



Toolkit

Compliance Must-Haves for Every HR Pro



Noncompliance penalties can cost millions.

For example, an incorrect
Form I-9 fine can be

\$252 to \$2,507
per employee

as of April 2023

Whether through internal policies outlined in your employee handbook or the many requirements defined by law, nearly every interaction between your company and your employees is governed in some way.

Employers are subject to various federal, state, and local regulations that encompass the entire employment cycle — from recruiting and interviewing through an employee's last paycheck and even beyond.

Most noncompliance comes with penalties that can add up. For example, just one Form I-9 mistake may result in a penalty of \$252 to \$2,507 (as of April 2023) *per employee* whose verification was incorrect.

There are four primary types of HR compliance that can have a direct impact on your workforce:

- **Statutory** – employment and workforce legislation, such as minimum wage and age requirements.
- **Regulatory** – rules determined by a regulatory body, such as the Occupational Safety and Health Administration (OSHA) or a state health department.
- **Contractual** – agreed-upon obligations and performance standards defined in contracts with partners and employees.
- **Union law** — rules set forth by a specific union.

These categories are just the tip of the compliance iceberg, and HR professionals have to navigate some pretty turbulent waters.



Key Laws to Follow

The U.S. Department of Labor (DOL) administers and enforces more than 180 federal laws related to workplace activities. While your company may not have to comply with every one of them, here are some major federal employment laws and governing bodies that HR professionals will almost certainly come across.

Fair Labor Standards Act (FLSA)

The FLSA establishes several key employment standards, including minimum wage, overtime pay, recordkeeping of employee time and pay records, and child labor provisions. Currently, the federal minimum wage is \$7.25 per hour, but some states and local governments have set their own minimum wage rates.

The FLSA applies to employees in the private and public sectors, including Federal, State, and local governments. It does not, however, apply to independent contractors.

Family and Medical Leave Act (FMLA)

The FMLA applies to employers that have had 50 or more employees for at least 20 weeks in the current or prior calendar year. It entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage.





Occupational Safety and Health Act (OSHA)

The OSH Act outlines an employer's rights and responsibilities in providing a safe workplace and protects employees' rights to work in conditions that do not pose a risk of serious harm. Additionally, some states have their own OSHA standards.

Employee Benefits Security Administration (EBSA)

The EBSA's mission is to ensure the security of the retirement, health, and other workplace-related benefits of U.S. workers and their families. Laws they administer include:

- **The Affordable Care Act (ACA)** makes affordable health insurance available to more people.
- **Employee Retirement Income Security Act (ERISA)** establishes minimum standards for pension plans in private industry.
- **Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA)** gives eligible employees the ability to continue health insurance coverage after leaving employment.
- **Health Insurance Portability and Accountability Act (HIPAA)** protects sensitive patient health information from being disclosed.
- **Genetic Information Nondiscrimination Act (GINA)** prohibits discrimination based on genetic information regarding health insurance and employment.

Equal Employment Opportunity Commission (EEOC)

The U.S. EEOC is an independent federal agency responsible for enforcing several federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy and related conditions, gender identity, and sexual orientation), national origin, age (40 or older), disability, or genetic information.

National Labor Relations Act (NLRA)

The NLRA protects workers' full freedom of association, providing employees at private-sector workplaces the fundamental right to seek better working conditions and bargain collectively without fear of retaliation.

Worker Adjustment and Retraining Notification (WARN) Act

When an organization closes a plant or undergoes mass layoffs, the WARN Act gives affected workers and their families enough transition time to seek alternative employment or enter skills training programs. In addition to Federal requirements, several states also have their own requirements.



Common Issues to Avoid

Discriminatory Employment Practices and Policies

- Discrimination is prohibited in all aspects of hiring and employment.
- Employers should avoid discriminatory job advertisements, and promotion decisions.
- It is required for certain employers, and recommended for others, to provide reasonable accommodations for employees or applicants with disabilities.
- Laws are enforced by the EEOC and State agencies.

