



Required Hiring Forms

- I-9 Form (Complete section 2 within 3 business days)
- W-4 Form (Federal tax withholdings)
- DE-4 Form (CA tax withholdings)
- Acknowledgement of Receipt of IIPP
- Discrimination and Harassment Prevention Policy and Acknowledgment
- Lactation Accommodation Notice
- Pregnancy Disability Leave Notice
- Victims of Crime and Abuse Notice
- Form DFEH 185 Harassment and Complaint Procedure



Required Hiring Forms *(continued)*

- Form DE 2515 EDD Disability Insurance Pamphlet
- Form DE 2511 Paid Family Leave Brochure
- Facts about Workers' Compensation Brochure
- Personal Physician/Chiropractor Pre-Designation Form
- Wage Theft Prevention Act Form (Labor Code sec. 2810.5) (*non-exempt employees*)
- Form DE 34: EDD Report of New Employee(s) (*online*)
- Labor Code sec. 2751: Written Commission Agreements (*if applicable*)

New Hire Packet: Available for purchase on store on CEA's website!

Report of Independent Contractors

Applies to any business or government entity required to file a form 1099-MISC

- File form DE 542 with the EDD within 20 days of either:
 - a) Making payments of \$600 or more –or–
 - b) Entering into a contract of \$600 or more with an independent contractor in any calendar year

Orientations and Onboarding

- New hire orientations set the tone – virtual or in person!
- Welcoming and inclusivity
- Job shadowing
- Buddy system(s)
- Frequent contacts
- 30, 60, 90 day reviews
- **Train your supervisors** to ensure a consistent experience for everyone!

The Promise of Smart Onboarding



Cut Recruiting Costs



Speed Time to Productivity



Improve Retention



Improve Data Quality



Reduce Admin Time



Increase Engagement



Stay Compliant



Drive Performance

Meal Periods, Rest Breaks, and Wage Statements



Overtime Requirements

- Must be paid **1-1/2 times** regular rate of pay
 - For work **over 8 hours** in a workday
 - For work **over 40 hours** in a workweek
 - For the **first 8 hours worked** on the 7th consecutive day worked in a workweek
- Must be paid **2 times** regular rate of pay
 - For work **over 12 hours** in a workday
 - **After 8 hours** on the 7th consecutive workday in a workweek



Defining the Workday/Workweek

This is why you **define** your workday and workweek.

- **Workday**

- Any consecutive 24-hour period beginning at the same time each calendar day
- Presumption is midnight to 11:59 p.m.

- **Workweek**

- Any 7 consecutive days, starting with the same calendar day each week
- Presumption is Sunday-Saturday

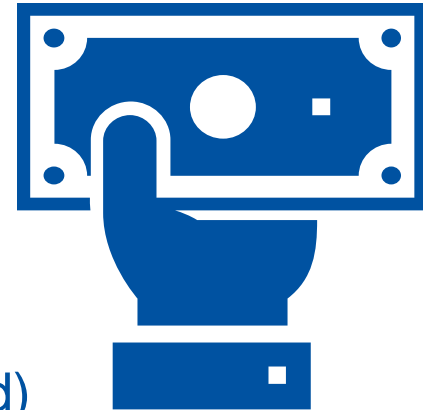
“Regular Rate” of Pay

What is the regular rate of pay and why does it matter for calculating overtime?



Regular Rate Includes Additional Compensation

- Don't confuse **regular rate** & **base hourly wage**!
- An employee's **base hourly wage** is what they get paid for each hour worked.
- **Regular rate** of pay is different because it takes into account **additional earnings**, such as:
 - Commissions
 - Piece rate pay
 - Shift differentials
 - Retroactive pay increases
 - Non-discretionary bonuses (planned)



The Regular Rate is Used to Calculate Overtime

- The “**regular rate**” is the figure that gets multiplied by 1.5 or 2 to calculate overtime.
- If an employee earns any of the types of additional compensation, their regular rate of pay becomes **greater than** their base hourly rate.
- If the employee uses the base rate instead of the regular rate, the **overtime** payment will be **insufficient**.

