Employee Records

Do Schools need to comply?

Yes, the compliance required for all employers includes that required under the Fair Work Act 2009 (Cth), the Long Service Leave Regulations 2002 (SA), plus the requirements of the Taxation Office and WorkCover.

Conditions of compliance:

An employer is required to keep an employee record for each employee and to record the information mandated by the Fair Work Act 2009 (Cth) as outlined below. Specific records are also required by South Australian Legislation relating to Long Service Leave. WorkCover requires specific record keeping relating to workers injured at work, and the Taxation Office requires records to be kept relating to all payments and benefits paid to employees and the amount of Taxation withheld.

If you have to comply, what do you have to do?

The Fair Work Act 2009 requires employers to keep a number of written records of their employees for seven (7) years as outlined below. The records must be legible and in English and be readily accessible to an inspector.

The records that must be kept are as detailed below:

1. The names of the employer and employee.
2. The Australian Business Number (ABN) of the Employer.
3. The date the employee started employment.
4. If the employee is full time or part time.
5. If the employee is permanent, temporary or casual.
6. The employee’s rate of pay, including gross and net amounts paid and any deductions from the gross amount.
7. Any loadings, monetary allowances, bonuses, incentive based payments, penalty rates or other entitlements paid that can be singled out.
8. If a penalty rate or loading must be paid for overtime hours actually worked, the number of hours of overtime worked, or when the employee started and finished working overtime.
9. Hours worked if the employee works casual or irregular part-time hours and is guaranteed a pay rate set by reference to a period of time worked.
10. A copy of the written agreement if you and your employee have agreed to average the employee’s work hours.
11. If you and your employee have agreed to an individual flexibility arrangement, a copy of that agreement, and, if the agreement is terminated, a copy of the termination.
12. Leave information for all types of leave, including:
   - Leave taken
   - Leave balance
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- A copy of any agreement to cash out accrued leave, the rate of payment for the leave and when the payment was made.

13. Employees paid superannuation(excluding payments to a defined benefit fund):
- Amount paid
- Pay period
- Date(s) paid
- Name of superannuation fund
- Reason you paid the superannuation into that fund (e.g. a record of the employee’s superannuation fund choice and the date that choice was made).

14. Employee or employer terminates their employment:
- Name of the person who terminated the employment
- How the termination tool place – by consent, by notice, summarily or in some other way (including details).

15. If the employee has been provided with a written guarantee of annual earnings over $133,000 a year as at 1 July 2004 (indexed annually):
- A copy of the written agreement.

The requirements of the Long Service Leave Regulations can be accessed at the link below. You should also access the WorkCover and the ATO websites for further information relating to record keeping in those areas.

What are the consequences if you don’t comply?

If the records are incorrect or not kept, Fair Work Inspectors may give the employer an infringement notice (where the employer has to pay a fine), rather than take them to court. However, if an employer’s failure to meet the requirements is serious, wilful or repetitive, Fair Work Inspectors may take the employer to court.

Employers may also leave themselves open to financial penalties and prosecution if they fail to keep those records required under the Long Service Leave Regulations and by the Australian Taxation Office and WorkCover.

Useful links:

- Australian Taxation Office
- Fair Work Ombudsman
- Long Service Leave Regulations 2002 (SA)
- WorkCover SA