

HUMAN RESOURCES COMPLIANCE CHECKLIST FOR THE BUSINESS OWNER

Following is a list of items that business owners should ensure they have implemented at their companies. This list is just the beginning to be sure their company reduces the risk of having employees.

Many variables come into play when deciding which policies, procedures, forms and HR staff to include in your company. This list will help get you started and could also be used as a plan to move forward as your company grows.

1 Who is your designated “HR” person?

This should be someone that the company and employees trust and has a general knowledge of the human resource function. In a smaller company this is often the bookkeeper, accountant or operations manager. After the company gets to about 50 employees, one person should be designated as the HR manager and function in the role on a full-time basis.

Potential Consequence: Simple employment law requirements can be missed if one person is not designated as the gatekeeper of the employment documents. Fines for missing paperwork can start at \$100 for an incomplete or missing form and quickly rise to the \$1,000's for multiple mistakes or missing forms. In addition, without one assigned “hr” employee, consistent application of company policy across the organization can be hard to achieve, which opens you up to discrimination or wrongful termination lawsuits.

2 Do you have employment or HR policies or an employee handbook?

A small company does not need a 50 page employee handbook. No company, for that matter, needs a 50 page employee handbook. But all companies need to have some basic policies and procedures developed and outlined. There are two key factors. First, ensure compliance with all laws and regulations (local, state and federal). Second, answer some of the basic questions before they get asked. For example, outline a vacation policy before hiring your employees. If you don't you can end up with 10 different employees with 10 different vacation plans. At some point, when you develop your own company's plan, you will make some employees happy and really upset some others.

If you do have an employee handbook, when was the last time you updated it? If it has been more than 12-18 months, it is out of date and may not be in compliance with the ever changing employment laws.

Potential Consequence: Lack of an employee handbook can lead to inconsistent application of practices in the company. In addition, not having an employee handbook may make it harder to hire an employee into a new company. The employee handbook can show that the company has some organization and more stability. Finally – an out of date handbook can become a liability if it is inconsistent with current employment law or company practices.

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3 Do you have accurate job descriptions and are you paying your employees overtime when required?

The number one reason for employment related lawsuits is wage and hour issues. Proper job descriptions can be the first step in accurately identifying what employees are actually doing on the job. Keep in mind however that how you pay an employee is based on what they do rather than what their job description says they do.

Potential Consequence: Nearly 80% of the employment related lawsuits filed in recent months have been wage and hour related. Companies that don't review their compensation practices put themselves at greater risk to costly audits and lawsuits. Currently 40% of the wage and hour cases filed nationally have originated in Florida.

4 Do you know what questions to ask in an interview?

Too often untrained supervisors will ask both ineffective and illegal questions in a job interview. Not only can this run your company into legal hot water, but it may result in hiring the wrong employee for the job.

Potential Consequence: Asking ineffective questions in an interview can lead to increased turnover and greater expense for the company as they try to find the right person for the job through trial and error. Asking inappropriate or illegal questions can find the company defending themselves against a discrimination lawsuit or responding to an EEOC investigation.

5 Do you have a documented Family Medical Leave Act Policy in place and have your supervisors been trained on the policy?

If you have 50 or more employees in your company, you may be required to adhere to FMLA. A key responsibility of an FMLA policy is the understanding of supervisors to recognize when an employee may be eligible for covered leave.

Potential Consequence: Not only can a company be sued, but a supervisor can be personally sued for violating an employee's FMLA rights. In addition, a company that is too flexible or liberal with their policy can get into trouble when they finally decide to tighten the reins.

6 Are you conducting accurate performance reviews with your employees on a regular basis?

Regular performance reviews are essential in making sure your employees know how they stand in the company. In addition, performance reviews provide documented evidence that you have notified an employee when their performance is substandard and how to correct the issue. This is vital when defending yourself against a wrongful termination lawsuit.

Potential Consequence: Performance reviews that are completed simply because someone told them they had to do it will often result in inaccurate or misleading feedback. This incorrect feedback can lead to retaining the wrong employees and basing merit pay increases on false information...in either case, costing the company money.

7 Do you regularly audit your employee files and I-9 documentation?

Too often companies will keep inappropriate documents in an employee's employment file and run an unnecessary risk of a discrimination claim. In addition, a Form I-9 is required for each employee in the company and while it is only a one page form can cause confusion among employers, which verifies an employee's right to work in the United States, if improperly completed or missing information, can run the risk of a fine by the US Government.

Potential Consequence: If a Form I-9 is missing information, is improperly completed, or signed by someone who did not personally review the employee's documentation, the company or individual can be fined from \$110 per form to \$1,100 for documentation errors and \$275 to \$5,500 per person for fraud charges, in addition to potential criminal penalties.

8 How are you keeping up to date with the ever changing employment laws and compliance requirements?

Since the beginning of 2009 there have been numerous major revisions to federal employment law. In the current political environment, it is important to understand how the law can affect businesses of all sizes, from 2 employees to 200,000 employees.

Potential Consequence: As additional laws are implemented, enforcement of these laws has become a priority for the government. In FY2010, the Department of Labor has indicated that it will add more than 1000 investigators to the Wage and Hour division, EEOC and OSHA programs.

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9**Have you provided regular training on your sexual harassment policy?**

Not only is it important to have a documented sexual harassment policy, but employers should also provide regular training to supervisors and employees. When properly done, it can provide an effective affirmative defense in the event a harassment charge is filed against your company.

Potential Consequence: Without an affirmative defense against a sexual harassment charge and regular prevention training for your supervisors and employees, sexual harassment claims can become a very cost learning experience for a company. This can result in not only added expense for the company, but lost productivity from the employees.

10**Do all of your supervisors and management team understand your termination policy?**

A common misconception is that an employer can't be sued for wrongful termination in an "at-will" state. Don't fall into this trap. A well documented termination policy will ensure that supervisors are consistent when it comes to terminating employees and reduce the risk of lawsuits by clearly documenting the reasons for a termination.

Potential Consequence: The number of EEOC charges filed in FY2009 was up more than 20% from FY2005. These charges are frequently brought after an employee has been fired from their job. Given the current economic environment, as well as the enhanced efforts by the federal government, there is a strong likelihood that this trend will continue.

With the ever changing political and employment environment, regular changes to employment law should be expected. In addition, enhanced and focused enforcement is becoming the norm for companies of all sizes. This increase in investigators will result in more workplace audits of employment practices and policies.
Do you want your first audit to come from the government?



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