



## HR SOLUTIONS

A people management solutions newsletter by HR Service, Inc., (801) 685-8400, [www.HRServiceInc.com](http://www.HRServiceInc.com).

### ARE YOU LEGALLY COMPLIANT?

Keeping up with employment law changes is an ongoing, challenging task for all organizations. Perhaps even more challenging is making sure you are compliant throughout your company. It's not only the Human Resources Department that has to worry about violations; what supervisors do and say are binding on the organization as well.

Organizations pay out millions of dollars each year in employee lawsuits, attorney fees, and fines for employment law violations. See news release postings by the Department of Labor, reporting fines and payout for various violations at: <http://www.dol.gov/opa/media/press/opa/>.

#### Increased Enforcement

Over the past several years, the Department of Labor, EBSA, EEOC, OSHA, IRS, OFCCP, EPA, ICE and other enforcement agencies have increased budgets, hired more auditors and are conducting more audits.

#### Which Laws Apply to Me?

The employment laws that apply to an organization are based on the number of employees, states where they have employees, whether or not business is done with the government and what benefit plans are offered.

Even organizations with only one employee must comply with over 14 federal laws and almost as many state laws and regulations. When companies hit 15 employees, they must comply with Title VII of the Civil Rights Act, Pregnancy Discrimination Act, American's with Disabilities Act and related Americans with Disabilities Act

Amendment Act, Genetic Information Nondiscrimination Act, and Fair Credit Reporting Act. At 20 employees, Age Discrimination in Employment Act and COBRA apply. At 50 employees, the FMLA comes into play, and at 100 employees EEO-1 reporting requirements and Worker Adjustment & Retraining Notification Act also apply.

Each state can establish their own laws and regulations covering employment practices, as long as they at least match the requirements of federal laws. You will typically find differences in state practice for such things as paid sick leave, breaks, final paychecks, new hire reporting and other employment practices.

Those who work with the government have further consideration for possible compliance with affirmative action plans, VETS 100 reporting and Davis Bacon Wages. The size of the government contract and the number of employees determines whether or not you must comply with such laws and requirements. Generally, any company with 50 or more employees and annual government contracts in excess of \$50,000 will need to have an affirmative action plan in place and comply with other federal contractor laws, rules and regulations.

#### How to Comply?

The following practices will help you create a legally compliant organization, avoiding costly fines and penalties:

- **Keep current on all federal and state employment laws** that apply to your organization. Read the monthly legal update provided by HR Service, Inc. that tells you what you need to know and do, and when it's needed. Read and follow these important updates and actions.
- **Evaluate current practices** to identify any violations or risks. Contact HR Service if you would like assistance with a Compliance and Practice Review.
- **Eliminate risk** by implementing consistent practices, procedures and guidelines that comply with the law. Make sure all decisions are job-related without any implication of being based on gender, age, national origin, skin color, sexual preference, religion or other protected categories.
- **Train supervisors** in employment laws and practices where they have influence such as hiring, orientation, pay, corrective action, performance management, and terminations. Also, train them how to respond to complaints, harassment, disability accommodation requests, leave requests, FMLA, and accidents.
- **Maintain proper documentation** to back up employment decisions such as corrective actions, performance management, hiring and firing decisions.
- **Establish a complaint process**, making it clear who employees are to contact with any questions, concerns or complaints. Make sure supervisors are part of this process and understand their role.
- **Monitor the environment**, making sure there are no risky behaviors or practices taking place. Conduct annual opinion

surveys, and do exit interviews to keep a pulse and perspective from employees.

- **Be respectful, fair, honest and kind** in all employee interactions. Treating employees in any other fashion drives them to attorneys, enforcers and lawsuits.
- **Provide required employee notices** for internal posting requirements as well as required ERISA, DOL and IRS notices related to employee benefits. Provide SPDs (Summary Plan Descriptions) or SPD Wrap documents, along with other notices such as: Medicare Part D, WHCRA, NMHPA, CHIP, MHPA, Patient Protection, HIPAA, and SBC. Use the document center provided by HR Service, Inc. to create an all-in-one notice document to give to employees each year.

Knowing which laws apply to you, keeping up-to-date on changes and implementing good best practices to create a risk-free, positive, productive work environment, will prepare you for audits and lessen the chance of costly lawsuits or fines.

*by Ken Spencer, President, HR Service, Inc. & ERISA Solutions*

#### **Compliance Assistance or Audits**

Contact HR Service, Inc. for assistance with compliance needs or to have us conduct a compliance and HR practice audit. Call (801) 685-8400, email [Ken@HRServiceInc.com](mailto:Ken@HRServiceInc.com), or visit us online at [www.HRServiceInc.com](http://www.HRServiceInc.com).