



HR Compliance Checklist

NOTE: The following checklist is primarily based on federal labor laws and regulations. Consult with your HR professional or local and state agencies to ensure you're aware of requirements established at the local and state levels.

Recruitment, Interviewing, & Hiring

▶ Recruitment

Define job role, essential functions, key responsibilities, and required qualifications.

Review state transparency laws to determine when employers are required to share a position's salary range with job applicants.

Craft job ad that includes inclusive language, avoids jargon or unnecessary requirements, is free of discriminatory language, and clearly and accurately describes the role and required skills.

Utilize various channels, such as social media, job boards, and referrals, to attract qualified candidates.

Ensure fair and nondiscriminatory sourcing practices.

Review resumes and applications against job requirements.

Use standardized screening criteria to avoid bias.



▶ Interviewing

Create list of competency-based questions to assess technical skills and cultural fit.

Use structured interview guides to avoid asking questions that could be discriminatory or indicate bias.

Check state guidelines regarding asking candidates for salary history.

Conduct interviews in professional and consistent manner.

Avoid bias by focusing on skills and experience instead of factors unrelated to the role. Standardize evaluations to ensure fairness.

▶ Hiring

Assess candidates based on qualifications, experience, and interview performance.

Prepare a written offer letter that outlines the terms and conditions of employment, including salary, benefits, and start date.

Ensure salary offered to prospective employee is commensurate with the salary of other employees performing substantially equal work and experience.

Conduct background checks, including criminal background checks and drug tests, as permitted by federal, state, and local laws.

Tips

- **Review & update job descriptions before posting:** Review job descriptions every year or two to ensure they accurately reflect work performed and are up to date with current laws and regulations.
- **Provide managers interview training:** Conduct regular trainings for managers and employees involved in hiring process and provide guidelines to ensure a fair, consistent, and compliant hiring process.
- **Evaluate objectively:** Use a scoring system or rubric to rate candidates on predefined criteria, avoiding personal preferences.

Additional Resources:

[Age Discrimination in Employment Act \(ADEA\):](#)

Prohibits discrimination in hiring practices against workers ages 40 and older.

[Americans Disability Act \(ADA\):](#) Prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

[Title VII of Civil Rights Act of 1964:](#) Prohibits employment discrimination on the basis of race, color, religion, sex, or national origin.

[Employee Polygraph Protection Act \(EPPA\):](#) Prohibits employers from using lie detector tests in pre-employment screening or during employment (some exceptions apply).

[Equal Pay Act:](#) Ensures salary offered to prospective employee is commensurate with the salary of other employees performing substantially equal work, regardless of gender.

[Genetic Information Nondiscrimination Act \(GINA\):](#) Prohibits discrimination against employees or applicants based on genetic information.

Pay transparency laws: Consult the state where you're advertising openings and determine if pay range must be included in posting.

Check state and local laws: In New York City, for example, employers must meet specific requirements to use automated employment decision tools during recruitment.



Onboarding & New Hire

New hire: Complete Section 1 of Form I-9 on or before new hire's start date.

Employer: Review and verify new hire's employment eligibility documentation and complete Section 2 of the Form I-9 within three days of the new hire's start date. Review [current guidelines](#) for verifying documentation

Ensure your new hire paperwork includes all required federal and state documents and forms.

Submit required information to state new hire reporting agency.

Provide mandatory trainings for new hire, as well as trainings to introduce company policies and employee's role in compliance.

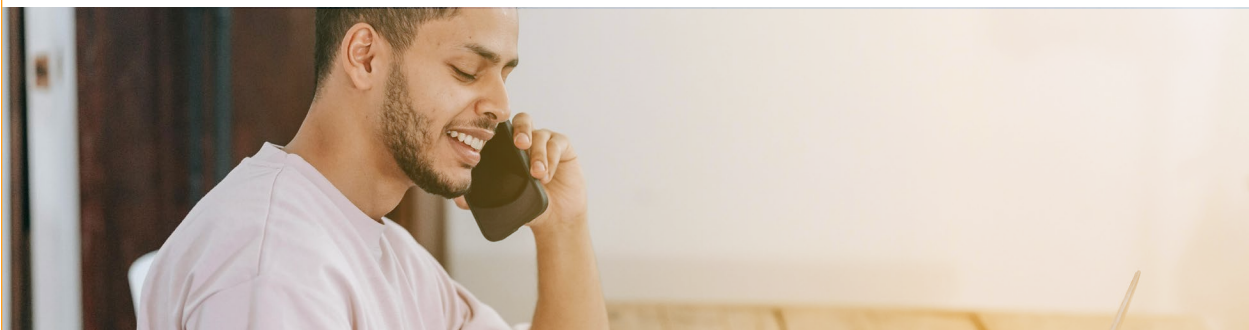
Ensure at-will employment doctrine is communicated.

