

PAYROLL EXPRESS, INC.
Professional Employer Services

MARKETPLACE IDEAS
September 27-28, 2010 FARGODOME
Fargo, North Dakota

Connecting Great IDEAS
and Great PEOPLE

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PAYROLL EXPRESS, INC.
Professional Employer Services

**Human Resources,
Benefits & Payroll:
Avoiding the
Traps and Pitfalls**

Darcy Pope-Fuchs, PHR

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TOPICS

**HIRING
DISCRIMINATION
INDEPENDENT CONTRACTORS
COMPENSATION
BENEFITS
TERMINATION
OUTSOURCING**

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HIRING

RESPECT APPLICANT'S PRIVACY RIGHTS
You cannot dictate off-the-job behavior

AVOID JOB SECURITY PROMISES
At-will relationship

PROTECT AGAINST UNFAIR COMPETITION
Non-compete Agreement
Non-disclosure Agreement
Non-solicitation Agreement

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HIRING

WORKERS UNDER 18 YEARS
Type of work and hours

ILLEGAL ALIENS
Employment Eligibility Verification

AVOID DISCRIMINATION
Race, color, gender, religion, national origin,
disability or age
(marital status, sexual orientation)

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DISCRIMINATION

Title VII of the Civil Rights Act
Civil Rights Act of 1991
Age Discrimination in Employment Act
Older Workers Benefit Protection Act
Pregnancy Discrimination Act
Immigration Reform and Control Act
Equal Pay Act
National Labor Relations Act
Americans with Disabilities Act

Equal Employment Opportunity Commission

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INDEPENDENT CONTRACTORS

No Withholding Tax Obligations
No Workers Compensation
No Unemployment
No Benefits
Less Government Regulations

Less Risk (?)
Less Liability (?)

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INDEPENDENT CONTRACTORS

TESTS
Behavioral Control
Financial Control
Relationship

MISCLASSIFICATION
Back Wages
Penalties
Interest

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COMPENSATION

FAIR LABOR STANDARDS ACT

Does not apply to:
Farms
Transportation business
(Motor Carrier Act)

ND DEPARTMENT OF LABOR

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COMPENSATION

EXEMPT vs. NONEXEMPT
 (salary vs. hourly)

Salary basis
 Minimum Earnings of \$455 per week

Executive
 Administrative
 Professional
 Outside Sales
 Certain Computer Related Jobs

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COMPENSATION

SALARY DEDUCTIONS

Full Days Only
 Personal reasons
 Sickness or disability
 (IF plan exists for wage replacement benefits)
 Penalties for safety infractions
 Disciplinary suspensions
 FMLA Leave

Offset amounts for Jury Duty or Military Pay

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COMPENSATION

MINIMUM WAGE
 \$7.25 per hour
 Tip Credit – 33% of minimum wage
 Training wage

OVERTIME
 Time and a Half
 Over 40 hours worked in one week

COMPENSATORY TIME

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COMPENSATION

BREAKS
 30 minute meal period
 Shifts over 5 hours

PAID TIME-OFF
 Payable at separation
 Use-It or Lose-It

SICK LEAVE

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COMPENSATION

RECORD KEEPING
 Name, Address, Gender, Occupation, SSN
 Hours worked each week
 Hours Paid – Overtime
 Deductions
 Regular Payday
 Earnings Statement

Direct Deposit

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COMPENSATION

DEDUCTIONS
 Benefit Premiums
 Child Support
 Alimony
 Garnishments
 Tax Levies
 Loans to Employees
 Other Authorized Deductions

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COMPENSATION

CONSEQUENCES

Wage & Hour Division
of
U.S. Department of Labor

DON'T TAKE THE CHANCE!

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BENEFITS

HEALTH CARE COVERAGE

DENTAL & VISION

LIFE & DISABILITY

SECTION 125 FLEXIBLE BENEFITS


RETIREMENT PLANS

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TERMINATION

WRONGFUL DISCHARGE

Discrimination
Race, color, religion, national origin,
Age, gender, pregnancy
Disability
Sexual Harassment
Refusal of Polygraph Test
Alien Status
Working conditions complaint



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TERMINATION

COURT DECISIONS
 Breach of Contract
 Breach of Good Faith & Fair Dealing
 Violation of Public Policy

GUARDING AGAINST LEGAL CLAIMS
 Legitimate business reason
 Consistency

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TERMINATION

GUIDELINES FOR FIRING
 Review contracts or hiring documents
 Review Handbook
 Investigate Complaints

Policy violations, Safety violations
 Performance Issues
 Insubordination
 Attendance Issues
 No reason

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TERMINATION

HEAD OFF TROUBLE
 Privacy
 Don't insult or abuse – listen

Offer opportunity to resign
 Offer a favorable recommendation
 Keep advance payments or tools
 Do not contest unemployment
 Pay for placement services
 Severance Pay

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TERMINATION

DOCUMENT

DOCUMENT

DOCUMENT!!

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TERMINATION

FINAL PAYCHECK
When is it payable?
Unused vacation?
Sick leave?
Other Deductions?

Continuing Health Insurance
COBRA

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OUTSOURCING

BOOKKEEPER
CPA
PAYROLL SERVICE

PEO
Professional Employer Organization

ASO
Administrative Services Organization

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REVIEW

**HIRING
FIRING
INDEPENDENT CONTRACTORS
COMPENSATION
BENEFITS
OUTSOURCING**

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PAYROLL EXPRESS, INC.
Professional Employer Services

QUESTIONS??



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PAYROLL EXPRESS, INC.
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