

Why Have **Written Job Descriptions?**

Four major reasons to spend the time and effort to get it done now!

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Having proper job descriptions has always been a good practice, because it helps management focus on the skills, background and knowledge necessary for an employee to perform the job.

A well-written job description is one of the best investments an organization can make because it can be used in so many ways, including job evaluation, performance appraisals, reorganization, training, development and career planning.

When you are recruiting and interviewing, a job description puts everyone involved in the process on the same footing by clearly describing, in practical terms, the key responsibilities of the actual position, reporting relationships and work environment. A complete and accurate job description can help defend your selection process from grievances and other legal actions, should they occur.

Job descriptions are not required, but in recent years having written job descriptions has become almost a necessity.

1. Gives guidance to both the employee and the employer

If you don't provide a written job description, how is your employee supposed to know what to do? A job description gives employees a general, if not specific, idea of what their job duties are.

Many businesses give a candidate a job description during the interview, and then upon hire give them another one, having them sign it, and then put a copy in their personnel file.

If an employee is not doing the job, then you can point to the major functions of the job as defined in your job description and focus on either improving their performance in that area(s), or counseling them to find employment elsewhere.

2. Protection Against ADA Lawsuits

If you have 15 or more employees, you're required to comply with the Americans With Disabilities Act (ADA). To be eligible for ADA protection, an individual must be either an applicant or an employee who satisfies two requirements:

- ❑ S/He is disabled or perceived to be disabled; and
- ❑ S/He is qualified to perform the essential functions of the job, with or without a reasonable accommodation from the employer.

Written job descriptions are one of your best defenses if you're ever sued for violating the ADA. The job description needs to show the things you consider essential functions of the job. Give your job candidate a copy of the description and make sure the candidate is able to do everything the job requires, including any physical requirements (with or without a reasonable accommodation).

ADA litigation has also reinforced the importance of not only articulating job requirements, but also updating them regularly so they can be used as credible evidence of current duties and employer expectations. You can, and should, go beyond stating specific tasks in the job description. Other requirements, such as regular attendance or the ability to work as part of a team, should also be identified.

3. Compliance with California Laws

The California Fair Employment and Housing Act provides protection from harassment or discrimination in all employment decisions because of age, ancestry, color, creed, disability, marital status, medical condition, national origin, race, religion, sex and sexual orientation.

Job Descriptions are critical when defending against any type of discrimination allegation. Job descriptions provide the best proof that your treatment of an employee or candidate was related to ability and performance, and not because of a protected class. It provides real proof that you had and have an objective standard for the performance.

Many organizations use job descriptions in the hiring process to ensure a candidate is qualified. And you can also use the job description to defend promotional and other employee decisions against potential discrimination charges.

4. Assistance in determining Exempt vs. Non-exempt status

Many businesses get in trouble for misclassifying exempt vs. non-exempt workers. When an employee is not exempt from overtime laws, but not paid for excess hours worked, substantial fines can result. An employee can be entitled to back overtime pay for the past four years, plus interest. In addition, an employer can be fined up to triple the wages owed.

If you are challenged as to whether an employee is exempt rather than non-exempt, you will want to show what the employee is doing and the conformance of those activities to the job description.

By writing out the essential functions of the job in a job description, you can make a determination on whether a person should be exempt or not from minimum wage and overtime laws.

What Should You Do Now?

1. Begin the process of developing job descriptions. Although a lengthy process, the benefits to you, your employees and your business are significant.
2. If you already have job descriptions, make sure to spend the time updating them right away. Job descriptions are worthless if they're not updated on a regular basis. Things are fast moving and changing in the business world, and job descriptions need to reflect what is going on now in your business.
3. If you have over 15 employees, make sure the essential functions of each position are compliant with the Americans With Disabilities Act.

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