Provide employee with company handbook or policies and acquire employee acknowledgement (with signature and date) of receipt of handbook and/or policies.

Ask new hire if any garnishments are in place to avoid any misunderstandings or confusion.

Ensure you are addressing state-specific requirements for new hires who will perform work in another state.

Ensure policies and/or handbook are easily accessible for employees.



Tips

- **Maintain I-9 forms separately:** Store employee I-9 forms in separate location from personnel files.
- **Craft your employee acknowledgement:** The handbook or policy acknowledgement should state that the employee received the handbook or policy and understands they must read and comply with the content.
- **Understand W-2 and benefits eligibility:** Understand corporate structure as it relates to who should be a W-2 employee on payroll and who can participate in benefits.
- **Know record retention requirements:** Keep records only as long as is required, then purge.



Additional Resources:

[Immigration Reform & Control Act \(IRCA\)](#): Requires employers to verify identity and employment eligibility of all new hires.

Check state and local laws: Some states may have additional requirements, such as employee acknowledgements of specific policies and providing wage theft notices to newly hired employees.



Employee Classifications & FLSA

Verify employee properly classified as exempt or nonexempt based on federal and/or state criteria.

Ensure exempt employees meet the Fair Labor Standards Act's (FLSA) and relevant state agency's job duties tests based on actual work performed and salary test based on the most recent minimums.

Verify independent contractors are properly classified using the factors outlined by the Department of Labor and any relevant state agency.

Ensure nonexempt workers meet minimum wage requirements based on federal, state, or local requirements.

Ensure overtime rates are calculated based on the regular rate of pay and overtime hours are properly recorded for nonexempt workers.

Ensure a timekeeping method is in place for nonexempt workers and records are maintained per federal, state, or local requirements.

Ensure nonexempt workers are paid for all hours worked and informed that they are not to perform work "off-the-clock" without obtaining prior permission from management.

Ensure pay is not deducted for exempt workers who work less than a full workweek.

Ensure hours and occupational standards are being met for minor workers.



Tips

- **Determine classifications from actual work performed:** Classifications should not be based on job title but rather on actual job duties.
- **Ensure employees' work location is updated:** Employees' minimum wages (and other requirements) are based on where they perform their work.
- **Regularly consult local or state minimum wage requirements:** Many localities have higher standards than the federal government.



Additional Resources:

Department of Labor (DOL): Recent final rule establishes analysis for determining independent contractor status.

Fair Labor Standards Act (FLSA): Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

IRS: Outlines facts of evidence to help determine degree of control and independence for determining independent contractor status.

State and local laws: Multiple states, counties, and municipalities establish minimum wage standards and requirements for independent contractor designations. Consult your HR professional for any locations in which your employees reside.

Employee Conduct & Performance

Establish anti-discrimination, anti-harassment, and retaliation policies based on federal, state, or local requirements.

Collect acknowledgements from employees verifying they have read, agree to, and understand the policies.

Establish fair and consistent procedures to follow if an employee files a harassment, discrimination, or retaliation claim. Ensure documentation is maintained throughout the process and relevant policies are followed.

Conduct anti-harassment and anti-discrimination training, per industry, state, or local requirements.

Educate leaders on what retaliation is, its impact, and that it is prohibited.

Provide employee with company handbook or policies and acquire employee acknowledgement (with signature and date) of receipt of handbook and/or policies.

If an employee needs an accommodation under ADA, engage in an interactive process with employees to determine appropriate accommodations and provide reasonable accommodations that enable the employee to perform essential job functions.

Ensure at-will employment doctrine is communicated.

Ensure fair and consistent performance review process is in place.

Document performance reviews and reasons for salary or position changes.

Protect confidentiality as much as possible for complainants.

