



Meal Waiver Best Practices

Taking a Closer Look at California Meal Periods

Summary

The California Labor Code guarantees employees a 30-minute meal period according to length of shift and type of work. However, in certain instances, employees can choose to skip mandated meal periods with the mutual consent of both the employee and the employer. Because California does not specifically interpret “mutual consent,” many organizations employ meal waivers to document a worker’s choice to skip a meal break without the organization being legally penalized. This can create administrative challenges for the organization, including finding efficient ways to manage waiver paperwork and ensuring an employee’s time and payroll calculations accurately reflect their meal waiver status. A timekeeping system that allows employees to easily change their waiver status, records their changes, and automatically updates their time and pay will significantly streamline meal waiver administration with simplicity, flexibility and trackability.

California—Home of the Protected Worker

It may come as no surprise that the state of California has some of the most specific pro-worker labor laws in the country. Under the statutes of the California Labor Code (sometimes known simply as “the Code”), the Industrial Welfare Commission (IWC) determines the wages, hours and working conditions of California workers to ensure their health, safety and welfare.¹ A good example of the specificity and intent of these civil statutes is California’s meal period provisions.

California Meal Periods

IWC introduced “Meal Period” laws² to guarantee employees receive meal breaks during a work shift. Although the Code customizes meal period regulations into seventeen industry-specific or job-specific wage orders,³ generally employers must:

1. Provide a 30-minute meal period to employees working over five hours.
2. Provide a *second* 30-minute meal period to employees working over ten hours.
3. Relieve employees of all job duties during each meal period.
4. Free employees to leave the worksite/facility or provide a “suitable” area to eat onsite.

However, if the total length of an employee’s shift does not exceed six hours, the Code stipulates a meal period can be waived with “mutual consent” of both employee and employer.⁴ Likewise, an employee whose shift lasts between ten and twelve hours can waive their *second* meal period with mutual consent.⁵

What Is “Mutual Consent”?

Although the Code specifically requires the mutual consent of employee and employer in order to waive a mandatory meal period, it does not stipulate what form “mutual consent” should take. Written or verbal, “mutual consent” must be simple, flexible and trackable. Keeping the mutual consent process simple ensures employees fully understand what they are agreeing to and the procedure the organization requires them to follow. Flexibility allows employees (and employers) to make changes easily with the appropriate lead time. Trackability provides organizations with crucial documentation in the face of a dispute.

With these criteria in mind, many organizations employ meal waivers to document mutual consent. Typically, meal waivers are written agreements signed by both employee and employer that state the employee agrees to waive their right to a mandatory meal period if the length of their shift qualifies them to do so.



Mutual Consent Best Practices: Meal Waivers

Because meal waivers are simple, flexible and trackable, they are ideal vehicles for mutual consent. Best practices in meal waiver administration suggest employers will:

- Keep signed and dated meal waivers on file for every qualifying employee.
- Have the agreement state that once a waiver is on file, it is considered active until the employee changes it.

- Require employees who want to change their waiver status must do it at least 24 hours before their shift.

This ensures meal waivers are easily amended by employees with the right notice and quickly traceable by organizations if the need arises.

On the Problematic Paper Trail

Having a clearly articulated meal waiver policy is just the first step. Many organizations find implementing the process provides its own challenges, specifically:

- Managing waiver paperwork accurately and efficiently.
- Correctly applying the waiver status to the employee's timecard.
- Avoiding (or curbing) employee allegations that meal periods were incorrectly handled.

Organizations that want to successfully manage meal waivers need a system that is easy to implement, responsive to changes and flawlessly records every waiver change.

Streamlining Meal Waivers with Timekeeping

A timekeeping system offers a simple, flexible and trackable solution to meal waiver administration.

Simple. Because many organizations already employ a timekeeping system, it eliminates the cost and setup of a new system. Additionally, automating meal waiver policy through a timekeeping system helps eliminate errors and inaccuracies, especially if the timekeeping system is integrated with other administrative systems such as HR and payroll.

Flexible. A timekeeping system that works in real time means meal waiver status changes can be applied as soon as they are submitted. This ensures an employee's timecard and paycheck are correct without intervention by a manager or supervisor.

Trackable. Every meal waiver status change is captured and traceable—no more lost documentation or accuracy oversights. Additionally, a timekeeping system that offers employees access to their own information empowers them to assess or change their waiver status directly.

Direct Access and Automated Application

A timekeeping system that streamlines meal waiver administration will offer employees direct access to their waiver status, and apply the changes automatically to their timecard, reducing the need for multiple manual transactions by the employee and supervisor.

