



Why Self-Audits Are Essential for HR Compliance

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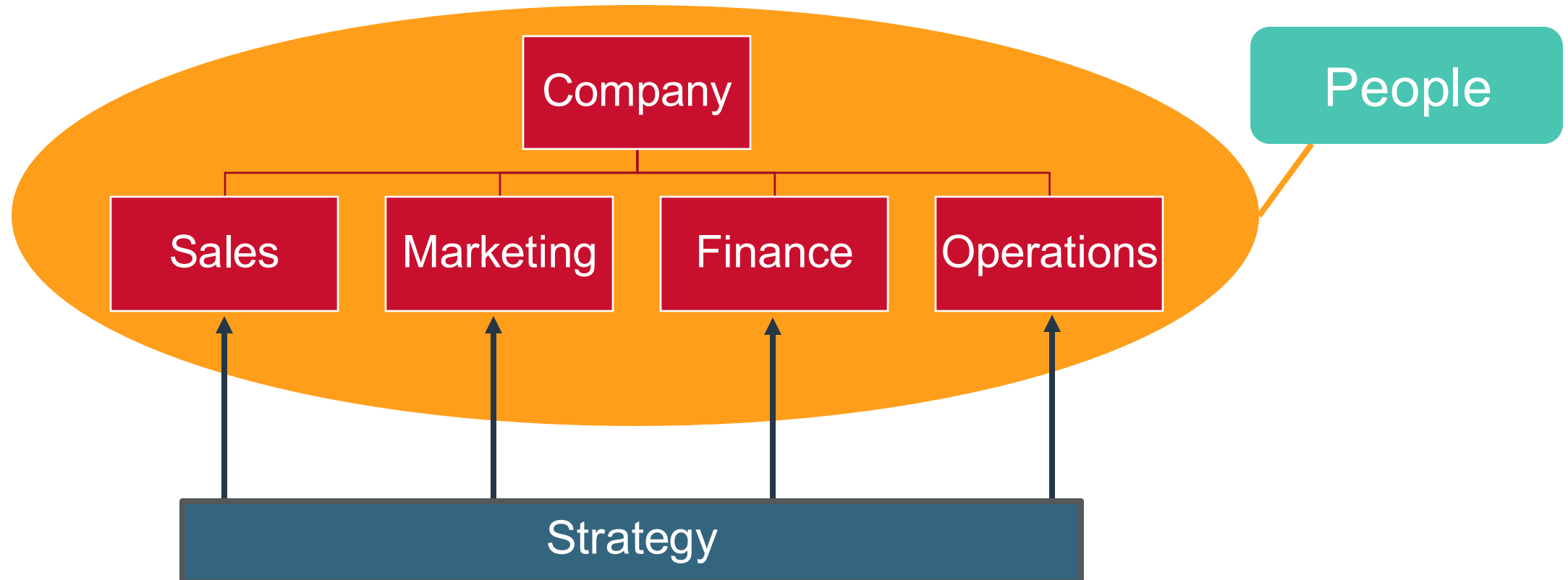
Lisa Bauer, Director, Compliance Services



Basic business strategy construct

“The purpose of a business is to create and keep a customer.”

– Peter Drucker



What is a “people strategy?”