Tips

- **Address accommodation requests promptly:** Unnecessary delays or failure to engage in the interactive process could violate the ADA.
- **Conduct thorough and timely investigations:** If an incident is reported, respond promptly. Consider working with an HR outsourcing provider if you lack resources to manage the investigation.
- **Consistently follow policies and procedures:** A failure to do so could be viewed as discriminatory.
- **Engage an HR outsourcing provider:** HR experts can provide guidance on policies, enforcement, and help manage investigations.



Additional Resources:

[Age Discrimination in Employment Act \(ADEA\)](#): Prohibits discrimination in hiring practices against workers ages 40 and older.

[Americans Disability Act \(ADA\)](#): Prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

[Title VII of Civil Rights Act of 1964](#): Prohibits employment discrimination on the basis of race, color, religion, sex, or national origin



Employee Polygraph Protection Act (EPPA): Prohibits employers from using lie detector tests in pre-employment screening or during employment (some exceptions apply).

Equal Pay Act of 1963 (EPA): Ensure salary offered to prospective employee is commensurate with the salary of other employees performing substantially equal work, regardless of gender.

Genetic Information Nondiscrimination Act (GINA): Prohibits discrimination against employees or applicants based on genetic information.

Pregnancy Discrimination Act (PDA): Prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions

Uniformed Services Employment and Reemployment Rights Act (USERRA): USERRA is a federal law protecting members of the military, including reservists. Many states and municipalities have similar protections for state-level military workers.

State and local laws: Multiple states and municipalities have specific anti-harassment training requirements. Check with your HR professional.



Payroll & Tax

▶ Payroll setup

Ensure federal tax withholding form (W-4) is completed by employees.

Ensure state tax withholding forms are completed by employees.

Establish seven-day workweek for overtime calculations.

Set 24-hour period to define workday for states with daily overtime requirements.

Define payroll cycle and pay frequency and ensure compliance with state or local requirements.

Ensure available pay methods (direct deposit, paper check, etc.) meet state or local requirements.

Ensure paystub meets federal, state, or local requirements.

▶ Payroll processing

Verify that regular pay, overtime, bonuses, or commissions are calculated properly.

Ensure federal, state, and local tax withholdings are calculated properly.

Verify that deductions have been properly applied for benefits such as health plans and retirement.

Calculate and withhold any required garnishments and levies.

Ensure final paychecks meet federal, state, or local requirements and are calculated and delivered properly according to company policies.

► Tax remittance and filings

File returns and remit quarterly and annual federal, state, and local payroll taxes based on established deadlines.

Pay applicable federal and state unemployment taxes by established deadlines.

Generate and distribute employee Forms W-2 by established deadline.

Ensure bonus or other supplementary payments are taxed based on IRS regulations.

Understand tax and labor law implications for fringe benefits provided to employees.

Tips

- **Verify FLSA requirements met:** Revisit FLSA compliance standards (above) to ensure minimum wage, overtime, and salary requirements are met.
- **Consider multistate requirements for remote workers:** If you employ remote workers, know payroll and tax requirements for each state where your remote workers domicile and require workers to inform you when they change locations.
- **Know how overtime is calculated in your location:** It's often based on hours in excess of 40 in a workweek; some states may require overtime be calculated daily.
- **Explore comprehensive payroll solutions:** Utilizing integrated HR technology can reduce payroll errors and save time.



Additional Resources:

Fair Labor Standards Act (FLSA):

Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting fulltime and part-time workers in the private sector and in federal, state, and local governments.

Consumer Credit Protection Act

(CPPA): Prohibits employers from firing an employee solely because their wages are being garnished for a single debt and sets compliance and recordkeeping requirements for employers.

Federal Insurance Contribution Act

(FICA): Sets percentage that employer must contribute and withhold from pay toward Social Security and Medicare.

Federal Unemployment Tax Act

(FUTA): Requires employers to pay a tax on employee wages to help fund unemployment benefits.

Forms W-2 (IRS): Information regarding federal wage and tax statements provided by employers.

Forms W-4 (IRS): Information regarding federal tax withholding for employees.

Fringe Benefits Tax Guide: Details which fringe benefits are taxable and which are exempt.

National Labor Relations Act (NLRA):

Guarantees the right of private sector employees to organize, collectively bargain, and engage in other protected concerted activities.

State Unemployment Tax Act (SUTA):

Requires employers to pay a tax on employee wages that funds state unemployment benefits.

Wage and Hour Division (WHD): Enforces federal labor laws as part of the Department of Labor.

