



HR Compliance Quick-Check

Whether your company has 5 employees or 500, it's important to conduct a regular review of your HR and benefits-related notices, records, and procedures to ensure compliance with the law. The checklist below features key steps for evaluating your management practices to help keep your company HR compliant.

Hiring

- Job descriptions, advertisements, and interviews are ADA compliant and meet state nondiscrimination requirements related to disability.
- Employment applications comply with state laws about prohibited interview statements.
- All interview questions are appropriate, and relate directly to the position and the applicant's ability to perform the job's essential functions. Questions do not discriminate based on race, sex, religion, age, ethnic group, national origin, marital status, military service, disability, or any other protected status.
- Written authorization is obtained for background checks, and Fair Credit Reporting Act requirements are satisfied, along with state requirements for conducting background checks.
- Policies and procedures related to drug testing, use of arrest and conviction records, and other candidate-information requests comply with federal and state law.
- All recruitment and hiring strategies, policies, and procedures comply with federal and state nondiscrimination laws.
- Job offer letters are reviewed by an HR specialist or employment law attorney and include a statement regarding employment at-will.
- Forms I-9 are completed for all new employees within 3 business days from the first day of work for pay.
- New hire reporting requirements are satisfied and necessary tax forms (Form W-4 and any required state forms) are collected from new employees.
- Orientation and onboarding programs are ready for welcoming new employees and familiarizing them with your basic management practices.

Employee Pay

- Employees are properly classified as exempt or non-exempt based on their specific job duties and compensation. (Note: Job titles alone do not determine an employee's exempt or non-exempt status.)
- All pay practices, including minimum wage and overtime compensation comply with the Fair Labor Standards Act and related state laws.
- Employee pay periods (weekly, bi-weekly, semi-monthly) are scheduled in accordance with state wage payment timing requirements.
- Pay and incentive programs treat employees equitably, and decisions about promotions and merit raises are based on clear, objective criteria.
- Independent contractor relationships are carefully reviewed to prevent misclassification.

Benefits

- Employee benefit plans (medical and retirement) comply with all requirements under federal and state law, including Health Care Reform notices and other requirements for group health plans.
- All plan documents, including enrollment forms and employee communications, are accurate, consistent, and legally compliant.
- Summary plan descriptions (SPDs) and other benefit plan notices are distributed to employees as required under federal and state law.
- All reporting and filing requirements for medical and retirement benefits are satisfied.

- Employees are provided required notices about continuation of health coverage under COBRA or state "mini-COBRA" laws, and all obligations for continuation coverage are fulfilled.
- Policies and procedures on paid vacation, holidays, and sick leave are reviewed on a regular basis (including for compliance with FMLA or similar state laws), along with other benefits offered, such as flex-time and telecommuting.
- Information about benefits is clearly communicated to employees, and policies and procedures for benefits are applied fairly and consistently.

Employee Policies & Procedures

- All company policies and procedures comply with federal and state labor laws on employee leave, equal employment opportunity, sexual harassment, worker safety, and other requirements.
- Every employee is provided a handbook explaining company policies and procedures for standards of conduct, nondiscrimination, benefits, and other terms and conditions of employment. (Be sure employees sign a receipt acknowledging that they have reviewed the handbook.)
- Labor law posters required to be displayed under federal and state law are posted where employees can easily see them.
- Procedures are in place for maintaining employee records and files as required by law, including for designating the information to be collected, confidentiality, and how long to keep records. Medical records and other confidential documents are kept in a separate file from personnel files.
- Employees receive necessary skills and regulatory training, including training on safety and sexual harassment.
- Human resources policies and procedures apply equally to all employees, and are applied fairly and consistently throughout the company.

Performance Reviews

- Performance reviews are conducted for all employees on a regular basis.
- Job expectations and responsibilities are clearly communicated to employees, including the conduct and results required and the performance standards by which they will be measured.
- Systems for measuring performance are in place (e.g., number of sales or customer satisfaction), based on specific job-related functions and criteria set forth in the employee's job description.
- Employee job descriptions are reviewed and updated at least annually.
- Accurate documentation regarding performance is kept for each employee and documentation is direct, factual, and detail-oriented to support disciplinary or other personnel decisions.
- Employee performance reviews are based upon specific, job-related criteria, and feedback provided is factual and complete.
- Performance is compared against job descriptions and goals.
- The review process and systems for measuring performance treat employees equitably.

Employee Discipline & Termination

- Policies and procedures for handling employee disciplinary actions and investigations are clearly defined, written, and communicated to employees.
- All matters involving employee discipline warnings, investigations, and terminations are carefully and accurately documented, and related notices are reviewed on a regular basis.
- Termination meetings are conducted to inform the employee of the termination, discuss return of company property, deliver the employee's final paycheck, and facilitate the employee's departure. A summary of the meeting and any related information is prepared and placed in the employee's personnel file.

- ❑ Departing employees are provided with a written summary of accrued benefits and notices about post-termination benefits, including, where applicable, compensation for vacation and sick time, continuation of health coverage, severance pay, and 401(k) plan information. Be sure to comply with any applicable federal or state requirements.
- ❑ Policies are in place for collecting keys and other company property from the terminated employee and confirming that access to computer systems, email, and voicemail is deactivated.
- ❑ Final paychecks are delivered at the time of termination, or as otherwise required by state law.
- ❑ Neutral references confirming a former employee's position and dates of employment are available upon request in accordance with company policy.
- ❑ Discipline, investigation, and termination procedures comply with applicable federal and state laws and are enforced fairly and consistently.

Please note that the above list is not all-inclusive. If an HR assessment reveals violations that are not subsequently corrected, your company could be at risk for fines or lawsuits. If you have any questions about your obligations under the law or about best practices when it comes to HR compliance, please consult with a knowledgeable employment law attorney for individualized guidance.