



# StartUp Mendocino

**BUSINESS ACCELERATOR**

2024

HIRING, ONBOARDING AND  
MANAGEMENT



# Today's Agenda



- **Human Resources and Organizational Culture**
- **How we work today and who does the work**



- **Workertypes/definitions**
- **Pay and Benefits**



- **Employee Costs**



- **Compliance and Recordkeeping**
- **Action plan for hiring employees**



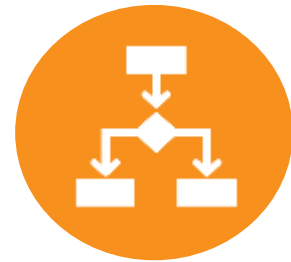


# What is Human Resources?

- **Human resources** is a term used to describe the individuals who comprise the workforce of an organization  
**(Your Employees)**
- **Human resources** is also the name of the function within an organization charged with the overall responsibility for implementing [WESTCENTER.ORG/STARTUP-MENDO](https://WESTCENTER.ORG/STARTUP-MENDO) strategies and policies relating to

# Typical HR Functions

- Recruitment, selection, and onboarding (resourcing)
- Organizational design and development
- Business transformation and change management
- Performance, conduct and behavior management
- Industrial and employee relations
- Human resources (workforce) analysis and personnel data management
- Compensation, rewards, and benefits management





# Organizational Culture

- Organizational culture is the total sum of the values, customs, traditions, and meanings that make a company unique.
- Organizational culture is often called "**the character of an organization**", since it embodies the vision of the company's founders.
- The values of a corporate culture influence the ethical standards within a

# How Do We Work Today?

- Gig economy vs. employment laws from the 1930s
- Always available vs. worker protections
- Remote and hybrid



# Who Does the Work?

- Employees
  - Regular, Temporary, Part-time and Full-time
- Interns
  - Paid and unpaid
- Volunteers
- Independent Contractors



# What is an Employee?

- Definition - a person who is hired to **provide services to a company on a regular basis in exchange for compensation and who does not provide these services as part of an independent business.** An employee contributes labor and/or expertise to an endeavor of an employer and is usually hired to perform specific duties.

- Employees are defined under the Fair Labor Standards Act (FLSA) as **persons whose activities are controlled or directed by an employer and who work necessarily and primarily for the employer's benefit.**

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- Most US employment relationships are "at-will", so **can be**



# What is an Employee?

- Employees must be paid at least minimum wage in the city/state where they work.
- Subject to wage and hour regulations and other state/federal employment laws.
- Can be paid hourly (subject to overtime regulations).
- Can be paid salaried (exempt from overtime) but must meet exemption tests under the Fair Labor Standards Act (FLSA) and must be paid at least 2X minimum

# Regular or Temporary?

- Regular employees are hired for an indefinite period of time and can be part-time or full-time
- Temporary employees are hired on a temporary basis, (length of a project or increase in business)



# Full-time vs Part-time?

- There is no single legal definition of part-time vs. full-time, but 30 hours per week is becoming a common standard for full-time
- Full-time employees generally work between 30 and 40 or more hours per week and are usually eligible for all benefits provided by the employer
- Part-time employees generally work less than 30 hours per week and may receive only mandatory benefits

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- Work schedule can be “as needed” or “flexible”



# How are employees paid?

- Salary - fixed compensation paid regularly for services
- Wage - payment for labor or services on an hourly, daily, or piecework basis (a set rate per unit of work)
- Commission - a fee paid to an employee for transacting a piece of business or performing a service, especially a percentage of the money received from a total

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- Project - a flat sum for a day, week, or

# Hourly Pay

- Any employee may be paid hourly for actual hours worked
- Most employees who are paid hourly are eligible for overtime pay
- Minimum wage rates are set at the federal, state and city level
- Employees must be paid the minimum wage for the city in which they work



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- If an employee works more than 2 hours in

