



HR Compliance Essentials:

Navigating Regulatory Challenges
for Fast-Growing Small Businesses

Compliance:

A HIGH-STAKES, CONSTANTLY SHIFTING GAME

Staying compliant isn't just about stability; **it's about risk mitigation.** This guide will help you **navigate the complex and ever-evolving regulatory landscape.** We aim to keep you ahead of the policy changes and equip you with the knowledge to begin devising **an effective and robust HR compliance strategy.**

This guide focuses on key areas often overlooked in HR compliance. It's **current as of Q2 2023**, but it's not exhaustive — **regulatory compliance requirements constantly evolve**, demanding routine learning and risk assessment beyond what's offered in this guide.

Additionally, please note that **this document is purely informational, not providing legal advice** or exhaustive coverage of regulations. It may exclude specific state or local ordinances. **Sharing information via HR Collaborative doesn't establish an attorney-client relationship. For legal counsel, please consult an attorney.**



Missing Your Target Has Consequences

Creating a stable, inclusive, and legally sound work environment is critical. However, achieving it can feel like hitting a moving target. The consequences of missing? Potentially crippling fines and legal complications.



In compliance, being proactive is the best defense. Understand your risks and remain vigilant. Your organization's future may depend on it.



“Being **proactive is the best defense.”**

ACA AFFORDABLE CARE ACT

Understanding and complying with the Affordable Care Act is essential to safeguard your business from hefty fines and to provide your employees with the necessary healthcare coverage.

The Affordable Care Act (ACA), also known as Obamacare, is a comprehensive healthcare reform law enacted in March 2010. It has several implications for employers, particularly those with 50 or more full-time employees (or equivalents), which the Act classifies as **Applicable Large Employers (ALEs)**.

Non-Compliance Risk Exposure

Non-compliance with the ACA can result in two primary, substantial penalties. The “no offer” penalty applies if an ALE fails to provide minimum essential coverage to at least 95% of full-time employees and their dependents. The “unaffordable coverage” penalty arises if provided coverage doesn’t meet ACA’s affordability and minimum value standards.

Here’s a quick rundown of risks non-compliance exposes your company to:

Financial Penalties: The ACA imposes significant fines on companies that fail to provide affordable health insurance that meets minimum value to at least 95% of their full-time employees and their dependents. Penalties vary but can reach into the thousands per employee.

Legal Consequences: Non-compliance with the ACA could lead to lawsuits or regulatory actions from federal and state agencies. This can result in additional financial costs and damage to the company’s reputation.

Increased Audit Risk: Companies that fail to comply with ACA regulations are more likely to be audited by the Internal Revenue Service (IRS), which can lead to additional fines and penalties.

Employee Dissatisfaction and Turnover: If employees are not provided with affordable, adequate healthcare coverage, it may lead to decreased job satisfaction and higher turnover rates, negatively impacting productivity and morale.

Reputational Damage: Companies that fail to comply with the ACA may face reputational harm, which could impact customer and employee trust, as well as relationships with other businesses and stakeholders.

Discrimination Claims: The ACA includes provisions that prohibit companies from providing better healthcare benefits to high-wage employees than to low-wage employees. Non-compliance with these provisions could lead to discrimination claims.

Operational Disruptions: The process of addressing non-compliance issues, such as audits or lawsuits, can create significant operational disruptions, diverting resources away from core business activities.

Meeting ACA Compliance Requirements

Here are key compliance requirements under the ACA that employers must adhere to:

Coverage Requirements: If you are an Applicable Large Employer (ALE), you must provide minimum essential health coverage to at least 95% of your full-time employees and their dependents. The ACA considers a worker as a full-time employee if they work 30 hours or more per week or 130 hours per month.

Affordability Standards: The health coverage provided to employees must meet certain affordability standards. As of 2023, a health plan is considered affordable if the employee's required contribution for self-only coverage does not exceed 9.12% of their household income.

Minimum Value: The offered plan must cover at least 60% of the total allowed costs of benefits provided under the plan.

Reporting Requirements: ALEs are required to file information returns with the IRS and provide statements to their full-time employees about the health insurance coverage offered.

Employee Notices: Employers must provide written notice to employees informing them of the health insurance marketplaces, the potential to qualify for subsidies, and the implications if they choose to purchase a plan through the marketplace.

Please note that this list is not exhaustive and ACA regulations can change.

We advise consulting with an HR expert, like HR Collaborative, or benefits specialist to ensure compliance.

W-2 Reporting: Employers are required to report the cost of coverage under an employer-sponsored group health plan on an employee's Form W-2.

Patient Protections: Employers must comply with certain patient protections, such as no lifetime or annual limits on coverage, prohibition of pre-existing condition exclusions, and coverage of preventative health services.

Additional Fees: Employers may be subject to additional fees, such as the Patient-Centered Outcomes Research Institute (PCORI) fee.