Overtime Tips

- Work with your **payroll provider** to make sure they are using the regular rate of pay and satisfying all overtime requirements.
- **Don't complicate** the regular rate calculation by paying multiple forms of additional compensation when you don't have to! Consider a simple base hourly wage increase instead.
- Members can **call CEA** for **assistance** and refer to our Overtime and Regular Rate of Pay Fact Sheets under HR Forms for calculation examples.



Rest Breaks & DLSE FAQs

- **DLSE** — “...employers must relieve their employees of all duties and **relinquish** any **control** over how employees spend their break time.”
- **Remove:** “Employees must remain on the premises” language from policies.

Hours Worked	Rest Break(s)
0 – 3.5	0
Over 3.5 up to 6	1
Over 6 up to 10	2
Over 10 up to 14	3

Meal Breaks / Lunches

- Permit a minimum 30 minute meal break if employee works **more than 5 hours** per day.
- Must start meal break **before** the end of the 5th hour (employee must clock out by 4:59 mins. into shift.)
- Relieve of all **job duties**
- Failure to provide = **1 hour premium pay**

Hours Worked	Meal Break(s)
Less than 5	0
Over 5 up to 10	1
Over 10	2

Meal Break Example

- **Shift: 8:00 am to 5:00 pm**
 - 1st hour: 8:00 to 8:59
 - 2nd hour: 9:00 to 9:59
 - 3rd hour: 10:00 to 10:59
 - 4th hour: 11:00 to 11:59
 - 5th hour: Noon to 12:59



- First meal break must **begin by 12:59 pm**

Failure to Provide or if Insufficient or Late = 1 hour Premium Pay

Premium Pay Overview

- When an employer fails to provide an hourly employee with a sufficient meal period, rest break, or heat recovery period, “**premium pay**” is owed.
- This is when the meal/rest break is:
 - Late,
 - Interrupted,
 - Too short, or
 - Skipped altogether.



If employee works at all during the a break, you must compensate the employee for that time, *in addition to premium pay.*



- ✓ Determine what you need in the position
- ✓ Take your time to effectively screen applicants
- ✓ Conduct thorough interviews
- ✓ Provide a consistent onboarding process
- ✓ Start the new hire off on the right foot and ensure wage and hour compliance





COMPLIMENTARY HUMAN RESOURCES
HOTLINE FOR EMPLOYERS
888.217.6899

The Monterey County Workforce Development Board has partnered with the **California Employers Association** to provide Monterey County employers a **NO-COST HR HOTLINE!**

Providing guidance on:

- Hiring & Firing Processes
- Paid Sick Leave Laws & FMLA
- Breaks, Lunches & Overtime
- Employee Handbooks
- Harassment Prevention
- Remote Workers



Call Today
888.217.6899



California
Employers
Association™

CEA Membership Plans

ULTIMATE

- HR phone support
- Online access to tool kits and forms
- Free harassment prevention online trainings
- Customized employee handbook (\$2,000 value)
- Labor law poster
- Consulting hours for compliance projects (8)
- 50 point HR assessment
- One virtual or onsite compliance training (Choose from over 40 titles)
- Dedicated HR partner with quarterly conversations (\$1,000 value)

\$5,995

MEMBER
CHOICE

PREMIER

- HR phone support
- Online access to tool kits and forms
- CEA University
- DIY employee handbook*
- Labor law poster*
- Consulting hours for compliance projects (8)
- Online harassment prevention training

\$2,495

Associate
Memberships
are available as
a \$99/month
subscription!

ASSOCIATE

- HR phone support
- Online access to tool kits and forms
- CEA University
- Labor law poster*
- Available as a \$99/month subscription
- Online harassment prevention training

\$1,195



California
Employers
Association™

Give us a call at **800.399.5331** for more details. 51

Thank you!

Please fill out your evaluations.



HRCI: 625244

The use of this seal confirms that this activity has met HR Certification Institute's (HRCI) criteria for recertification.



SHRM: 23-F3K9T

CEA is recognized by SHRM to offer Professional Development Credits (PDCs) for the SHRM-CPSM or SHRM-SCP. For more information about certification or recertification, please visit shrmcertification.org.

For more information:
CEAinfo@employers.org
800.399.5331



California
Employers
Association™

We'd love your feedback!



Scan the QR code to take a short survey about today's presentation.



Thank you for participating!

Supporting Employers Since 1940

Thank You

For more information email
CEAInfo@employers.org
or call **800.399.5331**