Incorrect Employee Classification

- The FLSA requires employers to correctly classify employees to determine eligibility for overtime and benefits.
- The two major employee classifications described in the FLSA are exempt and non-exempt.
- Other classifications include part-time, temporary, seasonal, and independent contractors.





Complying with State and Local Employment Laws

- Federal laws typically set minimum employment standards; however, states and localities may set higher, more favorable ones for employees. Examples include higher minimum wage, pay transparency, employee privacy, and paid leave.

Outdated Policies and Procedures

- Hiring managers and people managers often need guidance and even formal training to avoid discriminatory practices.
- Communicating changes to employment laws and your policies is essential in helping everyone do their part to keep your workplace compliant.



Compliance-Related Days to Know

January

- Post OSHA Form 300A Summary through March 2
- W-2 and 1099 distribution and filing deadlines
- Quarterly Forms 941 & 720 due
- Distribute 1095-B & 1095-C Forms to employees
- Annual Form 940 due (If quarterly FUTA taxes were not paid when due)

Holidays

- New Year's Day
- Martin Luther King Jr. Day

February

- Annual Form 940 Due (If quarterly FUTA taxes were paid when due)
- ACA Forms Paper Filing Deadline, including Forms 1095-B and 1095-C

Holidays

- President's Day

March

- Form M-1 Filing Deadline
- Forms 1095-B & 1095-C Furnish to Employees March 1 Deadline for E-Filers and paper filers.
- OSHA Form 300A Due
- Forms 1095-C, 1095-B, Deadline
- First Quarter Ends

Holidays

- Employee Appreciation Day
- Daylight Savings Time Begins

April

- Deadline to file 1099-MISC without NEC to IRS electronically
- Tax Day
- Summary Plan Description (SPD) due to employees for a calendar year plan and to new enrollees within 90 days of enrollment
- First quarter Form 941 and State returns due

Holidays

- Administrative Professionals Day



Compliance-Related Days to Know



May

- California Pay Data Report Due Second Wednesday of May

Holidays

- Memorial Day

June

- Second quarter ends

Holidays

- Juneteenth

July

- Second Quarter Form 941 and state returns due

Holidays

- Independence Day

August

Holidays

- National Eye Exam Month — remind employees of vision benefits, if applicable

September

- National Payroll Week
- SAR Furnish to covered participants for calendar year plans deadline
- VETS 4212 Reports Due for Federal Contractors and Subcontractors
- Third Quarter Ends

Holidays

- Labor Day

October

- QSEHRA Notice Deadline (for QSEHRAs that begin Jan. 1)
- RDS Application Due to CMS (for plan years beginning Jan. 1)
- Medicare Part D Notice of Creditable Coverage Delivered to Plan Participants
- Third Quarter Form 941 and state returns due

Holidays

- Indigenous People Day

November

Holidays

- Daylight Savings Time ends
- Veteran's Day
- Thanksgiving

December

- Nondiscrimination testing, 401K plans, 125 Premium Only Plans (POP), and flexible spending account (FSA) nondiscrimination testing (if on calendar plan year)
- Review employee handbooks and distribute next year's calendar
- End of Fourth Quarter

Holidays

- Christmas Day
- New Year's Eve



Policies to Consider

Your organization's policies and your success in compliance go hand in hand. Keep these areas in mind when creating and revising your company policies.

Recruiting and Onboarding

- Avoid inappropriate or discriminatory language in job listings and interviews.
- Standardize recruiting and hiring processes to ensure every candidate has a fair experience.
- Collect Form I-9 from all new hires and securely store forms physically or digitally. Note, some states also require employers to participate in E-Verify.
- Host a new hire orientation that explains employee responsibilities for compliance and how to report compliance violations.

Communicating Company Policies

- Document all company policies and make them easy to access.
- Provide all employees with an up-to-date handbook that's easy to navigate and understandable.
- Collect signatures from new hires confirming their review of the company policies, and collect all employee signatures whenever you make updates.





Employee Benefits

- Ensure minimum healthcare coverage for all employees (if you have at least 50.)
- Send out a summary of benefits and coverage during open enrollment.
- Monitor the status of employees on leave to ensure compliance with FMLA.