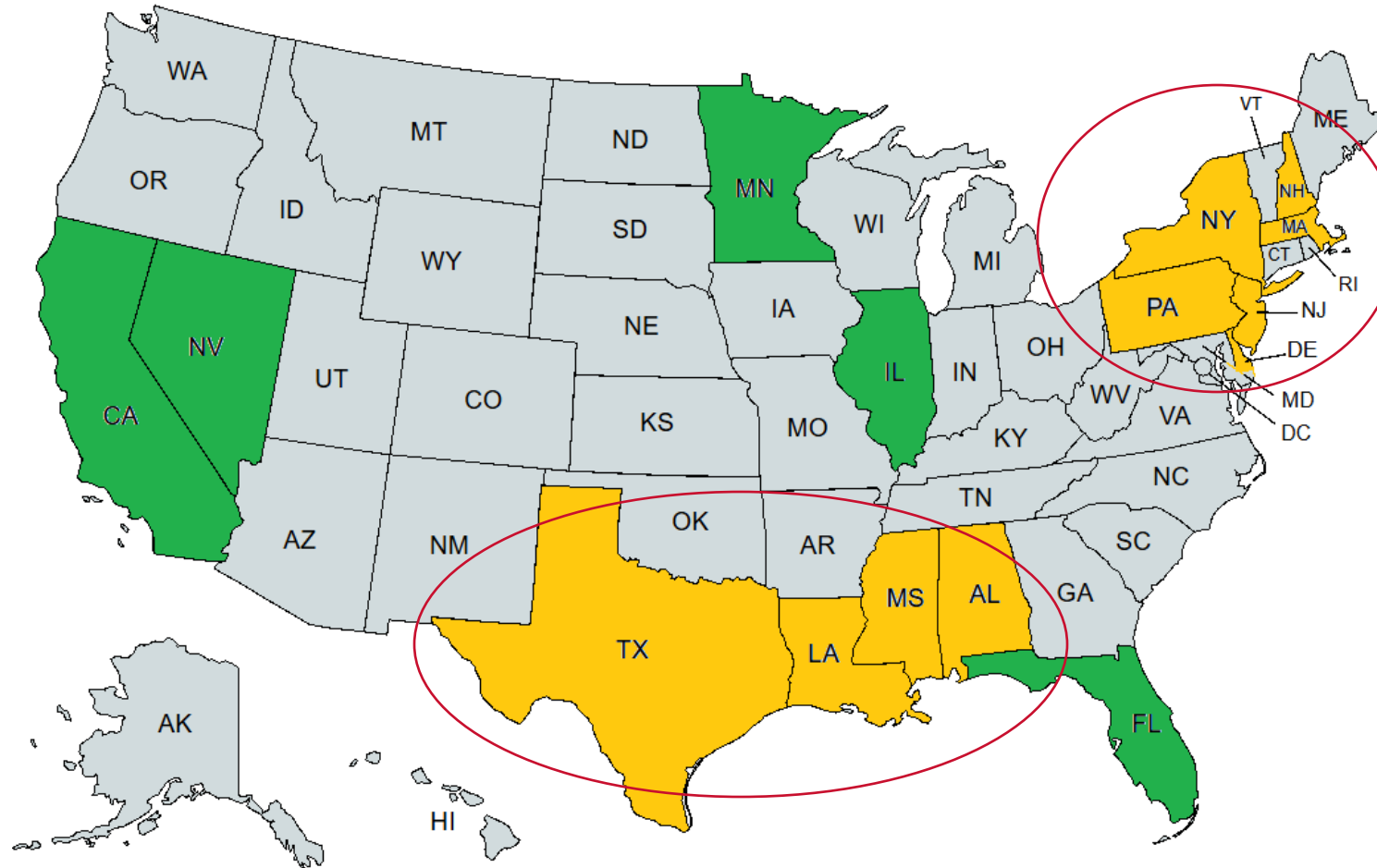
The purpose of a people strategy is to attract and retain top talent to deliver on your customer promise.

People strategy should include:

- Competitive compensation and benefits
- Personal and professional development
- Career path opportunities
- Rewards and recognition
- Compliance with labor and employment laws



Complexity of compliance



Physical Offices

Remote Employees

Employment & labor compliance defined

- Adherence to applicable laws and regulations impacting the employer/employee relationship:
 - Respect in the workplace
 - Equal opportunity
 - Work/life balance
 - Fair wages
 - Safety and security
 - Privacy protections
- Compliance with:
 - Legislation (federal, state, and local)
 - State/federal agency rules
 - Court decisions



Importance of compliance

Q: Does compliance apply to small businesses?