State and local laws: Check with your HR professional to ensure compliance with state and local payroll- and tax-related laws, as well as special situations such as certified payroll and union payroll.



Employee Benefits

Ensure all benefits are administered consistently and fairly to prevent discrimination or unfair treatment.

Ensure proper taxation on benefits and perks offered by the employer as well for certain business owner types, such as S-Corp and partnerships.

Verify minimum standards set by ERISA are met for retirement, health, and other welfare benefits plans.

► Healthcare

Determine whether your business is required to offer affordable health insurance options per the Affordable Care Act. If so, adhere to the law's plan and recordkeeping requirements. File required forms 1095-C and 1094-C.

Ensure required notices and disclosures are distributed within timeframes established by federal and state laws.

Ensure employees receive a COBRA notice regarding continuation of healthcare coverage for themselves and family members for covered reasons.

► HIPAA

Document security and privacy policies around HIPAA compliance and personal responsibility.

Document policies and procedures to account for disclosures of protected health information, notification of privacy breaches, and secure disposal of protected health information.

Communicate annually with employees on HIPAA-related security and privacy policies.

Ensure all protected health information is encrypted when shared across public networks and limit access to information.

▶ Retirement

Ensure adherence to mandated Secure Act and Secure Act 2.0 regulations.

Determine compliance within states that mandate a state retirement plan.

Review retirement plan systems for IRS limits (deferral, match, catch-up, super-catch up, funding limits, compensation limits).

Review and update census, ownership, and business information.

Review part-time employee data to adhere to long-term, part-time (LTPT) employee regulations.

Review changes to required minimum distributions.

Review prior year limits to meet deadline of corrective distributions by April 15 deadline.

Ensure compliance with ERISA's fiduciary, reporting, and disclosure requirements.

Conduct annual nondiscrimination testing to ensure retirement plan benefits highly compensated employees and non-highly compensated employees fairly.

Conduct annual audits of 401(k) plans.

Review and update retirement plan documents as needed.

▶ Leave

Verify that accrued paid time off, sick leave, holidays, and/or vacation hours are properly calculated.

Maintain accurate records documenting employee usage of paid time off, sick leave, holidays, and/or vacation time.

Ensure compliance with local and state laws regarding rollover or payout of paid time off.

Ensure process under the Family and Medical Leave Act (FMLA) is properly followed and documented, when applicable. Check state laws where your company has employees for additional paid or unpaid requirements.

Include sick leave accruals on pay stub, where required per state laws.

Ensure posting or notification requirements under FLMA or other state laws are met.

► **Worker's Compensation**

Ensure workers' compensation policy meets requirements in all states in which your employees perform work. Review policy annually.

Tips

- Consult with a benefits expert to determine which requirements are applicable to your business, as it can vary based on factors such as company size.
- A delay in completing federal and state requirements related to benefits can result in noncompliance, leading to costly fines or penalties.
- Utilize a retirement compliance calendar to track important deadlines throughout the year.



Additional Resources:

Affordable Care Act (ACA): Outlines tax provisions for employers under ACA.

Consolidated Omnibus Budget Reconciliation Act (COBRA): Gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances.

Employment Retirement Income Security Act of 1974 (ERISA): Sets minimum standards for most voluntarily established retirement and health plans in private industry.

Family and Medical Leave Act (FLMA): Entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage.

Health Insurance Portability and Accountability Act (HIPAA): Regulates privacy and security regarding employees' protected health information.

National Labor Relations Act (NLRA): Guarantees the right of private sector employees to organize, collectively bargain, and engage in other protected concerted activities.

State and local laws: Check with your HR professional to ensure compliance with state and local laws related to paid and unpaid leave, retirement plans, and benefits.



Record Retention & Privacy

Store job applications and hiring documents for three years.

Keep Forms I-9 separately from other personnel files and retain for three years or one year after termination, whichever is longer. Discard after retention period expires.

Store timecards for three years.

Maintain FMLA leave details for three years.

Retain payroll files, including paystubs and payroll tax deductions, for four years or as required per local or state requirements.

Store retirement and 401(k) files for six years.

Retain all records necessary to determine the retirement benefit that is due to each participant. No specific time period is defined by ERISA.

Retain files for terminated employees for seven years.

Adhere to security and privacy requirements set by HIPAA of protected health information (see above).

