

Human Resources Series



# "Must-Do" HR Compliance Checklist



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Whether your company has 5 or 500 employees, it's important to conduct a regular review of your HR and benefits-related notices, records and procedures to ensure compliance with the law and prevent potential liabilities and employee lawsuits. 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 requirements.
- Review employment applications for compliance with any applicable state laws regarding prohibited questions or statements that should be included.
- 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 other protected status.
- Written authorization is obtained for background checks and [Fair Credit Reporting Act](#) requirements are satisfied, along with any 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 applicable federal and state law.
- Evaluate all recruitment and hiring strategies, policies, and procedures to ensure compliance 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.
- Review your orientation/onboarding program for welcoming new employees and familiarizing them with the company's 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.)
- Review all pay practices, including minimum wage and overtime compensation, for compliance with the [Fair Labor Standards Act](#) and any state laws that are more favorable to employees.
- 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 regarding promotions and merit raises are based on clear, objective criteria.
- Independent contractor relationships are carefully reviewed to prevent [misclassification](#).

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## 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.
- Review all plan documents, including enrollment forms and employee communications, to ensure they are accurate, consistent, and in compliance with applicable law.
- [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 related to medical and retirement benefits are satisfied.
- Employees are provided required notices regarding continuation of health coverage under [COBRA](#) or state "mini-COBRA" laws (if your company is subject to those requirements), and all obligations with respect to continuation coverage are fulfilled.
- Review policies and procedures relating to paid vacation, holidays and sick leave (including compliance with [FMLA](#) or similar state laws that may apply to your company) on a regular basis, along with other benefits offered such as flex-time and telecommuting.
- Information regarding benefits is clearly communicated to employees, and policies and procedures related to benefits are applied fairly and consistently.

## EMPLOYEE POLICIES & PROCEDURES

- All company policies and procedures comply with federal and state labor laws related to employee leave, equal employment opportunity, sexual harassment, worker safety and other requirements.
- Every employee is provided with a handbook explaining the company's policies and procedures related to standards of conduct, nondiscrimination, benefits and other terms and conditions of employment. (Be sure the employee signs a receipt acknowledging that he or she has 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 what information should be collected, confidentiality, and how long to keep records. Medical records and other confidential documents are kept in a separate file from the employee's personnel file.
- Employees receive necessary skills and regulatory training, including 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.

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### PERFORMANCE REVIEWS (CONT'D)

- 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 honest, factual and complete.
- Performance is compared against job descriptions and goals to offer ongoing feedback.
- The review process and systems for measuring performance treat employees equitably.

### EMPLOYEE DISCIPLINE & TERMINATION

- All policies and procedures for handling employee disciplinary actions and investigations are clearly defined, written, and communicated to employees as appropriate.
- 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 the return of company property, deliver the 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 regarding 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 are 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 held and dates of employment are available upon request in accordance with company policy.
- Review all discipline, investigation, and termination procedures for compliance with applicable federal and state laws and enforce them 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 costly fines or lawsuits. If you have any questions regarding 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.

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