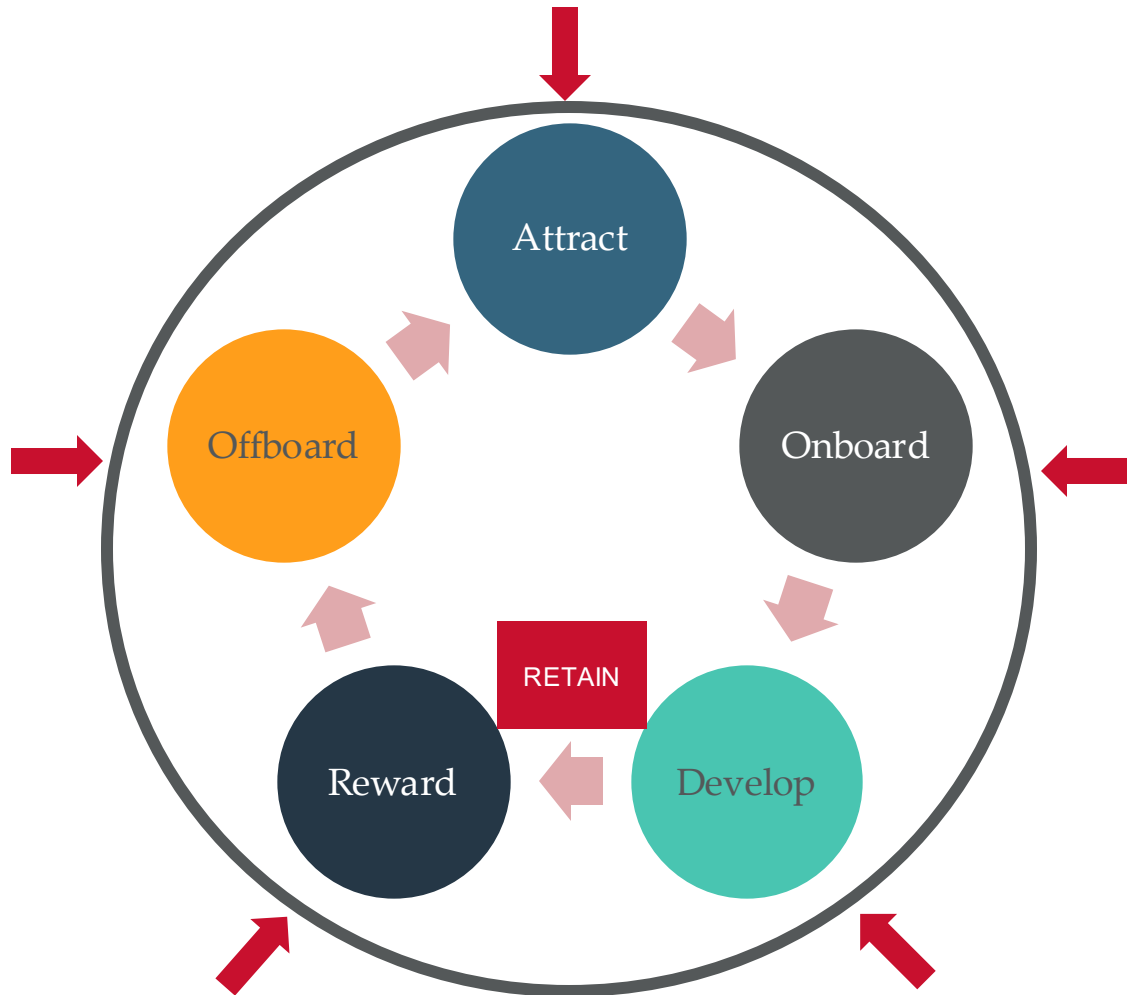
Find and Fix:

- Remedy areas of noncompliance
- Prioritize based on risk
- Goal is to mitigate compliance and reduce potential penalties
- Ignorance is no excuse



How to build a compliance strategy?