Retain employee/employer tax documents for four years after filing the fourth quarter for the year, including W-4s, payroll tax payments, and any undeliverable W-2s, per IRS requirements.

Review state-specific requirements related to the retention and employees' rights related to employee data.



► Workplace Safety

Maintain records and annual summaries for each occupational injury or illness for five years following the end of the year to which they relate. Supplemental records that contain individual employee information should be kept for the same period of time.

Keep employee medical examination and exposure records required by law for the duration of employment plus 30 years, except where a specific OSHA standard has set a different retention period.

Store records of personal and environmental monitoring of exposure to toxic substances or blood-borne pathogens for 30 years.

Tips

- **Document rationale for rate or merit increases or promotional advancement:** This documentation can be helpful if an employee files a claim with the EEOC.
- **Check guidelines for federal contractors and subcontractors:** They may be subject to additional guidelines regarding records retention.
- **Secure all stored employee data:** Should be kept secure and confidential. Limit access within your organization to only those with a legitimate business need.
- **Maintain documentation for tax credits:** If you apply for a federal tax credit, for example the recent CARES Act or ERTC credits, ensure you maintain any documentation to help substantiate the claim.



Additional Resources:

Age Discrimination in Employment Act

(ADEA): Protects certain applicants and employees 40 years of age and older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions, or privileges of employment.

Americans with Disabilities Act (ADA):

Prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications.

California Consumer Privacy Act (CCPA) and California Privacy Rights Act (CPRA)

Provides job applicants and employees certain rights regarding personal information a company collects about them.

Title VII of Civil Rights Act: Prohibits employment discrimination based on race, color, religion, sex, and national origin.

Employment Retirement Income Security Act of 1974 (ERISA)

Sets minimum standards for most voluntarily established retirement and health plans in private industry.

Fair Labor Standards Act (FLSA)

Establishes recordkeeping standards for certain employee and employer records.

Family and Medical Leave Act (FLMA): A federal law that allows eligible employees to take unpaid leave for up to 12 weeks per year for medical or family reasons.

Genetic Information Nondiscrimination Act (GINA):

A federal law that protects against genetic discrimination in the workplace and through one's health insurance.

Health Insurance Portability and Accountability Act (HIPAA)

Regulates privacy and security regarding employees' protected health information.

Immigration Reform & Control Act (IRCA)

Requires employers to verify identity and employment eligibility of all new hires.

IRS: Provides recordkeeping requirements for certain employee and employer records.

Occupational Safety and Health Act

(OSH): Outlines regulations for a safe and healthful environment. Enforced by the Occupational Safety and Health Administration (OSHA), which also enforces anti-retaliation measures and federal whistleblower laws.

Uniform Guidelines on Employee Selection Procedures (UGESP):

Used by courts to determine if unlawful hiring practices were the basis of a discrimination claim.

State and local laws: Consult your HR professional to learn about additional requirements in the states and cities our employees reside.

Workplace Safety

Ensure workers' compensation policy meets requirements in all states in which your employees perform work. Review policy annually.

Conduct Hazard Risk Assessment (HRA) to determine which OSHA standards apply.

Establish employee injury reporting system.

Establish employee injury investigation process.

Make sure current Department of Labor posters are in place – federal and labor.

Maintain and post OSHA recordkeeping as required – OSHA Form 300 and 300A.

Comply with industry-specific requirements for Construction, Manufacturing, and Healthcare, as outlined by OSHA.

Provide appropriate personal protective equipment (PPE).

Develop and implement emergency action plans.

Develop and implement a written Hazardous Communication Program.

Develop safety and health policies based on HRA and provide required trainings to employees.

Tips

- Conduct periodic safety audits.
- Work with a qualified safety consultant to review safety policies and procedures.
- Provide training to accommodate for seasonal climate changes.



Additional Resources:

National Institute for Occupational Safety and Health (NIOSH): Large catalog of workplace safety and health topics available for review [here](#).

National Labor Relations Act (NLRA): Guarantees the right of private sector employees to organize, collectively bargain, and engage in other protected concerted activities.

Occupational Safety and Health Act (OSH): Outlines regulations for a safe and healthful environment. Enforced by the Occupational Safety and Health Administration (OSHA), which also enforces anti-retaliation measures and federal whistleblower laws

State and local laws: Check with local and state agencies and consult your HR professional for additional requirements in the locations where your business operates or your employees perform work.



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