



THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha



VOLUME 5779 • ISSUE XXXVIII • VAESCHANAN-NACHAMU • A PUBLICATION OF THE BAIS HAVAAD HALACHA CENTER

LEAVING THE CLASSROOM POORLY

NO PENSION FOR TEACHERS?

Rabbi Boruch Meir Levin, shlit'a; Dayan Bais HaVad

After being a rebbe for over 20 years at a local elementary school, a rebbe is retiring at the end of this year. The administration was financially very supportive over the years despite the hardships they faced. However, they do not seem to be offering any sort of severance pay or pension plan, nor is there any mention of one in the contract. Would there be any halachic basis to request some sort of financial “package” upon retirement?

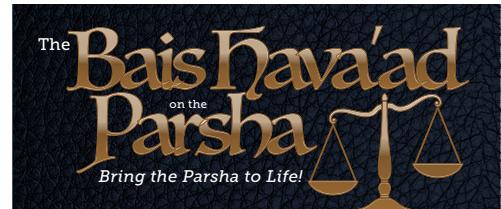
Strictly speaking, there is no requirement in *halacha* for an employer to offer any sort of compensation to an employee at the termination of his employment, beyond what is included in the contract. This would be so, regardless if the termination is initiated by the employee or the employer. While the Torah does obligate a master to give an extra payment to his Jewish slave upon being set free, which is the mitzvah of *ha'anaka*, this is only limited to slaves and not standard workers.

Nevertheless, the *sefer hachinuchi*¹ writes that one should heed to the underlying factor of this *halacha* and apply it to the standard worker as well. Therefore, he says, when one's

employee takes leave, he should reward him “severance pay” from that which he was blessed by *Hashem*. Although this act would be one of *lifnim mishuras hadin* - beyond the letter of the law, some poskim² maintain that since the concept of *lifnim mishuras hadin* is derived from the pasuk of *v'asisa hayasher v'hatov* – “you shall practice what is just and good”, it is in fact incumbent on one to act as such. According to this view, it would be within bais din's realm to enforce some sort of severance payment.

In some industries or regions, it is in fact the accepted practice for companies to offer what is termed “severance pay” if and when they layoff an employee. In an industry where this is indeed so, it would become obligatory on any employer to offer this payment, even if it were not stated in the employment contract.³ However, the whole concept of severance pay, would only apply if one is leaving his job because the school is no longer offering him the opportunity to continue it. It is in such an instance where many employers feel it only right, and indeed *lifnim mishuras hadin* so dictates, to offer some sort of compensation to the employee for not offering to renew his contract. If, however, the school is still offering the job, and rather it is the employee who is taking the initiative of leaving, the concept of *lifnim mishuras hadin* would not apply⁴ and neither could we draw parallel from any accepted practice. In such an instance the only compensation an employer would offer is a pension plan, but such a plan would have to be built into the employment contract as there doesn't seem to be any established practice of offering such compensation in the absence of a specific agreement.

(continued on back)



Rabbi Yosef Jacobovits, shlit'a

HEAR MY TESTIMONY: KRIAS SHEMA BY PROXY

What are the requirements for relying on another person's recitation of krias shema?

The *pasuk* of *vedibarta bam-*

Gemara: teaches that a person's primary speech should be *Torah*.

Yerushalmi- teaches that certain obligations can only be fulfilled by the person himself. It isn't sufficient to just listen to another person and discharge his obligation via *shomea ke'oneh*. E.g. *krias shema*.

Gemara Megila- one needs ten people in order to fulfill the halacha of *shomea ke'oneh* with regards to *krias shema*.

Magen Avraham- Three conditions for *krias shema*: a] listening b] responding amen c] in the presence of ten people.

Why the extra condition for *krias shema*?

There are two types of *shomea ke'oneh*:

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2 רמ"א (ס"י י"ב ס"ב) בשם י"ח הילקון, והש"ך (שם) בשם הב"ה.
3 עיין במניו ח"ז ס"ז שכתב דין הוא המנתג בא"י, וושעפיין מוחייבים והתייחסו שם בשלומין זו.
4 מג"י בתשובה ג"ל.

(continued from front pg.)

Nevertheless, with regard to *rebbeim* and *menahilim* specifically, there does seem to be an established practice among schools, to offer them, upon their leave, one month's payment

per year of service, regardless of their basis for the termination. This practice, referred to as "*chodesh l'shana*", was initiated primarily by Torah Umesorah in the mid 20th century

to partially compensate for the inadequate "nest egg" a rebbe usually has (or does not have!) at the time of his retirement. As such, a Bais Din may require a school to follow this practice.

GENERAL HALACHA

(continued from pg. 2)

Fact Checker did give President Obama two Pinocchios for flatly declaring that "there's no solid evidence that a higher minimum wage costs jobs", but it also acknowledges that:

The [2013 Economic Report of the President] noted that most economists had once believed an increase in the minimum wage would reduce employment but that "the consensus view among economists has since shifted as more evidence has accumulated." It also cited a 2009 meta-analysis of 64 studies of the minimum wage that found "no evidence of a meaningful adverse employment effect" of the minimum wage.

On the other hand:

The problem is that while there may be a new consensus emerging on the left-leaning side of economic theory, there is an equally fierce response from other economists.

In 2006, economists David Neumark and William Wascher published a survey of more than 100 studies, and came to an opposite conclu-

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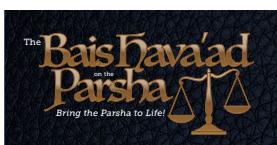
sion, directly contradicting the results of the so-called New Minimum Wage Research. They found that the majority of the studies showed that "raising the minimum wage leads to economic distortions and often has unintended adverse consequences for the employment opportunities of low-skilled

workers."

In the final analysis, it is probably fair to say that "objective", "neutral" economics will not settle this debate, and one's understanding of the Torah's view of minimum wage legislation will ultimately depend on the sorts of economic ideologies articulated in the rent control debate.



(continued from front pg.)



listening to another person's recitation to discharge his own obligation where

the one listening is considered as if he himself actually articulated the *bracha*.

Possible answer: The Magen Avraham is of the

opinion that one is required to articulate himself the *krias shema*, and relying on someone else's recitation would necessitate, in addition to listening, the extra step of ten people and responding *amen*.

We find the same concept by the obligation to recite 100 *brochos* on Shabbos.

The Rosh: listen to others and respond amen to accumulate 100 *brochos*.

Ma'adanei Yom Tov asks: Why necessary to add the amen? Isn't *shomea ke'oneh* sufficient?

Answer-to be considered as if he articulated the *bracha* himself, one needs the added benefit of responding *amen*.



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