

## HR COMPLIANCE CHECKLIST

This checklist features key steps for evaluating your practices in order to keep your bank HR compliant.<sup>1</sup>

### HIRING PRACTICES

- All job postings and advertisements include the bank's EEO and Affirmative Action statement.
- Review job descriptions at least annually to ensure that essential job functions and physical requirements are up to date.
- Interview questions are appropriate and relate to the applicant's ability to perform the essential job functions. Questions do not discriminate based on race, sex, religion, age, ethnic group, national origin, marital status, military service, disability or other protected status.
- Receipt of voluntary pre-employment self-identification form for OFCCP compliance with Affirmative Action, Disabled and Veterans Identification. (File separate from applicant file or employment file.)
- Written authorization 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 comply with federal and state law.
- Job offer letters 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.
- E-verify procedures have been completed after completion of I-9 form
- New hire reporting requirements are completed including, but not limited to:
  - Post employment voluntary self-identification form used for EEO-1 reporting, Affirmative Action Plan, Disabled and Vets-4212 reporting
  - Form W-4 and L-4 tax forms

## **PAY PRACTICES**

- Employees are properly classified as exempt or non-exempt based on their specific job duties and compensation.
- Independent contractor relationships are reviewed annually to prevent misclassification.
- Review all pay practices, including minimum wage and overtime compensation, for compliance with the Fair Labor Standards Act (FLSA) and any state laws.
- Employee pay periods 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.

## **EMPLOYMENT POLICIES**

- All company policies comply with state and federal laws related to equal employment opportunity, sexual harassment, employee leave and other requirements.
- Labor law posters required under federal and state laws are posted in all business units/locations where employees can easily see them.
- Each employee has received a handbook explaining the bank's policies and procedures related to standards of conduct, nondiscrimination, benefits and other terms and conditions of employment.
- Each employee has signed a receipt acknowledging that he or she has received and has reviewed the handbook. Receipts are signed and received for any updated distributions.
- Policies are applied equally to all employees, and are applied fairly and consistently throughout the bank.
- Procedures are in place for maintaining employee records and files as required by law, including what information should be collected, confidentiality of records and length of retention. (See records retention)
- Employees/Managers receive necessary regulatory training, including sexual harassment training.

## PERFORMANCE

- Job responsibilities are clearly communicated to employees. Employees understand the results required and the performance standards by which they will be measured.
- Employee job descriptions are reviewed at least annually.
- Performance reviews are conducted for all employees on a regular basis.
- Accurate documentation regarding performance is kept for each employee and documentation is factual and detail-oriented in order to support disciplinary or other personnel decisions.
- The performance review system used for measuring performance treats employees equitably.
- Annual reviews are signed by both supervisor and employee (or electronically signed) and stored in employee's personnel file.

## BENEFITS

- Employee benefit plans (medical and retirement) comply with all requirements under federal and state law, including new Health Care Reform notices and other requirements for group health plans.
- Employees are provided required notices regarding continuation of health coverage under COBRA (including posting of notice, new hire distribution, employee handbook insertion and required notifications at termination.)
- 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 (SPD's) and other benefit plan notices are distributed timely to employees as required by federal and/or state law.
- All reporting and filing requirements related to medical and retirement plans are satisfied. (Form 5500)

## EMPLOYEE DISCIPLINE AND TERMINATION

- All policies and procedures for handling employee disciplinary actions and investigations are clearly defined, written and communicated to employees.
- Managers/newly hired managers have been trained on the disciplinary process.
- Employee disciplinary warnings, investigations and terminations are carefully documented and reviewed by HR on a regular basis.
- Process is in place to facilitate the return of company property and review of final pay and benefits. HR or manager should facilitate employee's departure if involuntary.
- Departing employee receives a letter or outline of payment of any accrued benefits and notices regarding post termination benefits, including vacation/sick time/PTO, continuation of health coverage, severance pay (if applicable) and 401(k) information.
- Date of final pay and benefit payout must comply with any applicable state requirements.
- Policies and checklists are in place for collecting keys and other company policies and confirmation of deactivation of computer systems, email, voicemail and other devices. Communication to proper departments documented.
- Review all discipline, investigation and termination procedures for compliance with applicable federal and state law and enforce them fairly and consistently.