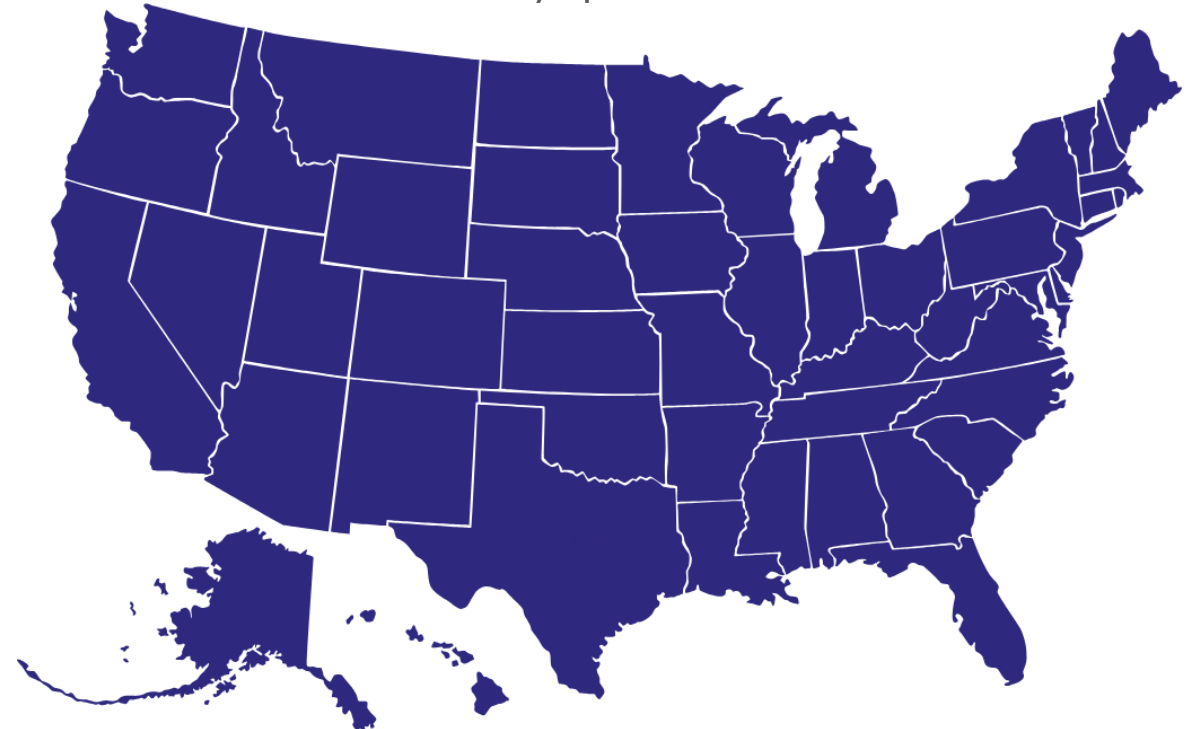
Employee Lifecycle View



Compliance requirements at all phases

Jurisdictional View

- Federal/National
- State
- Municipal/Local
- Industry-specific



Jurisdictional view

- Identify compliance obligations by jurisdiction (federal, state, local, industry)
- Determine if/when your business falls under each obligation

Examples:

Jurisdiction	Law/Regulation	Employer Eligibility
Federal	Americans with Disabilities Act (ADA)	Employers with 15+ employees
State - Florida	Mandatory E-Verify	Employers with 25+ employees (anywhere in U.S.) and 1+ employee(s) in Florida
State - Colorado	Paid Family & Medical Leave (FAMLI)	Applies to most employers regardless of size after earning \$2,500 CO wages in previous year
State - Colorado	Healthy Families and Workplaces Act	Covers most employers regardless of size, and all employees, including part-time, seasonal, and temporary

Employee lifecycle view

Identify which apply in each jurisdiction and under what conditions

Pre-hire:

- Ban the box
- Salary history ban
- Pay transparency/pay equity
- Mandated E-Verify
- Required notices, forms, and policies (pre-hire, new hire, annual, at separation)

At hire and throughout employment:

- Wage statement requirements – all options
- Paid sick leave – policy and accrual
- Paid family & medical leave – employee/employer contributions and policy
- Minimum wage/minimum salary threshold

- Meals & rests with penalties
- Deductions from wages
- Mandatory training
- State retirement plans
- Insurance, benefits, and safety obligations
- Other state-mandated leaves, paid or unpaid, including short-term and/or temporary disability insurance
- Personnel file access

At separation:

- Mini-WARN Act
- Mini-COBRA
- Payable at termination

Apply lifecycle to the jurisdiction

Pre-hire:

- Ban the Box
- Salary range disclosure

Wage regulations:

- Minimum wage \$16.35/hour
- Equal pay for comparable work/gender pay equity
- Meals and rest breaks

Benefits:

- PTO “use it or lose it” prohibited

Leaves of absence:

- Paid Family and Medical Leave
- Connecticut Family and Medical Leave (unpaid)
- Paid Sick Leave

Termination:

- Mini-COBRA
- Final wages payable at termination

Requirements at each stage:

- Notices, forms and policies



What types of research do you recommend?

- **Primary**

- Where the information originated
 - Legislation
 - State government or agency websites

- **Secondary**

- Reliable reporting of the primary information
 - Employment law firm newsletters, webinar information

- **Tertiary**

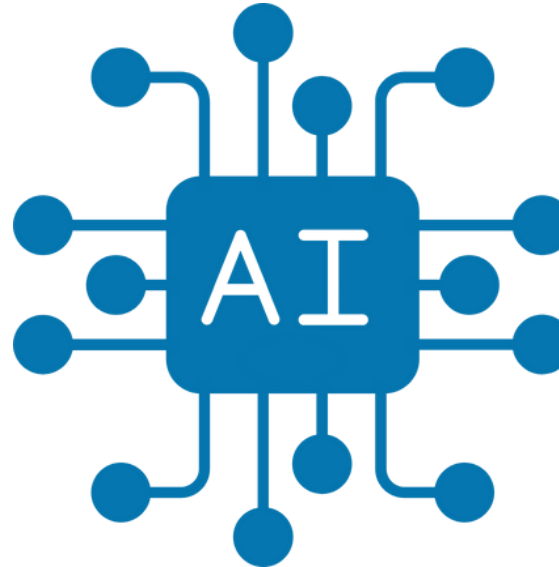
- Loosely associated resources
 - SHRM
 - Wikipedia
 - Blogs/online news outlets



How can we incorporate AI tools to research?

