



FREE HR COMPLIANCE RESOURCE

California Employee Termination Compliance Checklist

For Voluntary Resignations & Involuntary Terminations



FINAL PAY
Timing matters



REQUIRED NOTICES
Avoid missed forms



RISK CHECKS
Document every step

Need help reviewing your separation process?

Book a free 20-minute consultation: info@thehrsuperheroes.com

California Employee Termination Compliance Checklist

For Voluntary Resignations & Involuntary Terminations

California has some of the most employee-protective separation laws in the country. A single misstep — a late final paycheck, a missing notice, or an undocumented decision can expose your company to significant liability. Use this checklist to guide every separation, regardless of the reason.

This checklist shows you what to do - not how to avoid getting it wrong.

Every separation carries legal risk in California. The steps below cover the requirements, but the details, timing, documentation, and consistency are where most employers get exposed.

This resource is for informational purposes only and does not constitute legal advice. California employment law is subject to change. Consult a qualified HR professional or employment attorney before making separation decisions.

Book a free 20-minute consultation to review your separation process - info@thehrsuperheroes.com.

Use this for every separation

Voluntary resignations and involuntary terminations both carry timing, notice, and documentation risk.

Focus on timing + proof

Final pay deadlines, required notices, written records, and consistent communication matter most.

What's inside

PART A

Steps Required for
All Separations

PART B

Additional Steps for Involuntary
Terminations

PART C


Additional Steps for Voluntary
Resignations

PART A Steps Required for All Separations

1 Before the Final Day


Document the reason for separation

Maintain a clear written record of the reason - resignation, mutual agreement, performance, layoff, or misconduct. California's robust wrongful termination laws mean documentation is your first line of defense.

 Risk: Undocumented separations are difficult to defend in wrongful termination or discrimination claims.


Review any existing agreements

Check the employee's offer letter, equity agreements, severance provisions, arbitration clauses, and NDAs before the separation meeting. California has strict rules on what post-employment restrictions are enforceable.

 Risk: Violating contractual terms or failing to honor vested equity rights can result in breach of contract claims.


Calculate all final pay owed

Final pay must include all wages earned, accrued but unused vacation, personal days and combined PTO plans (treated as earned wages in California). It must also include any earned commissions or bonuses, and outstanding expense reimbursements. Errors here are among the most litigated issues in CA employment law.

 Risk: Waiting time penalties of up to 30 days of the employee's daily wage for late or incorrect final pay.

Prepare final paycheck


For involuntary terminations, final pay is due at the time of termination as a live check. For voluntary resignations with at least 72 hours notice, final pay is due on the last day as a live check unless a separate express written authorization has been signed to allow direct deposit. (The original direct deposit form does not suffice). Voluntary resignations given without 72 hours notice, the employer has 72 hours from notice to pay. Using direct deposit does not change the date that wages are due.

 Risk: Waiting time penalties begin accruing the day after final pay is due, up to 30 days of wages.

2 On the Final Day


Deliver final paycheck

Make a copy of the live check for recordkeeping. Present the check to the employee during their exit meeting and ask them to review it for accuracy. Best practice is to have the team member sign an acknowledgement that they received everything due to them in their final pay on time.

 Risk: Each day of delay triggers one day of waiting time penalty at the employee's regular daily rate.


Provide Notice to Employee as to Change in Relationship (**sample form**)

A Change in Relationship form is required for all involuntary separations. The notice informs the employee of their right to file for unemployment benefits and must be provided on or before the last day.

 Risk: Failure to distribute the updated version is treated as non-compliance, even if an older version was previously used.

Provide the 'For Your Benefit' pamphlet (**EDD DE 2320**)

California requires employers to distribute this EDD pamphlet to all employees who are separated, laid off, or placed on a leave of absence — no later than the effective date of separation. It explains unemployment insurance, disability insurance, and paid family leave rights.

 Risk: Failure to provide the DE 2320 violates the CA Unemployment Insurance Code and can delay the employee's access to benefits they are entitled to.


Notify employee of retirement plan rights

If the employee participates in a 401(k), pension, or CalSavers plan, they must be informed of their options — including vested balances, rollover rights, and distribution timelines. ERISA requires specific notices depending on plan type. Confirm with your plan administrator what notices are required.

 Risk: Failure to provide required retirement notices can result in ERISA penalties and fiduciary liability.


Provide COBRA notice and election form

For employers with 20 or more employees, a [COBRA notice and election form](#) must be provided to employees (and covered dependents) who were enrolled in the group health plan. Many insurance carriers handle this automatically upon notification of separation — confirm with your carrier or insurance broker.

 Risk: Failure to provide timely COBRA notice can result in federal penalties.


Provide Cal-COBRA continuation notice

Cal-COBRA applies to employers with 2 to 19 employees who offer a group health plan and provides continuation coverage of up to 36 months. Unlike federal COBRA, Cal-COBRA notice obligations are typically handled directly by your health insurance carrier – confirm with your carrier or insurance broker. This notice is required regardless of company size for employees not covered by federal COBRA.

 Risk: Failure to notify employees of Cal-COBRA rights can result in the employer liability.


Provide HIPP notice (DHCS 9061)

Employers subject to federal COBRA must provide the [Health Insurance Premium Payment \(HIPP\) program notice](#) to terminating employees. The HIPP program may pay COBRA premiums for employees who qualify for Medi-Cal. Best practice is for all employers — even those not subject to COBRA — to distribute this notice.