## ANNUAL REPORTING

- **EEO-1 (Form 100)**– file electronically no later than 9/30 annually
  - Private employer reporting requirements–100 or more
  - Banks/federal contractor reporting requirements–50 or more
  - Use voluntary self identification form for all new hires
  - Use payroll snapshot from July 1 thru Sept 30
  - Copies stored in Human Resources and filed with AAP
  - Retention of report and records– 2 years after report filing
  
- **VETS-4214 (formerly called VETS-100)**–file electronically no later than 9/30 annually
  - Private employer reporting requirements–100 or more
  - Banks/federal contractor reporting requirements–50 or more
  - Use voluntary self identification form for all new hires
  - Use payroll snapshot from July 1 thru Aug 30
  - Copies stored in Human Resources and filed with AAP
  - Retention of report and records– 3 years after report filing
  
- **Form 5500/Summary Annual Reports** completed for each health and welfare plan –file electronically no later than last day of 7<sup>th</sup> month after plan year ends
  - 5500 reporting requirements (for health plans)– 100 participants at beginning of plan year
  - 5500 reporting requirements (for any type of pension plan)– required regardless of number of participants
  - Separate Form 5500 and accompanying schedules for each pension plan sponsored
  - Separate Form 5500 for each health and welfare plan or “wrap document” filed for all defined health plans is acceptable
  - Copies stored with bank’s administrator of benefits
  - Retention– 6 years after report filing
  
- **Affirmative Action Plan** completed for current year as defined by plan (not filed electronically)
  - Banks/federal contractor–50 or more
  - Use voluntary self identification form for all new hires
  - Determine date of snapshot and use prior 12 months employment data to complete report
  - Plan should include reporting for minorities and women, disabled and protected veterans
  - Copies stored in Human Resources and at executive office for viewing
  - Retention of report and records– 2 years after close of AAP year

## EMPLOYEE RECORDS SET-UP

- Separate filing from main personnel file
  - I-9 forms
  - Data collected for EEO, Affirmative Action, Disabled and Protected Veterans reporting
  - Pre-employment information
  - Investigation notes (any final disciplinary actions based on investigation may be placed in individual's file)
  - Medical files/FMLA requests/Worker's Comp claims
  - Payroll or benefit information may be kept in separate file if it contains confidential information or if function is administered separately
  - Safety records
  
- Policy or consistent practice in place regarding employee access to personnel files

## RETENTION OF EMPLOYEE RECORDS

- Below are guidelines for retention periods for both electronic and paper-based records <sup>ii</sup>:
  - Personnel—including compensation, job history, performance appraisals and disciplinary actions— 7 years after termination
  - Payroll records, time sheets/cards—3 years
  - Employee tax withholding records— 4 years after filing is made
  - Employee benefit plan records (pension plans, insurance plans)— 6 years after plan year
  - I-9 forms— 3 years after DOH or 1 year after termination, whichever is later
  - Hiring Records— 1 year after hiring decision, 2 years for federal contractor
  - FMLA – 3 years after termination
  - OSHA records—5 years for occupational illness or injury records

If the employer is involved in an employment-related dispute with a terminated employee and this dispute has not yet been reconciled, retain all documents relating to that employee. Keep for 2 years after dispute resolution.

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<sup>i</sup> This information is offered for informational purposes only and should not be construed as legal advice. Information is not extensive of all regulations, but should be considered a general listing of best practices. Please seek legal advice as needed.

<sup>ii</sup> Information used from SHRM “Recordkeeping Policy: Record Maintenance, Retention and Destruction,” July 14, 2014.