



California Outdoor
HOSPITALITY ASSOCIATION

Work Campers Rules & Regulations

"Published for the benefit
of CalOHA Members"

Written in Partnership with:

A PROFESSIONAL LAW CORPORATION
Rudderow Law Group

This White Paper Series is generated for the benefit of CalOHA member parks.

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It has long been a standard practice for many campgrounds to hire work campers. These are individuals or couples that have chosen a lifestyle that combines part-time or full-time work with RV or tent camping. In many cases, work campers exchange or “barter” a set number of hours they will work in exchange for free or reduced rent at a site. Hiring work campers can be a great solution for your operational needs, but if the correct onboarding process and employment contract is not established, it could also leave you vulnerable to risk.

Independent Contractor vs. Employee

California has adopted some of the strictest laws in the country when it comes to defining the difference between employees and independent contractors, and misclassifying workers as independent contractors can result in significant legal and financial consequences for employers. These repercussions may include fines, back taxes and wages, workers comp penalties, and legal action from workers. No so-called “safe harbor” (forgiveness) provisions exist under California law for unintentional misclassification of workers as independent contractors.

In September 2019, Governor Newsom signed [Assembly Bill \(AB\) 5](#) into law, and it took effect on January 1, 2020. The law addresses the “employment status” of workers when the hiring entity claims the worker is an independent contractor and not an employee, by using what is known as the ABC test.

Under the ABC test, a worker is presumed to be an employee (not an independent contractor) unless the hiring entity can show that all three of the following exists:

- The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- The worker performs work that is outside the usual course of the hiring entity’s business; **and**
- The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for the hiring entity.

Following these guidelines, an independent contractor is someone who has an established trade, such as a plumber or electrician, that you hire to come and do a job in your park at a price point and timeline of their discretion. If someone is truly an independent contractor, they must be paying self-employment taxes.

If a park owner is sued regarding a work camper’s status, there is a very good chance that a court will find the work camper was an employee since, among other things, work campers usually work under the direction of the park owner.

Employing Work Campers

If you choose to hire a work camper as an employee, it is recommended that you and the camper sign an employment contract. You should outline the specific duties that the worker is responsible for, the hours they are contracted to work, the compensation they will receive, the length of time you intend that camper to remain in the park, and the fact that the employment relationship is “at will,” entitling the employer to

terminate the work camper for any reason (or no reason at all). If you are offering a campsite in exchange for the work camper's services, you should establish that the site is an incidental benefit of employment, and upon termination initiated by either party, the site must be vacated within a certain time frame.

When trading work for campsites and utilities, it is recommended that you consult with your payroll company to make sure you are paying minimum wage and paying proper payroll taxes. It is also important to keep accurate documentation of the employee's hours as well as provide him or her with a W-2.

A work camper's status as an employee needs to be reflected in your business's payroll and they must also be reported to your workers' compensation insurance. If a work camper isn't reported to your workers' compensation insurance and they injure themselves while performing duties for your park, your insurance will not cover any of their medical expenses, leaving you to pay out of pocket or liable to a lawsuit should they choose to sue.

Volunteers

A camper staying at your park may offer to lend a hand with an event or special project happening in your park and when accepting this type of help, it is important to know the line between someone being a volunteer and when they would officially be considered an employee.

A volunteer may only assist with tasks that do not pertain to your park's established business practices, meaning they should not be given any duties typically assigned to an employee such as answering phone calls or checking guests in. Partaking in an established business practice would categorize a person as an employee, and they would then need to be compensated as such. Volunteers can, however, assist with tasks outside the business's normal scope of operations such as organizing a potluck, setting up a game night, or assisting with a special event. When accepting help from a volunteer, it is always a good idea to consult your attorney before having them perform any tasks.

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