



The **Seay Management Consultants HR Checklist** ensures that you implement “best practices” in terms of policies, procedures, manuals, and documents to hire and retain employees and motivate them to superior performance.

The following are recommended areas of focus as we move into a new year.

Online Application and Job Postings – Consider having employees complete the application form online, through your website, rather than in person. This can be a more efficient and less expensive process and may quickly identify those applicants who might be good candidates for your open positions.

Review Application and New Hire Packet – Ensure your hiring procedures are compliant with applicable regulations.

- All applicants must fill out an application form and sign it. Incorrect information provided on the application form can be immediate grounds for termination.
- Remove request for a social security number on the application form.
- Some states and localities have restricted employers from inquiring about a candidate’s compensation history.
- “Ban the Box” regulations in several states and municipal areas prohibit having questions on the application pertaining to criminal backgrounds or records.
- Keep background check authorization documents separate from the application form.
- Include a job description in your new hire packet for signature and acknowledgement of expected job duties.
- Written authorization for any deductions should be contained in the new hire packet. Remember, employers are not permitted to deduct from an employee’s pay without advanced written authorization, in compliance with FLSA regulations.

Administer Personality Tests – To ensure you hire employees that are the best “fit” for the job and the work culture, consider administering the DISC profile, which is a measure of working style. Seay Management Consultants offers this service online.

Submit New Hire Reports – Regularly submit your New Hire Reports to the state employment agency database.

Job Descriptions – We recommend ensuring that you have detailed job descriptions for every position, in compliance with ADA, EEOC, and Generally Accepted Principles of Human Resources Management. Employers who are covered by the Affirmative Action regulations are required to have job descriptions. In addition to helping us manage employees, job descriptions are often a first line of defense, in the event of an EEOC or DOL investigation.

Organize I-9 Forms – Review your I-9 forms for completion and keep on file for all employees hired after November 6, 1986. *Employers should be utilizing the I-9 form with expiration date 8/31/2019 for new hires until the anticipated updated version is released by USCIS.*

- Examine and record documents under Columns A or B and C.
- Make copies of the verification documents and attach them to the I-9 Form.
- File the I-9 Forms in a separate location, not with the regular employee file.

Update Employment Labor Posters – Check that you have all currently required employment posters, placed in prominent locations. Federal regulations require 6 posters; the various state or municipal agencies require about 5 more. Government contractors have additional special posters which must be displayed according to federal requirements.

Audit Employee Files – Make sure your employee files are complete and that they include all the documents you need (such as the application form, disciplinary notices, commendations, performance appraisals, et. al.) but none of the documents that are problematic (drug test records, private/personal documents).

Some employee documents are necessary for recordkeeping and reporting and are perfectly proper, but are of a personal, private, or medical nature or have an EEO component. Keep these documents in a confidential employee file, separate from the regular employee file.

Documentation – Make sure all of your Human Resources decisions and actions are fully and comprehensively documented, that you have developed and implemented a system of Progressive Discipline and that all of your supervisors and managers have been fully trained.

Update Your Employee Handbook – This is your fundamental employment document because it describes how you will handle work issues that arise with your employees. To meet that goal, it should be comprehensive and detailed.

Some policies we recommend are:

- **EEO policy** – This policy should include all protected categories under federal, state, and local employment regulations. The policy should be reviewed annually to ensure all categories are listed.
- **Emergency Closing** – Inclement weather and natural disasters can have an impact on regular business operations. Employers should have a stated plan of action to communicate with employees during these occurrences.
- **Cell Phones and Digital Technology** – Employers should address talking or texting at work, photography, and safety issues involved while driving on employer business.
- **Email/Internet Use at Work** – We should train employees on how to compose emails, which Internet sites should be avoided, and inform them that, since the email system is the property of the employer, all emails are subject to being retrieved.
- **Discussing Wages** – Employers should not have policies prohibiting employees from discussing wages, benefits and working conditions.

Time Records – The Wage and Hour Division of the Department of Labor is targeting the question of “working time,” which regulations define laboriously as whenever an employee is “suffered or permitted to work.” If an employee is working, the employer is responsible for paying for this time, even if it was not authorized, and even if the employer didn’t know about it. This could include travel time, meal periods, time before and after regular work hours, working from home and other time.

Employers should have a clear policy on the use of smart phones and other devices at home and during other non-scheduled work hours to conduct company related business. Make sure employees are recording all of their work time accurately and that you know when employees are working.

Exempt/Non-Exempt Classification – Effective January 1, 2020, the Department of Labor will implement updated salary thresholds for exempt employees. The new guaranteed salary level for an employee to be considered exempt from overtime is \$684 per week (formerly \$455) not subject to deduction. Employers may apply a portion of certain bonuses/commissions toward this total.

- Review the status of your exempt employees to make sure they meet the current Department of Labor requirements.
- Review the current salary levels of your exempt employees to determine if they are under or close to the \$684 per week salary level.

On the effective enforcement date, these employees will need to either:

- (a) keep an accurate record of all hours worked and be paid overtime
- (b) be held to under 40 hours per week or
- (c) have their salaries raised to the new guaranteed salary level of \$684 per week (\$35,568 annually).

- Review and restructure pay plans for exempt employees paid by a salary plus commission pay plan. Pay plans must guarantee that these employees receive at least \$684 per week. There are provisions regarding catch up payments in a 52-week period.