 Risk: Failure to provide this notice violates Labor Code Section 2807 and may expose the employer to regulatory penalties.


Issue WARN Act notice if applicable

California's WARN Act requires 60 days advance written notice for mass layoffs or plant closings affecting 50 or more employees at businesses with 75 or more total employees. The federal WARN Act has a separate 100-employee threshold. Both laws may apply simultaneously and have different notice and penalty rules.

 Risk: Failure to provide notice triggers liability for up to 60 days of back pay and benefits per affected employee, plus civil penalties.


Collect company property

Retrieve all company-owned items: laptop, phone, access badges, keys, credit cards, and confidential documents. Provide a written receipt. Do not withhold final pay pending return of property — this is illegal in California.

 Risk: Withholding final pay for unreturned property violates CA Labor Code and triggers waiting time penalties.


Revoke system and building access

Disable email, VPN, software licenses, and physical access on or before the final day. Document the time and date access was revoked. For remote employees, coordinate IT offboarding in advance so access ends at the right moment.

 Risk: Delayed access revocation creates data security exposure and potential unauthorized access liability.

Conduct separation meeting and provide written notice of separation

California does not require a written termination letter, but providing one is best practice. Keep the meeting brief, clear, and consistent with your documentation. Avoid vague or shifting explanations that could contradict your written record.


 Risk: Inconsistent or undocumented explanations are frequently cited as evidence of pretext in discrimination and wrongful termination claims.

PART B Additional Steps for Involuntary Terminations

4 Before You Terminate

Review termination decision for legal risk

Evaluate whether the termination could be perceived as discriminatory, retaliatory, or in violation of public policy. Consider protected classes, recent complaints or leave usage, and any whistleblower activity that could provide grounds for a claim.

 Risk: Terminations that coincide with protected activity - even unintentionally - are vulnerable to retaliation claims.


Confirm at-will status and any for-cause requirements

Verify that no contract, offer letter language, or implied promise limits your ability to terminate. Progressive discipline policies in handbooks can sometimes create implied for-cause requirements if not properly disclaimed.

 Risk: Failing to follow your own stated processes can be used as evidence of wrongful termination.


Prepare separation agreement and release if offering severance

If offering severance in exchange for a release of claims, the agreement must meet California-specific requirements. Employees over 40 have additional rights under the ADEA — including 21 days to consider and 7 days to revoke. Improperly drafted releases may be unenforceable.

 Risk: An unenforceable release means the employer paid severance without obtaining the protection it paid for.

Coordinate with HR, legal, and management before communicating


Ensure the decision is documented, reviewed, and approved before any communication with the employee. Last-minute changes or unclear messaging create inconsistency that is difficult to defend.

 Risk: Inconsistent internal communications are discoverable and frequently used against employers in litigation.

5 **Termination for Performance or Misconduct**


Ensure progressive discipline was followed if applicable

If your handbook or past practice establishes a progressive discipline process, deviating from it for one employee while following it for others creates disparate treatment exposure. Document any exceptions and the business reason for them.

 Risk: Skipping steps in a documented process can support claims of discriminatory or pretextual termination.


Confirm performance documentation is complete and consistent

Performance issues cited as the reason for termination must be reflected in prior written documentation — PIPs, written warnings, or review scores. Terminating for a reason that does not appear in the record looks pretextual.

 Risk: Undocumented performance issues are difficult to defend and invite discrimination claims.

Review for retaliation risk

Before finalizing a termination, confirm the employee has not recently filed a complaint, taken protected leave, or engaged in other protected activity. Even legitimate performance issues can be overshadowed if timing raises questions.


 Risk: Retaliation claims are among the most common and expensive employment claims filed in California.

PART C Additional Steps for Voluntary Resignations

6 When an Employee Resigns


Obtain written resignation

Request written notice of resignation whenever possible. This establishes the employee's intent and the effective date, which affects final pay timing. If the employee resigns verbally, follow up with written confirmation of the date and conversation.

 Risk: Without written evidence, an employee may later claim the separation was involuntary, creating wrongful termination exposure.


Clarify last day and final pay timing

If the employee provides at least 72 hours notice, final pay is due on their last day. If less than 72 hours notice is given, the employer has 72 hours from notice to provide final pay. Confirm the effective last day in writing.

 Risk: Miscalculating the final pay deadline triggers waiting time penalties even for voluntary separations.


Determine whether to accept the notice period or end employment immediately

If you choose to send the employee home before their stated last day, California may treat this as an involuntary termination — requiring immediate final pay. Consult before making this decision, particularly if the employee gave at least 72 hours notice.

 Risk: Sending an employee home early without immediate final pay triggers waiting time penalties.


Conduct exit interview (recommended)

Exit interviews provide valuable data on culture and management issues and create a record of the employee's stated reasons for leaving. Document the responses. This information can be useful if the employee later alleges constructive discharge.

 Risk: Skipping exit interviews misses an opportunity to identify systemic issues before they escalate into claims.

Review for constructive discharge risk

If the employee resigned citing intolerable working conditions — harassment, hostile environment, or deliberate pressure to quit — California courts may treat the separation as involuntary. Review the circumstances carefully before treating any resignation as fully voluntary.

 Risk: Constructive discharge claims carry the same liability as wrongful termination and are not defeated simply because the employee resigned.

Need a second set of eyes before a separation?

Book a free 20-minute consultation to review your separation process.

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