HIPAA and OSHA

- Store employee health plan records with proper security and access controls.
- Conduct regular audits of your data security and processes to prevent breaches.
- Maintain safety records, including a log of work-related injuries and illnesses. This is the purpose of OSHA Forms 300 and 301.
- Report incidents to OSHA every year before March 2.



Penalties Overview

Because there are so many different compliance requirements an employer might face, repercussions for noncompliance range from penalties for failure to correctly report data to audits by an enforcing agency. And, in some cases, wage and hour lawsuits.

Common Noncompliance Fines

Fines may vary based on the size of the organization, the number of days the organization has been noncompliant, and the number of past violations on record.

Form I-9

- Paperwork violations
- Knowing employment of any worker without work authorization

ACA

- Not offering affordable health coverage
- Not offering coverage that has at least a minimum value to employees
- Not offering minimum essential coverage (i.e., a plan that applies to at least 95% of full-time employees)
- Reporting violations

American Disabilities Act (ADA)

- Physical barriers that interfere with the job functions of employees with disabilities
- Inadequate processes or failures related to requests for reasonable accommodations

COBRA

- Not offering COBRA to employees who have been laid off
- Notices issues / failures

FLSA

- Violation of overtime regulations
- Use of child labor

HIPAA

- Privacy violations





Reputation Damage

Compliance — or a lack thereof — can also damage both your customer-facing brand and your employer brand. Loyal clients will lose faith in your business if they feel their information is compromised. At the same time, showing employees that your company is committed to operating safely, fairly, and within the law helps them feel confident in their work and aligned with your values.

Prison

For severe infractions of certain compliance laws, individuals can be criminally prosecuted.

Business Disruptions

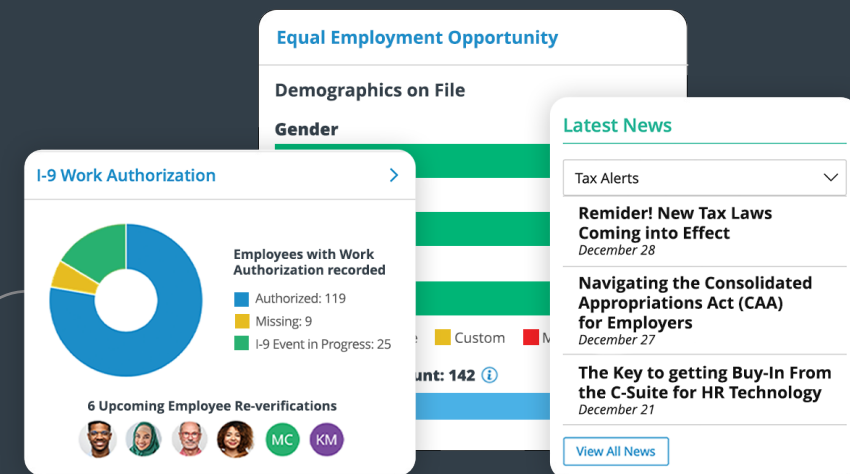
Non-compliance could lead to operational disruptions.

Compliance Is Hard — Now What?

We know compliance is just one of several areas where HR is expected to be an expert. However, despite needing to know and apply various labor laws, HR professionals aren't lawyers.

To map out an effective compliance strategy, a good place to start is an audit of your current processes and policies to identify gaps and high-risk areas. According to SHRM, an HR compliance audit generally consists of two parts: (1) an evaluation of internal policies, practices, and processes; and (2) a review of employment data. Warning signs to watch for include:

- High or increased turnover and absentee rates
- Inaccurate timekeeping
- Form I-9 errors
- Missing employee information or insufficient record retention
- Job misclassification



There are several advantages to using an integrated solution like Paylocity's Compliance Dashboard.

Through the tool's intuitive interface, you can visualize and assess your company's data completeness and readiness for multiple compliance-related processes — from automating I-9 work authorization verification to managing the ACA to analyzing and reporting on EEO data.

See Paylocity in action on a live demo and discover the power of simplified compliance.