Non-Discrimination: Employers must ensure that health coverage does not favor highly compensated individuals.

Summary of Benefits and Coverage (SBC): Employers must provide employees with a standard "Summary of Benefits and Coverage" form explaining what their health plan covers and what it costs.



As an ALE, you must offer affordable health insurance that provides minimum value to 95% of your full-time employees and their dependents up to age 26 or face a potential penalty. The ACA considers a worker as a full-time employee if they work 30 hours or more per week or 130 hours per month.

ACA compliance involves complex calculations, such as determining the full-time status of employees, affordability of health coverage, and potential penalties.

Compliance with the ACA is a dynamic process that requires regular monitoring of workforce hours, maintenance of detailed records, and submission of annual reporting to the IRS using designated forms.

Furthermore, the ACA includes anti-discrimination provisions that prohibit employers from extending better health benefits to high-wage employees than to low-wage employees.

Given the potential legal and financial consequences, it's crucial to approach ACA compliance strategically. Regularly reviewing your workforce size, benefits packages, and ACA regulations is integral to minimizing compliance risks.

FMLA FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA) is a federal law that grants eligible employees unpaid, job-protected leave for designated family, medical, and health-related reasons.

Understanding and applying FMLA's provisions is not just a regulatory requirement, but a critical aspect of employee support and risk mitigation.



The FMLA comes into play for private-sector employers when they **employ 50 or more individuals for at least 20 workweeks in the current or previous calendar year.**

Employees become eligible for FMLA after they've been with their employer for at least 12 months, working a minimum of 1,250 hours during that period.

Qualifying FMLA leave reasons include birth of a child, adoption, or foster care; the employee's serious health condition, including mental health; care for a spouse, child, or parent with a serious health condition; and specific situations relating to a family member's military service. It is important to note that additional paid leave requirements may apply based on the specific laws of the state where employees reside.

Non-Compliance Risk Exposure

Your organization's non-compliance with the FMLA can lead to significant risks, including:

Legal Actions: Employees can file lawsuits against employers for FMLA violations, resulting in potential court costs, attorney's fees, and damage awards.

Department of Labor Audits: The DOL may conduct audits and investigations, which can be time-consuming and disruptive to business operations.

Fines and Penalties: Failure to comply with FMLA can result in hefty fines and penalties imposed by the DOL.

Reinstatement and Back Pay: In cases of wrongful termination or denial of leave, employers may be required to reinstate the employee and provide back pay.

Damage to Reputation: Legal actions and investigations can harm an organization's reputation, affecting its ability to attract and retain talent.

Decreased Employee Morale: If employees believe their rights are not being respected, it can lead to decreased job satisfaction and productivity, and increased turnover.

Loss of Trust: Non-compliance can erode trust between employers and employees, potentially damaging long-term workplace relationships.

Navigating FMLA Compliance and Eligibility

Compliance with the FMLA involves several key requirements, including:

Coverage Eligibility: Determine if your business is subject to FMLA. This typically applies to employers with 50 or more employees in 20 or more workweeks in the current or previous calendar year.

Employee Eligibility: Track employee eligibility for FMLA leave. Employees are eligible if they have worked for the employer for at least 12 months, for at least 1,250 hours over the past 12 months, and work at a location where the company employs 50 or more employees within 75 miles.

Notification: Provide notice to employees about their FMLA rights and responsibilities. This includes posting FMLA notices in your workplace and including FMLA information in your employee handbook.

Leave Management: Provide up to 12 weeks of unpaid, job-protected leave for eligible employees for qualifying family and medical reasons in a 12-month period.

Health Benefits: Maintain group health insurance coverage for employees on FMLA leave, under the same terms and conditions as if the employee had not taken leave.

Job Restoration: Upon return from FMLA leave, restore employees to their original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Recordkeeping: Keep detailed records of FMLA leaves, including dates, hours of leave, and copies of FMLA notices provided to employees, for at least three years.

Prohibition of Retaliation: Do not discriminate or retaliate against employees who take FMLA leave.

Training: Train supervisors and HR personnel about FMLA regulations to ensure compliance and proper handling of leave requests.

Policy Development: Develop a clear, written FMLA policy and include it in the employee handbook. The policy should outline the process for requesting leave, the documentation required, and the expectations during and after leave.

Remember, this list is not exhaustive and is meant for guidance only. Consult with an HR expert, like HR Collaborative, to ensure compliance.



ADA AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) represents a significant stride in civil rights legislation, aiming to protect individuals from discrimination based on disabilities.

Enacted in 1990, the ADA has profound implications for businesses, affecting everything from hiring practices to workplace accommodations. As a business leader, understanding the ADA is not only a legal obligation, it's a step toward creating an inclusive, supportive environment for all employees.

ADA Compliance and Basic Principles



At the heart of the ADA is the definition of “disability.” According to the ADA, a person has a disability if they have a physical or mental impairment that substantially limits one or more major life activities, have a history of such an impairment, or are perceived by others as having such an impairment.



