



**Don't Be An Easy Target! New Laws You Need to Know –  
Itemized Wage Statements and The Wage Theft Prevention Act**

**Question:** I was hoping that you could define “Employment Agreement” as it pertains to the new wage notice requirements under AB 469 (California Labor Code 2810.5). We have a written employee handbook. Or is that pertaining more to offers of employment?

**Answer:** Both the handbook and the offer letter could be construed as part of the “employment agreement” and typically are along with other oral statements and directions. So, employers often check both boxes on the wage notice, or otherwise indicate that employment is both oral and written if they create their own form. Whether you use the DLSE form or create your own, we encourage employers to also indicate that employment is “at-will” and can only be changed by written agreement signed by a specified person (typically the owner, CEO, etc).

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**Question:** Why do we have to state whether the employment agreement is written or oral? That is not listed in Labor Code 2810.5 along with the other required items.

**Answer:** You are right. It’s not listed expressly. But, there is a “catch all” provision written into Labor Code 2810.5. Specifically, Labor Code 2810.5(a)(1)(H) includes “Any other information the Labor Commissioner deems material and necessary.” Since the Labor Commissioner included this on the template form, we can conclude it falls within this catch-all provision. Bottom Line: Use the template or a customized form that includes everything that is on the template. And, stay tuned for updated templates.

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**Question:** Where can I get a copy of the template in English and Spanish?

**Answer:** You can obtain copies of the current templates in English, Spanish, Tagalog, Vietnamese, Korean, and Chinese [here](#).

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**SACRAMENTO OFFICE:**

1420 Rocky Ridge Drive, Suite 260  
Roseville, CA 95661  
Tel: (916) 782-8555  
Fax: (916) 782-8565

**CENTRAL VALLEY OFFICE:**

Fresno, CA (559) 449-8585

**INLAND EMPIRE OFFICE:**

Palm Desert, CA (760) 469-9001

[www.LaborCounselors.com](http://www.LaborCounselors.com)

**CENTRAL COAST OFFICE:**

16 W Gabilan Street  
Salinas, CA 93901  
Tel: (831) 443-7100  
Fax: (831) 443-8585

**Question:** Do we have to show hours/pieces worked at each contracting grower along with their address?

**Answer:** You must show hours, piece rate units earned, and applicable piece rates along with all other information required under Cal. Labor Code 226. However, we believe that the law does not currently require Farm Labor Contractors to show a detailed breakdown of this information as organized by each contracting grower. Of course, as discussed during the webinar, this detailed organization is what Labor Commissioner Su is pushing for as she described in her December 21, 2011 letter ([here](#)) and indicated in her sample of a compliant wage statement. We believe Labor Commissioner Su's sample actually goes above and beyond what is currently required.

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**Question:** Did I get it right, if I pay more than 30% of minimum wage, I do not need to do this (provide the Wage Notice under AB 469/California Labor Code 2810.5)?

**Answer:** Unfortunately, it looks like you misunderstood (sorry). You probably still must provide this new Wage Notice to all non-exempt employees. The exception you mentioned applies only where: (1) there is a collective bargaining agreement (union contract) that covers the employee in question; (2) that contract addresses wages, hours of work and working conditions; (3) that contract provides for premium over-time pay for all over time worked (any hours worked over 8 in one work day or 40 in one work week); AND (4) the employee's regular rate of pay is at least 30% higher than minimum wage. Remember, exempt/non-exempt determinations must be done on an employee by employee basis, looking to their duties, salary and other specific factors. If there is any question about whether an employee is exempt or non-exempt, let's talk. If you have not recently done an audit of your employee classifications, now is the time! This is a very active area in terms of litigation and administrative claims.

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**Question:** What if I have other questions related to these issues?

**Answer:** Call or e-mail Geoff at 916-782-8955 or [gash@laborcounselors.com](mailto:gash@laborcounselors.com).

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