# Paid a Salary

- An employee can be paid a weekly or monthly salary
- A salary cannot be reduced due to quality or quantity of work
- To be exempt from overtime pay:
  - Must meet exemption tests under Federal Fair Labor Standards Act (FLSA)
  - Must be paid federal minimum salary of \$784/week  
AND
  - Must meet state exemption tests (higher standard in California)



# Exempt vs. Non-exempt

- Exempt Employees
  - Employees who meet one of the FLSA exemption tests and who are typically paid on a fixed salary basis and not entitled to overtime
  - In California, must also meet higher California standard
- Non-Exempt Employees
  - Employees who do not meet any one of the Fair Labor Standards Act or higher California exemption tests and are typically paid on an hourly basis and covered by wage and hour laws regarding minimum wage, overtime pay, and hours worked
  - Breaks and meal periods must be provided
  - Must track hours on a timesheet or electronically; time record must be

# Expenses

- Employees must be paid for work-related expenses such as mileage, phone, internet service and travel
- Generally, the employer must provide the equipment and tools that an employee needs to do their job
- These are reimbursable expenses from earnings





# What is an Intern?



- Interns are persons who work as apprentices or trainees in an occupation or profession to gain practical experience
- Paid
  - Interns who are doing work that benefits the employer should be classified as employees and would nearly always be considered hourly nonexempt employees who must be paid at least minimum wage and overtime pay

# What is an Intern?



- Unpaid
  - Students receiving **college credit**, OR
  - The **training is for the benefit of the students/trainees and the employer gets no benefit** (and may actually have its operations impeded at times).
  - The trainees/students **do not displace regular employees** but work under their close supervision.
  - There's **no expectation of a job** at the end of the training period.
  - The employer and the students/trainees understand that the students/trainees are **not entitled to wages for the time**

# What is a Volunteer?

- Definition - a person who **performs a service willingly and without pay.**
- **People who volunteer his/her services** for a public service, religious or humanitarian non-profit organization without expecting pay **are not employees.**
- If you are a **for-profit entity**, people who perform work for you are **generally employees**, regardless of their age, and **you must comply with labor laws.**



# Hiring Family Members

- Individuals who are the parents, spouse or children of the business owner are exempt from minimum wage and other wage and hour obligations as defined in the industry's wage order (overtime, meal and rest periods).
- These individuals must pay Personal Income Tax but are not subject to other taxes such as Unemployment Insurance (UI), Employment Training Tax (ETT), and State Disability





# Independent Contractors

- An independent contractor is a **self-employed individual, business, or corporation** that performs a service for an employer **under an agreement** and who is **not subject to the employer's control, or right to control,** regarding the method and means in which the **service is performed.**
- Independent contractors **retain control over their schedule and number of hours worked, jobs accepted, and performance of their job.**

They may have a major investment in [WESTCENTER.ORG/STARTUP-MENDO](https://www.westcenter.org/startup-mendo)



# Independent Contractors

- They may also perform a **special service that is not in the normal course of business of the employer**
- Contractors have a contract specifying terms of work, so **termination of the relationship must follow contract terms**, or one party will be in breach of contract

# Independent Contractors

- Prior to April 2018, it was easier to classify someone as an independent contractor
- On January 1, 2020, AB5 became the law, requiring more workers to be classified as employees instead of independent contractors
- AB5 makes the more stringent "ABC" test the law of the state
- In the years following the passing of AB5, the law was modified to include certain occupations to be exempt from the ABC test, however, these occupations must still meet the Borello test (used at the federal level and a similar

# Independent Contractors

The old way (Borello common law test) before April 30, 2018:

- The nature and **degree of control exercised by the employer (primary factor)**
- The extent to which the **work is integral** to the employer's business.
- The relative **investments in facilities/equipment** by worker and the employer
- The extent to which worker was **engaged in a distinct occupation** or business and the **skill required** in the particular occupation

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- Whether the worker's managerial skills affect



# The ABC Test



- The ABC test presumptively considers all workers to be employees and permits workers to be classified as **independent contractors** only if all three prongs of the test are satisfied.

