



# **Employer Non-Discrimination Testing Questionnaire (2026)**

Frequently Asked Questions



## FAQ – Employer Non-Discrimination Testing Questionnaire (2026)

### Laborers Pension and Annuity Plans of Northern California

**1. Question: Why am I receiving this questionnaire?**

**Answer:** Under the Employee Retirement Income Security Act (ERISA), the Laborers Pension and Annuity Plans for Northern California are required to file an Annual Report (Form 5500) with the Employee Benefits Security Administration of the United States Department of Labor. As part of the filing, both of the Plans must be able to demonstrate that each individual contributing to each Plan does not “discriminate” in favor of its “highly compensated employees.” This questionnaire is designed to collect information necessary to demonstrate compliance with these rules.

**2. Question: Who are non-bargained employees?**

**Answer:** Non-bargained employees are employees who are not covered by a collective bargaining agreement.

**3. Question: What is the definition of a Highly Compensated Employee (HCE)?**

**Answer:** A “highly compensated employee” is an employee who satisfies either of the following two conditions:

1. An employee who received compensation in excess of \$135,000 during 2025 or \$130,000 during 2024 and who was in the top 20% of all employees in your company when ranked on the basis of compensation; or
2. An employee who had at least a 5% or greater ownership in your company in 2025 or 2024.

**4. Question: My company only contributes to the Pension Plan, do I need to complete the questionnaire for the Annuity Plan as well?**

**Answer:** Yes. If your company only contributes to one Plan, your answer to #1 for the other plan will be “No.” After answering that question, you can simply sign and submit the questionnaire for that plan.

**5. Question: I prefer to receive a hard-copy questionnaire. How can I receive one?**

**Answer:** Email Cynthia Vincent, Compliance Analyst at [cvincent@lfao.org](mailto:cvincent@lfao.org), to request that a PDF be sent to you via email. Once you complete the questionnaire, you can return it via email, or by mailing it to:

Cynthia Vincent, Compliance Analyst

**Laborers Funds Administrative Office of Northern California, Inc.**

5672 Stoneridge Drive, Suite 100

Pleasanton, CA 94588

**6. Question:** **I have received the survey, but I have questions. Who can I call?**

**Answer:** Please contact the Employer Services Department via phone at (707) 863-3480 for assistance completing the questionnaire.

**7. Question:** **What is a Bargaining Unit Alumni?**

**Answer:** These are certain individuals who are currently non-bargained employees who may still qualify for treatment as bargaining unit employees and therefore automatically pass nondiscrimination testing under an exception for employees whom a collective bargaining agreement covered in the past. This exception is available if all of the following conditions are met:

- The individual was originally covered by the Plan as a member of the bargaining unit; and
- The individual currently works for an employer that also contributes on behalf of collectively bargained employees, or for the Fund Office or a Union Local; and
- The individual's participation in the Plan is permitted by a written participation agreement or similar agreement; and
- The Plan's rules for benefit accruals by bargaining unit alumni are no more favorable than for employees working under a collective bargaining agreement; and
- No more than 5% of all participants in the Plan are non-bargained

**8. Question:** **Does this questionnaire request information covering a certain period?**

**Answer:** Please answer the questions that follow based on your employee population as of January 1, 2026.

**9. Question:** **What is a leased employee?**

**Answer:** Leased employees are those employees who are not employees of your company, but who:

- Perform services on the basis of an agreement between your company and any other person or organization;
- Have performed services on a substantially full-time basis for at least one year; and
- Perform such service under the primary direction or control of your company.