

HR Question

Question: I have a problem employee who gave their two-week notice. Management's thinking is "good riddance!" and we want to accept their resignation immediately. The employee has company property at their house, and we're concerned they won't return it. What are the final pay requirements we must follow? Can we withhold a portion of their final check until they return the company property?

Answer: When it comes to employee compensation, there are many potential mistakes that can expose a company to costly litigation. A common mistake relates to issuing an employee's final paycheck.

In most cases, state laws provide the guidelines that companies must follow when rendering that final payment. These guidelines typically include:

- The timing of the final payment;
- The type of compensation that must be included with the final payment; and
- The permissible deductions.

Failure to follow these guidelines can expose an employer to costly penalties.

In order avoid these penalties, we recommend that employers follow these three critical steps:

- Determine when an employee's final wage payment is due and in what form. In most states, final payment is due by the next pay period and can be in the form typically used (such as a check), however in some states:
 - If the termination is involuntary, payment must be given at the time of termination.
 - If the termination is voluntary, there may be a set number of hours or days to prepare the final check.
 - There may be exceptions for certain types of employees (such as exempt, or commissioned employees) and for various situations (such as a layoff or labor dispute).
- Verify what type of compensation must be included in the final payment. Some states require employers to include:
 - A pay-out of the employee's vacation or paid-time-off.
 - Severance, commissions, stocks, or bonuses that were promised (or included as a standard practice).
- Calculate deductions:
 - Withhold all required deductions (such as federal, state, and local income tax).
 - Determine if you can lawfully apply any other deductions.
 - Generally, wages may not be reduced (in part or in full) to ensure return of company property.

Have more questions? Contact Optimum's HR Professionals today.