Direct Access to Waiver Status

The key to effectively streamlining meal waiver paperwork is a timekeeping system that gives employees direct access to their personal time and benefit information through an employee portal. An employee wishing to change their



waiver status can simply log in to the portal and make the change directly in the system. Because every organization's meal waiver policies may differ, the system must be customizable to accommodate the organization's specified wait period before the change takes effect.

When employees edit their waiver status, they will select their appropriate waiver condition from a list predetermined by the organization during system setup. For example, an employee may choose between three typical waiver conditions: no waiver, first lunch waiver, and second lunch waiver. Once an employee selects their waiver condition, it remains active until it is changed.

Automated Application of Waiver Status

When an employee changes their waiver status through the employee portal, the timekeeping system not only captures this change but also automatically applies it to the employee's timecard and payroll calculations. No manual editing of a timecard by the employee or supervisor is required.

Direct access and automated application of meal waiver conditions offer several benefits:

1. ***Puts responsibility in employees' hands.*** Because employees have direct access to their waiver conditions, they can change their waiver status as it suits their needs without undergoing an extensive administrative procedure.
2. ***No added supervisor management.*** If supervisors agree to an employee's waiver changes, the supervisor does not need to take any additional action for the change to take effect.
3. ***Fully automated.*** Once an employee changes their waiver status, the successful timekeeping system completely automates the waiver change procedure, adjusting timecard and payroll calculations.
4. ***Fully trackable.*** The system records every change an employee makes so that transactions can be verified in the instance of a time- or pay-related question or dispute.
5. ***Minimizes oversights and inaccuracies.*** The hands-off, automated procedure ensures organizations can feel confident that waiver changes (and payroll calculations) are processed accurately and efficiently.
6. ***No paper.*** The timekeeping system eliminates the need for physical documentation, instead creating an electronic paper trail.

Streamlining meal waiver administration with a timekeeping system works for every stakeholder (employees, supervisors and the organization overall) to empower employees with the ability to manage their waiver status and ensure an organization is meeting their legal obligations of mutual consent in a trackable way.



Waving Goodbye to Meal Waiver Headaches

When it comes to providing for employee meal periods, California means business. Requiring mutual consent for a worker to waive a meal break is an important check and balance measure for both the employee and the employer. Although meal waivers are a best practice when it comes to documenting mutual consent, administrating waivers in a simple, flexible and trackable way can be challenging. Using a timekeeping system that allows employees to manage their waiver status offers significant advantages including putting waiver responsibility in the hands of the employees, relieving supervisors of unnecessary administrative steps, creating a trackable electronic paper trail, automating changes to timecards and payroll calculations, and eliminating manual inaccuracies that could cause costly legal issues in the long run.

About Attendance on Demand, Inc.

Attendance on Demand supports the labor management needs of thousands of companies and more than a half million employees across North America. Launched in 2006, Attendance on Demand is a rapidly deployed, cloud-based solution that minimizes a company's risk and technology investment while providing advanced features for securely managing labor data—calculating pay rules, scheduling employees, budgeting labor, and automating recordkeeping for labor law compliance. With standard uptime over the industry average of 99.995% and above average customer retention rates, Attendance on Demand removes the worry of maintaining expensive infrastructure. An extensive North American distribution network helps organizations use Attendance on Demand to reduce labor expenses and improve decision-making.

This document simplifies complex labor laws as they are understood by Attendance on Demand, Inc. It is not to be taken as legal advice. For further information about California meal period regulations, visit California Department of Industrial Relations at www.dir.ca.gov or call 1-888-ASK-WAGE.

References

- 1 Industrial Welfare Commission (IWC). "Boards, Commissions & Programs: Industrial Welfare Commission." California Department of Industrial Relations. Web. Accessed 24 Jun 2011. <<http://www.dir.ca.gov/iwc/iwc.html>>
- 2 Industrial Welfare Commission (IWC). "Meal Periods." California Department of Industrial Relations. Web. Accessed 24 Jun 2011. <http://www.dir.ca.gov/dlse/FAQ_MealPeriods.htm>
- 3 Industrial Welfare Commission (IWC). "Industrial Welfare Commission Wage Orders." California Department of Industrial Relations. Web. Accessed 8 Jul 2011. <<http://www.dir.ca.gov/IWC/WageOrderIndustries.htm>>
- 4 Industrial Welfare Commission (IWC). "Meal Periods." California Department of Industrial Relations. Web. Accessed 24 Jun 2011. <http://www.dir.ca.gov/dlse/FAQ_MealPeriods.htm>
- 5 Ibid.





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