

Compensation

A6. Compensation Methods (Commission, Performance-based, Incentive, and Piecework Jobs)

State law requires that all employees be paid at least minimum wage for all covered employment regardless of the method of compensation. A job order should clearly state the method of compensation: salary, salary plus commission, straight commission (also known as commission only), performance-based, incentive, or piecework. To be listed on JobNet, all job orders must provide total compensation of at least the minimum wage for any hours worked or spent in required training. Federal, state, and local-municipal laws and ordinances apply. Apply the higher or most stringent law when there is a conflict. Jobs that pay straight commission cannot be included if they only pay when a product is sold, and do not guarantee the worker at least a minimum wage for the hours worked. Employers should be informed at the time of listing that the minimum wage law applies. Employer acceptance of the compensation mandatory statement satisfies the minimum wage guarantee for accepting a job order.

Example: When an insurance sales representative is paid a straight commission, the job order cannot be listed on JobNet unless it guarantees at least minimum wage for hours worked or spent in required training. Only jobs that guarantee at least minimum wage for hours worked or spent in required training can be listed on JobNet.

Occasionally an employer provides a draw against future commission to cover wages until the employee begins to earn commission. ~~If a job listing indicates that a draw against commission is received, the job can only be listed on JobNet if the employer guarantees the draw will at least provide minimum wage for the hours worked or spent in required training after the draw. A draw is usually compensation that has to be paid back to the employer by being subtracted from future commissions. If the employee is no longer employed by the employer prior to paying this draw back, the employer must accept the loss.~~

The following Mandatory Statement must be checked on the Pay and Benefits Tab for commission job orders:

"All methods of compensation must guarantee at least minimum wage as required by Federal and Wisconsin law."

Current wage rates can be found at:

References:

Wisconsin Statute, Chapter 104, Minimum Wage

Discrimination

B4. Discrimination

Job orders that are not in compliance with all applicable state or federal employment laws will not be accepted. This includes all state and federal wage and hour laws, child labor laws, discrimination laws and disability laws.

It is assumed when an employer asks questions or requests certain qualifications of an applicant, that those answers or qualifications are related to the function of the job. If it is not clear what the relationship is between the question or requested qualification and the functions of the job, it is appropriate to question the employer.

When a question arises about the legality of a job order, staff must follow the process for policy and procedures issue resolution (*link*) that is outlined just after Section B of this document.

Please note: Native American tribal entities or businesses located on tribal lands are not subject to state laws and regulatory agencies. Job orders placed by these businesses do not need to comply with non-applicable state laws. See A21. Native American Sovereignty and Job Orders (*link*) and policy memo regarding preference language used by tribal entities in job orders entitled "Preference Language in Job Orders" (*link*), dated October 13, 2004.

On-Call

A4. Casual Employment, and Day Labor, and On-Call Employment

Casual employment and day labor are short-term jobs that occur on an irregular or intermittent basis for a business.

Example: A trucking company needs help unloading a semi-truck.

Job orders from a business or an individual engaged in a business activity which requests short-term labor may be accepted. ~~Job orders must meet the same minimum requirements as any other job order. The employment must meet applicable state and federal laws.~~

On-Call Employment is employment that does not guarantee any work hours in a pay period. The employer contacts the employee when there is work available. The employee only works for the employer when the employer contacts him or her. Minimum work hours in a pay period can be as low as zero.

Example: A nurse who only works when the employer informs him or her of an open shift.

Job Orders for On-Call Employment may be accepted. If you enter a job order for an On-Call position you must indicate the minimum pay as zero and you must choose the “Casual/On-Call” option on the workweek drop down menu. This will generate an automatic mandatory statement:

“This position is an on-call position and can not guarantee that any work hours will be made available in a given pay period to the employee.”

Casual Employment, Day Labor, and On-Call Employment job orders must meet the same minimum requirements as any other job order. The employment must meet applicable state and federal laws.

References:

Wisconsin Administrative Code, Chapter 272

Wisconsin Minimum Wage Posters ([link.](#))