



HR COMPLIANCE MADE EASY

TIPS FOR SOLVING THE HR PUZZLE

The Do's and Don'ts of HR Compliance

Do

- ✓ Provide an employee handbook to include anti-discrimination and harassment policies.
- ✓ Document performance problems or mistakes and any other issues that may arise.
- ✓ Pay your employees in accordance with the law.
- ✓ Familiarize yourself with wage and hour laws.
- ✓ Pay employees in a timely manner.

Don't

- ✗ Ignore employee education on discrimination and harassment.
- ✗ Discipline or terminate employees without carefully documenting the corrective action plan.
- ✗ Fail to pay overtime because it wasn't approved.
- ✗ Fail to calculate overtime correctly or pay based on the pay period rather than the workweek.
- ✗ Withhold an employee's final paycheck for any reason.

The Cost of Non-Compliance



Employment Practice Liability: Jury Award Trends and Statistics 2013 Edition, Thomson Reuters

\$400 MILLION

The EEOC secured more than \$400 million in 2016 for claimants of discrimination.

\$125 THOUSAND

A study of small to medium businesses showed 19% of employment charges resulted in defense and settlement costs averaging \$125,000.

\$90 THOUSAND

Defending yourself against an employment charge can cost you on average \$90 thousand more than the typical \$35,000 deductible on an employment practices liability insurance policy.

\$500 THOUSAND

The median judgment on employment matters is \$200,000 (in addition to the cost of defense). 25% of cases result in a judgment of \$500,000 or more.

Compliance Checklist



OSHA

- ✓ Safety program
- ✓ Training
- ✓ Recordkeeping, reporting and posting



ADA

- ✓ Job descriptions that identify essential functions of the job
- ✓ Avoid unlawful interview questions
- ✓ Interactive process



FMLA

- ✓ Eligibility determination
- ✓ Confidential recordkeeping
- ✓ Job protection and continuation of benefits



FLSA

- ✓ Overtime
- ✓ Child labor
- ✓ Deductions from pay

The Laws That Apply to You



Pregnancy

Jessica, a nurse, is five months pregnant. Her doctor told her she should no longer stand for long periods or do any heavy lifting.

Her employer should begin the interactive process to discuss accommodations and consider things like a reduced work schedule, frequent or longer breaks or possibly even a different position within the organization.

Applicable Laws

PDA, ADA, FMLA



Discrimination

Four of your employees get into a verbal dispute on a worksite. The supervisor only wants to discipline Dave (a 50-year-old white man) and Jerry (a 30-year-old African American man) because they're "not very hard workers." Bob (a 25-year-old white man) and Susan (a 39-year-old Hispanic woman) have been with the company longer.

Their employer should take corrective action measures with all four employees. Be sure to apply your policies uniformly and treat all employees equally to avoid discrimination allegations.

Applicable Laws

Title VII, ADEA



Harassment Retaliation

Brenda told her manager that Brian makes inappropriate comments to her and rubs her arms when he passes by. The manager figures Brenda doesn't intend to offend Brenda and does nothing about the harassment complaint. Brenda eventually files a claim with the EEOC and now, her manager wants her fired for being such a troublemaker.

Her employer should take all harassment reports seriously and thoroughly investigate them by discussing them with all those involved, and then take the appropriate action. It's prudent to provide harassment and discrimination training to all employees on a periodic basis.

Applicable Laws

Title VII, EEO



Retaliation is the most frequently alleged basis of discrimination in the federal sector and the most common discrimination finding in federal sector cases.

Real Examples of Discrimination Costs

\$7,100,000



Disability

A jury awarded a discharged executive **\$7.1 million** in compensatory and punitive damages one day after he was fired before he was scheduled for release from an outpatient alcohol rehabilitation program. An alcoholic is a person with a disability and is protected by the ADA if he or she is qualified to perform the essential functions of the job.

\$18,000,000



National Origin

A federal court jury awarded four former managers of a convenience store chain more than **\$18 million** after discriminated on the basis of national origin.

\$4,200,000



Age

A former claims adjuster, age 37, was awarded **\$4.2 million** by a jury who found that age was a determining factor in his termination.