

APRIL 2012

CALIFORNIA LABOR COMMISSIONER CHANGES THE WAGE NOTICE TEMPLATE AND ISSUES ANOTHER SET OF REVISED FAQs

Effective January 1, 2012, California Labor Code Section 2810.5 requires employers to provide a notice that contains very specific information, including details about rate(s) of pay, the company's workers' compensation policy, and how to contact the employer, to every new non-exempt employee in California. On April 12, 2012, the California Labor Commissioner's office issued a revised template for employers to use to comply with the wage notice requirement, along with yet another revised version of its frequently asked questions (FAQ) document relating to the wage notice requirement. The revised wage notice template and FAQs address certain industry questions and concerns expressed to the Division of Labor Standards Enforcement (DLSE) regarding the new requirement. Going forward, employers will want to use the revised wage notice template, which can be found at http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf. Employers also will want to consult the revised FAQs, available at <http://www.dir.ca.gov/dlse/FAQs-NoticeToEmployee.html>.

On October 14, 2011,¹ and January 10² and January 26, 2012,³ Wilson Sonsini Goodrich & Rosati issued alerts providing background and information on the wage notice requirement and the Labor Commissioner's various

templates and multiple versions of the FAQs. The links to the template and FAQs included in the previous WSGR Alerts remain active and will bring up versions of the documents containing the April 12 revisions.

The revised wage notice template addresses concerns raised by employers about the previous version. Noteworthy changes to the revised wage notice template include the following:

- Employers are no longer required to identify "any other business or entity" that the company uses to "hire employees or administer wages or benefits." Employers with multiple benefits providers were concerned about the burden of listing and updating information for all of their providers. The revised template only requires information about the hiring employer and, if the hiring employer is a staffing agency, information about the employer for whom the employee will perform work.
- Obtaining an employee's signature on the wage notice is now optional. Technology companies and other environmentally conscious employers were concerned about the lack of clarity

regarding if and when electronic signatures and copies of the notice were acceptable. While obtaining employees' signatures on the notice still may be good practice, employers now can determine a balanced technological solution that addresses potential future evidentiary needs as well as logistical business realities.

- The language regarding whether the employment agreement is written or oral has been removed. Instead, employers now only need to specify whether a written agreement exists providing the rate(s) of pay.
- The ambiguous term "Hire Date" has been replaced with the clearer term "Start Date."
- Much of the extraneous text regarding the wage notice requirement has been removed from the beginning and end of the document.

Many of the revised FAQs provide additional guidance regarding the new changes to the wage notice template. FAQs Nos. 26-30 are completely new, and FAQs Nos. 10, 19, 20, 21, and 23 have been revised. A helpful addition, FAQ No. 27, makes it clear that an

¹ The October 14, 2011, WSGR Alert titled "New Changes to California Employment Laws Signed by Governor Brown" can be found at <http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert-california-employment-law-changes.htm>.

² The January 10, 2012, WSGR Alert titled "Wage Notice Requirement Effective January 1, 2012: Labor Commissioner Issues Controversial Template" can be found at <http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert-wage-notice-requirement.htm>.

³ The January 26, 2012, WSGR Alert titled "California Labor Commission Issues Another Revised Set of FAQs Concerning New Controversial Wage Notice Requirement" can be found at <http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert-wage-notice-requirement-FAQ.htm>.

Continued on page 2...

California Labor Commissioner Changes . . .

Continued from page 1...

employer that previously has provided the wage notice to new hires need not issue a new notice based upon the DLSE's revised template unless and until there are substantive changes in the provided information.

While the revised wage notice template and FAQs are improvements, all employer concerns were not addressed completely and compliance issues remain. Getting it right is essential, as the Labor Commissioner and plaintiffs' bar undoubtedly will be on the lookout for employers that do not comply with the new requirement.

In addition to using the revised FAQs as a guide, employers should feel free to contact Wilson Sonsini Goodrich & Rosati for assistance in completing the wage notice template. The firm is actively following developments related to the wage notice requirement, and our attorneys are ready to provide guidance to employers regarding appropriate compliance strategies. For more information on this or other employment issues, please contact Fred Alvarez, Ulrico Rosales, Marina Tsatalis, Charles Tait Graves, Laura Merritt, or another member of the firm's employment and trade secrets litigation practice.



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