

EMPLOYMENT APPLICATIONS MUST BE FILED WITH DLSE

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As human resource personnel well know, employment law includes a minefield of statutes seemingly designed to trap the unwary employer. One of these is Labor Code §431 which pertains to the filing of employment applications with the Division of Labor Standards Enforcement (DLSE).

Labor Code §431 states, in its entirety: "[i]f an employee or applicant is required to sign an application for employment, the employer shall file in the office of the Division of Labor Standards Enforcement a copy of the form of such application." In addition, pursuant to Labor Code §432, the applicant should be given a copy of any application he or she signs upon request. Indeed, this section of the Labor Code requires that if any employee or applicant requests it, the employer must give a copy of any document signed by the employee or applicant which relates to obtaining or holding employment. In addition to job applications, this could include the 1-9 form, W-4 form, performance reviews and disciplinary warnings.

Like all employment laws, Labor Code §431 and §432 carry a penalty of non-compliance. Specifically, Labor Code §433 provides that any violation of these sections is a misdemeanor. To avoid committing a misdemeanor, employers should mail their current form of job application to the DLSE and provide any documents signed by an employee or applicant to such employee or applicant upon request. Addresses for the various DLSE locations can be obtained by visiting the DLSE website at www.dir.ca.gov/dlse.

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