Implement a Drug Free Workplace Program – This policy can help to resolve potential drug issues at work, and lower your Workers’ Compensation premium. Employers have the right to prohibit employees from coming to work under the influence of drugs or alcohol and from bringing illegal drugs into the workplace. Even if marijuana is “legal” in your state, the employee still is not allowed to use it at work or report to work under the influence. Employers should check applicable state and local regulations due to evolving changes of screening requirements of applicants and employees pertaining to marijuana.

Prevent Sexual Harassment – Conduct Sexual Harassment Awareness Training annually for all managers and employees, to build a wall of protection around your company. Several states and municipalities have instituted required annual prevention training. We recommend that every employer should have a policy, published in the employee handbook, which prohibits sexual harassment at work and outlines a procedure for reporting allegations of sexual harassment.

Employees who utilize the complaint procedure outlined in the policy should not be retaliated against or have their employment adversely affected by making such a complaint.

We also recommend a policy prohibiting management from engaging in a social, dating, or romantic relationship with non-management employees.

Prevent Bullying In The Workplace – Bullying can be physical, emotional, and/or relational and often occurs online and through social media. To prevent, eliminate or reduce bullying at work, we recommend that you develop a strong anti-bullying policy and ensure you have a confidential and anonymous way for employees to report abuses.

Address Social Networking – Employers should develop a policy on the use of social networking at work, taking into consideration sites like Facebook, Twitter and Instagram, etc.

- Employers should prohibit or restrict access to social networking sites during working time and employers should be aware that some material that employees post may be considered a protected concerted activity, even if it is critical of management.
- Supervisors and managers should be required to stay off the personal social media pages or sites of their employees. We strongly recommend management not “friend” employees on social media and to “unfriend” them if it has already occurred.
- On the basis of NLRB regulations, employers should refrain from instructing employees about what they can and cannot post on Facebook or other social networking sites.

National Labor Relations Board – This agency covers both union and non-union employees and enforces the “Unfair Labor Practices” requirements. Under the provision of “protected concerted activity” two or more employees may discuss their wages, benefits or working conditions. As employers, we cannot counsel, discipline, or dismiss them for engaging in this activity.

Unemployment – In an effort to reduce claims and benefits due to employees, keep the following in mind:

- If you dismiss an employee within the 90-day probationary period, whatever benefits may be awarded should not be charged to your account.
- Former employees should not be eligible for benefits if they are dismissed for misconduct or if they leave with “no good cause attributable to the employer.”
- Employees who are dismissed for performance reasons will almost always be awarded benefits.

Understand the Different Types of Leave – Determine if your organization is covered by the federal Family and Medical Leave (FMLA) regulations. In most cases, an employer is covered if they have 50 or more employees within 75 miles of each other. Generally, an employee is eligible for FMLA if he or she has been employed for a year and has worked at least 1250 hours within that year.

FMLA requires the employer to:

1. provide 12 weeks of unpaid leave
2. continue the health insurance on the same basis as before the leave
3. upon return from leave, reinstate the employee in the same position he/she left, or an equivalent one

Workers Compensation leave is, by definition, a qualifying event for the Family and Medical Leave. If we do not place the employee concurrently on FMLA, the individual has this option on reserve to use at any time.

If your organization is not covered by FMLA, then you should apply a regular *Leave of Absence* policy, which is usually not as restrictive on employers as FMLA. The key point to remember is that we must place the employee on some kind of leave – either FMLA, if you are covered and the employee is eligible, or Regular Leave of Absence, otherwise.

Employers should also review any applicable state and local leave regulations in areas such Family Leave, Paid Sick Leave, Domestic Violence Leave, and Parental/School Leave.

EEO-1 Reports – This report is a breakdown of a company’s workforce by race, sex, ethnicity, EEO-1 category, and location according to the ten occupational categories. Employers are required to complete this report each year if they have a workforce of 100 or more employees or if they serve as a government contractor with 50 or more employees.

As of November 2019, the EEOC announced that it was planning to continue administering Component 1 of the EEO-1 survey, which the agency has sponsored for many years. The EEOC also announced that it is not planning to continue to collect Component 2 pay data information, which the Commission originally added to the EEO-1 in 2016. The projected deadline for filing the EEO-1 report is March 31, 2020 for the 2019 reporting year.

Update Affirmative Action Plan – If you are a covered employer, complete the annual update of your Affirmative Action Plan according to the regulations. To be covered, your organization must have 50 employees and federal government contracts of \$50,000 or more.

VETS 4212 Reports – In compliance with the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) all VETS 4212 reports are due on September 30th of each year. Employers must complete this if they have 100 employees or if they have 50 employees and an Affirmative Action Plan.

Conduct Management Training – Consider conducting several Management Training sessions this year on important subjects like:

- How to Counsel and Dismiss Employees
- How to Conduct Performance Appraisal
- Sexual Harassment Training
- Diversity in the Workplace

Schedule a HR Management Compliance Audit Review – This will help you reduce or eliminate any potential liability or exposure, provide you with the comfort and assurance that you are in compliance with all of the employment regulations that cover you as an employer. A Human Resources Management Compliance Audit Review checks to see that you have “best practices” in place to hire and retain good employees.

It is our goal to:

- Help ensure that your business is in compliance with all of the state and federal employment regulations and guidelines which affect your company and your employees;
- Help eliminate your financial exposure in these areas; and
- Develop the policies and systems which will help you employ and maintain a satisfied, happy and productive work force.

Seay Management provides Human Resources Management and Labor Relations consulting services. Seay Management does not provide legal advice and does not engage in the practice of law. If you need an attorney, we'll be glad to recommend one to you.