Research awareness:

- Verify and validate sources cited or referenced
- Focus on primary and secondary sources above all
- Check last updated dates
- Check frequently for further clarifications post enactment



Don't use:

ChatGPT to conduct research

Do use:

Google Workbook LM to summarize primary sources

*“AI responses may include mistakes.”
– Google*

How do we stay on top of laws/regulations?

Build a regular cadence for conducting research

—Subscribe to e-alerts:

- Law firm newsletters and blogs specializing in labor & employment
- Government websites – U.S. DOL, EEOC, OSHA
- State labor & employment sites
 - Examples: cdle.colorado.gov, dol.ny.gov, twc.texas.gov

—Access to up-to-date online resources that provide:

- State comparison charts
- Legislative tracker
- HR toolbox
 - Employer guides
 - Checklists
 - FAQs



What happens if we don't comply?

- Maybe nothing
- If audited: Financial penalties and fees, administrative sanctions
- If sued: Monetary damages, damage to reputation
- Possible criminal prosecution
- Penalties depend upon:
 - Nature and severity of violation
 - Jurisdiction involved
 - Regulations that were breached
 - First offense, repeat offense, or willful violation



Compliance strategy

- ✘ Research jurisdictions and topics
- ✘ Track by employee lifecycle
- ✘ Develop and implement applicable policies and processes
- ✘ Maintain compliance through continuous research
 - Check and correct your work

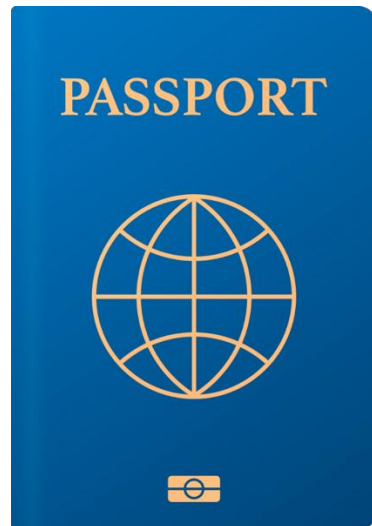
Check your work via self-audits

- Perform a self-assessment
 - Review documented processes, forms, notices, and policies
 - Check agency website for latest information
 - Look for inconsistencies/mistakes/outdated information
 - Identify gaps
 - Amend and update
- Manage version control
 - Updated as of [date]
 - Reviewed by [name]



Where should we begin?

**Form I-9
Compliance**



E-Verify

What to include in Form I-9 Self-Audit

- **Frequent Errors**

- Timeline
 - EE § 1 by day 1
 - ER § 2 within 3 business days
- Blanks/incomplete form
- Dates/birthdates not in MM/DD/YYYY format
- EEs have > one Form I-9
- Records not retained

- **Fix with issuing corrective I-9s**

- Make correction(s)
 - ~~Draw line through error~~
 - Note correct information
- Date and initial corrections
- Document error(s)
- **Train management on I-9s**
- **Obtain legal counsel to help with Form I-9 audits**

What other resources help with audits?

Work with third-party HR providers

- Professional employer organization (PEO)
- HR outsourcing (HRO)
- Administrative services organization (ASO)
- HR technology vendors
- Specialty consultants
Ex: Compensation

G&A HR Compliance Checklist



G&A Compliance Guide





Additional checklists to aid your self-audits



Checklist: Posters/Notices

PROVIDING REQUIRED NOTICES AND POSTERS

Pre-hire

- ☐ EEO statement
- ☐ FCRA – pre-adverse, adverse notice
- ☐ WOTC – pre-screening notice

At hire

- ☐ Federal – new-hire paperwork
- ☐ State supplement – new hire
- ☐ G&A specific – new hire