- (A) that the worker is **free from the control and direction of the hirer** in connection with the performance of the work, both under the contract for the performance of such work and in fact;

- (B) that the worker **performs work that is outside the usual course of the hiring entity's business;** and

- (C) that the **worker is customarily engaged in an independently**

# The ABC Test – Pop Quiz



- Company A runs a massage business. They currently have no employees or contractors
- Company A wants to hire a therapist who specializes in deep tissue massage
- Mary, a newly certified massage therapist is interested in working with Company B. She has no current clients and doesn't own a massage table
- Should Company A hire Mary as a Contractor? Employee?
- ABC Test: A - Free from control, B - Work outside course of hirer's business, C - Worker engaged in independent trade

# What are required employee benefits?

- Worker's Compensation Insurance
- Unemployment Insurance
- Social Security and Medicare
- Paid Sick Leave (California and many other jurisdictions)
- State Disability Insurance (employee-funded in California)
- Retirement Savings Plan (California, 1-4 ee's, by December 31, 2025) Deadline has passed for 5+ ee's

<https://www.calsavers.com/>



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# What are optional employee benefits?

- PTO / Vacation
- Holiday pay
- Medical, dental, etc. (unless you have 50+ FTEs)

# How much does it all cost?

Employee hourly rate		\$ 50.00
	FICA	\$ 3.83
	UI	\$ 0.15
	WC	\$ 0.15
	Allowance for Paid sick	\$ 1.92
	PTO	
	Paid holidays	
	Health Insurance	
Cost to company		\$ 56.05

Without Benefits  
That's about 12%- 15%  
*WC varies by industry*

Employee hourly rate		\$ 50.00
	FICA	\$ 3.83
	UI	\$ 0.15
	WC	\$ 0.15
	Allowance for Paid sick	\$ 1.92
	PTO	\$ 1.92
	Paid holidays	\$ 1.92
	Health Insurance	\$ 5.77
Cost to company		\$ 65.66

With Benefits  
That's about 30%  
*WC varies by industry*

# New Hire Material - California

- [W-4](#) and [DE-4](#) (or other state equivalent)
- [I-9 Form - Employment Eligibility Verification](#)
- [New Employee Notice \(Wage Theft Protection Act\)](#) (California nonexempt employees; equivalent form in some other states)
- California required pamphlets
  - [Sexual Harassment Brochure](#)
  - [State Disability Insurance Provisions Brochure \(DE 2515\)](#)
  - [Workers' Compensation Brochure](#)
  - [Paid Family Leave Insurance Program Brochure](#)
  - [Victims of Domestic Violence Leave Notice](#)
- Anything else specific to your business, industry or location

# Recordkeeping and Compliance

- Mandatory state and federal postings
  - All federal, state and local postings  
<https://store.calchamber.com/10032175-mastpost/products/california-labor-law-posters>
  - Industrial Welfare Commission Wage Orders (post and comply)  
<https://www.dir.ca.gov/iwc/wageorderindustries.htm>
- Employee Files
  - Completed I-9 forms
  - All other employee information
  - Time records
- Employment Policies
- Performance Management

# Action Plan – Prepare to hire

- ✓ Register for a Federal ID number
- ✓ Register in each state where you have employees and become familiar with each state's wage and hour requirements
- ✓ Select a payroll provider
- ✓ Select pay periods and pay frequency
- ✓ Obtain worker's compensation insurance
- ✓ If necessary, obtain other required insurance
- ✓ Decide on any benefits (time off, holidays)
- ✓ Create offer letter template
- ✓ Create new hire paperwork





## Next Steps...

- What will your company culture look like?
- Who will be your first hire?
- If you already have employees, are you compliant?
- Get prepared!



THANK YOU FOR BEING PART  
OF



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