

The Dreadful HR Audit. Who Likes Them?



SUMMARY

No one likes HR audits but it is a major component in ensuring labor law compliance. Without conducting HR audits businesses are leaving themselves open to fines, lawsuits and possibly closure. On the other hand, businesses that conduct HR audits routinely are going to be less likely to receive fines, lawsuits and closure. Taking the proactive approach will ensure that your organization is taking the steps to ensure labor law compliance.

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First rule of auditing: Before you start, get legal advice on how to keep the results confidential. Otherwise, in the event of a suit, you'll likely have to reveal the results of your audit.

And the second rule of auditing: Be sure that management is willing to make corrections if infractions are found.

If your own audit shows failure to comply, and especially if you haven't taken steps since the audit to correct the situation, your audit can quickly turn from a helpful tool to a damaging exhibit in court.

What Should Your Audit Cover?

You may want to do a comprehensive audit, or you may be concerned only about a certain aspect of your operations, or you may choose to "chunk" an audit—that is, cover different areas of your operations one at a time.

However you choose to proceed, here are examples of key areas to cover:

Recruiting Practices

- Review job applications, advertisements, job descriptions, and interview questions for compliance with state and federal anti-discrimination laws.
- Make sure interviewers are trained regarding the questions they can and can't ask under anti-discrimination rules.
- If you obtain consumer reports or credit reports, be sure you provide the required disclosures to applicants and get their written consent.

Pre-employment Testing

- Evaluate honesty tests, psychological profiles, and other pre-employment tests to be sure the questions are job-related and don't invade personal privacy.

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- Check to be certain the tests don't discriminate on the basis of age, gender, race, religion, ancestry, sexual orientation, or other characteristics.
- Eliminate questions about religious beliefs, sexual preferences and activities, and politics.

Medical Exams and Drug Testing

- Be sure that medical exams are administered only after you have made an offer of employment. (The offer can be conditioned on successful completion of the exam.)
- Examinations must be mandatory for all applicants in the same job classification.

(Drug tests are not considered medical examinations, so you can test for illegal drug use without first making a job offer.)

Application Forms

- Include a clear statement of at-will employment in your applications. Use the term "at will" and explain what it means.
- Mention that no one in the organization has authority to modify the at-will employment provision, except, for example, the president of the company, and then only in writing.
- Spell out that, except for your at-will policy, you have the right to modify any and all of your policies or practices at any time, with or without a reason or advance notice in your sole discretion, including the right to change the employee's compensation, hours, and working conditions.

Find problems before the feds do. *HR Audit Checklists* ensures that you have a chance to fix problems before government agents or employees' attorneys get a chance.

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After Hire

- **Eliminate policies which state that new employees will be "on probation" for some period of time. This wording implies that when the probation ends, permanent, lifetime employment begins.**
- Be sure that you are properly completing an INS Form 1-9, "Employee Verification Form," for each worker, and keep the completed 1-9s on file for 3 years from the date of hire or 1 year from the date of termination, whichever is later. The form must be kept separate from the employee's personnel file.
- Make sure you send a timely notice of new hires to the state if required. Confirm that new employees receive notices regarding disability insurance, workers' compensation, and sexual harassment.
- If employees will have access to your confidential, proprietary information, have them sign an agreement promising not to disclose this information to anyone either during employment (unless required to perform their jobs) or after employment ends, and agreeing not to solicit customers or employees for a specified period after employment ends.

Employment and Termination Issues

Job descriptions. For all positions, you should have up-to-date job descriptions that accurately reflect the job duties. Make sure that the job descriptions identify all essential functions of the job.

Posters. Make sure you maintain a complete set of up-to-date posters as required by law.

Recordkeeping. Be sure that you are maintaining records as required.

Reasonable accommodation. Do you have a reasonable accommodation policy? Have you trained managers in how to approach the accommodation process with a disabled employee?