Annual notices & policies

- ☐ Benefits-related
- ☐ State mandates
- ☐ W-2s, 1099s

Separation notices

- ☐ Benefits-related
- ☐ State mandates

Posters

- ☐ Federal poster requirements
- ☐ Mandatory state posters
- ☐ Mandatory local (city, state, county)
- ☐ OSHA (federal; state, if applicable)

Notice/Posters

- ☐ Means of distribution
- ☐ Frequency of distribution
- ☐ Translation

Checklist: Records

OVERSEEING RECORD RETENTION & DESTRUCTION

Employment record requirements

- ☐ Definition of “record”
- ☐ Retention schedule
- ☐ Access
- ☐ Storage and format
- ☐ Security and privacy
- ☐ Destruction of documents
- ☐ Consistent policy implementation and periodic audits

Data privacy laws

- ☐ Biometric/genetic data privacy
- ☐ Consumer/consumer as employee

Records to keep in personnel files

- ☐ Pre-employment
- ☐ Employment
- ☐ Separation of employment

Records to maintain separate

- ☐ Medical records
- ☐ Credit information
- ☐ Immigration forms/Form I-9
- ☐ Complaints/investigation documentation

Checklist: Leave Administration

MANAGING LEAVES OF ABSENCE

Time away

- ☐ Paid
- ☐ Unpaid
- ☐ Mandatory
- ☐ Voluntary

Jurisdictions

- ☐ Federal
- ☐ State
- ☐ Local

Job status

- ☐ Accommodations
- ☐ Reinstatement
- ☐ Job protections

Leave intersection and coordination

- ☐ ADA (federal)
- ☐ FMLA (federal)
- ☐ USERRA (federal)
- ☐ Worker's compensation (state)
- ☐ Other leaves (state, personal, employer-provided)
- ☐ Employer PTO, sick, vacation, bereavement, or other related policies

Leave application when multiple leaves

- ☐ Leave sequence
- ☐ Leave concurrence
- ☐ Leave extension

Checklist: Training

MANDATORY TRAINING REQUIREMENTS

Types

- ☐ Harassment prevention
- ☐ Violence prevention awareness
- ☐ Bystander awareness
- ☐ Other

Timing

- ☐ Initial training deadline
- ☐ Mandatory training frequency
- ☐ Length of training

Audience

- ☐ Employees
- ☐ Management
- ☐ Vendors, contractors, and third parties

Policy

- ☐ Policy creation
- ☐ Means of distribution
- ☐ Frequency of distribution
- ☐ Signed acknowledgment
- ☐ Translation

Notice/Posters

- ☐ Means of distribution
- ☐ Frequency of distribution
- ☐ Translation

Training platform

- ☐ Live in-person
- ☐ Live virtual
- ☐ Recorded/self-directed online

Training content

- ☐ Conform with minimum requirements
- ☐ Materials used
- ☐ Required collateral

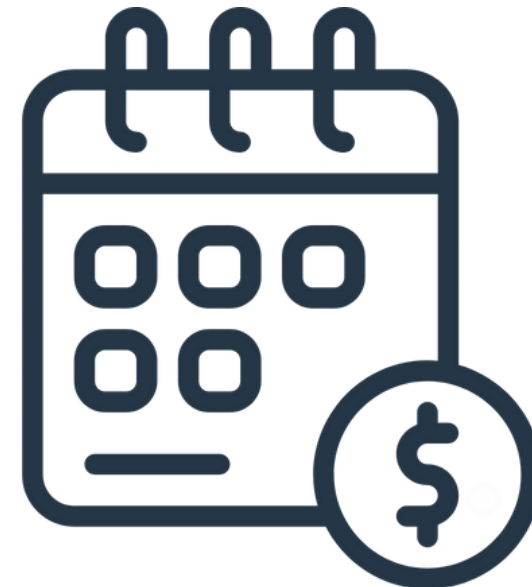
Documentation

- ☐ Proof of attendance
- ☐ Certificate of completion
- ☐ Proof of active participation
- ☐ Record retention

Managing paid time off

Key components and variables by jurisdiction

- Eligibility/wait period
- Employee classification (full-time, part-time, temporary)
- Lump sum or accrual – per hours worked, per pay period, other
- Defined plan year – anniversary year, calendar year, fiscal year
- Accrual cap
- Carryover required
- Carryover cap
- Coordination with paid sick leave
- Negative balance
- Deduction from wages
- PTO considered “wages” vs. “use it or lose it”
- Forfeiture of accrued amount
- Payable at termination



Questions?

Thank you for attending.

