

Professional Employer Organization FAQs

Q. What is a Professional Employer Organization?

A. A professional employer organization (PEO) provides administrative employer services to employers and their employees. The services include payroll processing, payroll tax filing, COBRA administration, employer compliance assistance and human resource consulting. The PEO also sponsors and provides employee benefits such as group health and dental insurance, 401(k) plans and cafeteria plans. The PEO provides its services by way of a written agreement with an employer wherein the PEO agrees to assume certain employer responsibilities and provide certain employee benefits.

Q. How is a PEO different from a temporary staffing company?

A. A temporary staffing company recruits, screens, hires, and then deploys its workers to work at customers' locations, typically for short-term assignments. The customer retains the temporary staffing company to supplement its existing workforce. When a temporary employee's assignment is completed, the worker reports back to the temporary staffing company for a new assignment. The temporary staffing company typically maintains a "roster" of available workers who can be deployed to a customer location based on the particular needs of the customer. A PEO, on the other hand, does not recruit, screen or deploy workers. The PEO enters into an agreement with an employer that has an existing workforce that does not require supplemental workers. The PEO provides services to this existing workforce and becomes a "second employer" that jointly employs with its customer the workers at the customer's location. The PEO assumes the administrative, benefits, insurance, and compliance aspects of being an employer, while the customer focuses on the day-to-day obligations of the business. The workers continue to report to the same supervisors as prior to the PEO relationship and the customer continues to be the employer for purposes of primary direction and control of the workers and the customer's business.

Q. Must a PEO be licensed to operate?

A. As of April 2005, there are 26 states that either require a PEO to obtain a license or be registered as a condition of doing business. It is very important for a PEO to be properly licensed or registered prior to conducting business in such a state.

Q. Does a temporary staffing company need a license to operate?

A. Other than local licenses that apply to all business in a particular location (i.e. business permits), there are no states that require a temporary staffing company to obtain a license to operate. There are a few states that do require some form of registration by a temporary staffing company for purposes of insurance and/or transporting employees.

Q. Can a PEO client sponsor and maintain its own workers compensation insurance?

A. This is a question of state law. We are unaware of any state law that prohibits a PEO client from securing and maintaining its own workers compensation insurance in the voluntary market; however, there are some states, the most notable being Texas, that have suggested that their licensing law requires the PEO to be the named insured under a workers compensation policy that covers PEO worksite employees. This is a very tricky area of the law and a PEO should consult legal counsel prior to allowing a client to secure and maintain its own workers compensation insurance.

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