Wage and hour. Review exempt and nonexempt status decisions. Employees who are improperly classified as exempt from overtime could end up costing you a bundle. Problematic categories include, among others, administrative assistants, paraprofessionals, lead persons, low-level supervisors, assistant managers, sales employees, and computer software professionals.

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Child labor. Make sure that you are following the strict child labor rules regulating hours of work and the types of work youngsters may perform.

Independent contractors. Review classifications of all independent contractors.

Employee leaves. Make sure you know the rules regarding when you have to provide time off, paid or unpaid, for jury duty, military service, voting, family and medical leave, and sick leave to care for a family member. Also, keep in mind that state and federal laws typically prohibit retaliating against employees who exercise their legal rights to certain types of leave.

Employee privacy. If you engage in sensitive activities such as workplace searches, polygraph tests, drug and alcohol tests, fingerprinting, use of criminal arrest information, and monitoring or recording employees' telephone conversations and e-mail, review your policies and practices carefully.

Electronic communications. Do you have a policy defining acceptable uses of your company's computer system, including Internet access and e-mail? Have you notified employees in writing that their electronic communications are not private?

Complaint investigation system. Review your procedures for investigating employee complaints to make sure they are effective.

- Have you designated an ombudsman who can help resolve employee complaints before they escalate into major problems?
- Does your system include guidelines for receiving the complaint, including an employee complaint form, procedures for selecting an investigator and interviewing witnesses, and guidelines for reaching a conclusion and determining appropriate corrective action?

Termination practices. Be sure to have procedures in place to review adverse employment decisions, such as employee suspension or termination, before they are carried out, in order to assess whether there are legal concerns. Consider offering severance pay in exchange for a signed release. And, for employees age 40 and older, be sure to include special age discrimination claim waiver language in releases for individual terminations or group layoffs.

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So, is that everything you need to check on? Unfortunately, that just scratches the surface. But the fact remains that an HR audit is really the only way to dig down, find problems, and get them fixed before the feds find them. For most HR managers, the biggest hurdle is getting started with an audit—where do you begin?

Key Quotes

- Using the “hope” system to avoid lawsuits? (We “hope” we’re doing it right.) Be sure!
- Find problems before the feds do. *HR Audits* ensures that you have a chance to fix problems before government agents or employees’ attorneys get a chance.

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About HR Allen Consulting Services

Headquarter in Citrus Heights, California, HR Allen is one of California's leading full-service Human Resource Outsourcing and Consulting firms. HR Allen Consulting Services assists businesses with complex regulatory systems.

HR Allen Consulting Services provides businesses with payroll and HR support and expertise. Our HR professionals provide expertise in the areas of Employment Administration, Labor Law Compliance, Management Training, Safety and Risk Management, Compensation Studies and Payroll.

Unlike most other firms, HR Allen Consulting Services offers a flexible HR Outsourcing solution, wherein you can select what you need, based on you company's requirements:

- HRO: The HRO Solution enables you to pick a number of dedicated hours of HR consulting per month, either off or on-site, to work on the specific tasks you designate. "A-la-carte" services are also available on a fee-for-project basis.
- SCREENING SERVICES: We provide background screening and substance abuse testing both domestically and internationally. We are a single source provider, providing drug testing and clinical services to companies, government organizations and educational institutions for both regulated and non-regulated programs.
- HRIS/HRMS: We provide an easy-to-use, wizard based HR management system that manages and tracks employee data throughout the entire employment cycle.
- TIME CLOCKS: We provide a powerful reporting system that provides you with the tools to better manage your labor force.
- PAYROLL: We provide accurate and trouble-free payroll services. We process all your required tax reporting and we are annually cheaper than paychex and ADP.

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Contact HR Allen Consulting Services

We encourage you to contact us and schedule a complimentary HR consultation. In this no-obligation consultation one of our senior consultant will analyze your current human resource practices and offer a customized HR solution.

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