“Understanding the ADA is not only a legal obligation, it’s a step toward creating an **inclusive, supportive environment for all employees.**”

Ensuring ADA compliance involves adhering to a set of specific requirements. Here are some of the key steps businesses must take:

Non-Discrimination: Employers cannot discriminate against individuals with disabilities in any aspect of employment, including hiring, promotions, job assignments, training, and termination.

Reasonable Accommodation: Employers must provide reasonable accommodations to employees or applicants with disabilities unless doing so would cause significant difficulty or expense (“undue hardship”).

Job Qualifications: Job qualifications must be essential for the role and not marginalize or exclude people with disabilities. For instance, physical ability requirements must be directly related to the core duties of the job.

Accessible Facilities: Workplaces must be physically accessible to employees with disabilities. This can include modifications such as wheelchair ramps, accessible restrooms, and ergonomic workstations.

Communication Accommodations: Employers must ensure effective communication with employees who have vision, hearing, or speech disabilities. This may involve providing sign language interpreters, written materials, or assistive listening devices.

Medical Examinations and Inquiries: Employers must follow strict rules regarding when they can ask job applicants or employees about their disabilities, when they can require medical examinations, and must ensure medical information is stored securely and kept confidential.

Coverage Eligibility: Employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Remember, these points are not exhaustive, and it’s essential to consult with HR experts, like HR Collaborative, and legal professionals to ensure full ADA compliance within your organization.

EEOC EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The Equal Employment Opportunity Commission (EEOC) is a federal agency responsible for enforcing laws that make it illegal to discriminate against job applicants or employees due to race, color, religion, sex, national origin, age, disability, pregnancy, sexual orientation, gender identity, or genetic information.

The EEOC's regulations also protect employees from retaliation for reporting or opposing discriminatory practices.

EEOC Compliance and Basic Principles

Understanding the EEOC's role and its mandates is crucial for small businesses. By upholding these laws, companies not only avoid severe penalties but also foster a more diverse, equitable, and productive work environment.



Adequate knowledge of the EEOC's laws and guidelines ensures the creation of **policies that respect employees' rights, leading to better employee satisfaction, increased trust, and improved reputation.**



To ensure compliance with the Equal Employment Opportunity Commission (EEOC), businesses should adhere to the following requirements:

Non-Discrimination: Do not discriminate in any aspects of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, benefits, or any other term or condition of employment.

Reasonable Accommodation: Provide reasonable accommodations for employees or applicants with disabilities unless it would cause significant difficulty or expense.

Harassment Prevention: Prevent and address harassment based on race, color, religion, sex, national origin, disability, pregnancy, sexual orientation, gender identity, or age.

Retaliation Prohibition: Do not retaliate against individuals who file a complaint of discrimination, participate in a discrimination proceeding, or otherwise oppose discrimination.

Remember, while these guidelines provide a solid foundation, they are not exhaustive.

Employers should consult with HR experts, like HR Collaborative, and legal counsel for more specific guidance.

Record Keeping: Maintain employment records as required by EEOC regulations. These may include applications, hiring, firing, advancement, pay, and other employment actions.

Reporting: Report annually to the EEOC on Form EEO-1 if your business meets certain size thresholds.

Notice Posting: Post notices describing federal laws prohibiting job discrimination. These notices should be visible and accessible to employees and job applicants.

Training: Regularly train all employees, especially supervisors and managers, on their rights and responsibilities under EEOC laws.

“Companies not only avoid severe penalties but also foster a more **diverse, equitable, and productive work environment.”**



OSHA OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

The Occupational Safety and Health Administration (OSHA) is an agency of the United States Department of Labor. Established in 1970, OSHA's mission is to ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education, and assistance.

OSHA's reach extends across a broad spectrum of workplaces, from construction sites and hospitals to offices and factories. The agency sets out specific standards that employers must meet to protect their employees from hazards and risks that might cause serious harm or death.

OSHA Compliance and Basic Principles

For businesses, understanding and complying with OSHA regulations is not merely a legal obligation — it's a commitment to the safety and well-being of employees. Non-compliance can lead to substantial penalties, including fines and even business closure in severe cases.



However, the importance of OSHA extends beyond avoiding penalties. **A safe and healthy work environment boosts employee morale and productivity, reduces absenteeism and turnover, and enhances your company's reputation.** In essence, OSHA compliance is integral to both the ethical operation and the commercial success of your business.

Here's a general list of OSHA compliance requirements:

Basic Safety: Provide a workplace free from serious recognized hazards.

Workplace Assessment: Conduct regular workplace hazard assessments to identify potential risks.

Safety Standards: Ensure compliance with specific OSHA standards for your industry and type of workplace.

Safety Training: Provide appropriate safety training to all employees based on the identified risks in the workplace.

Reporting and Recordkeeping: Maintain accurate records of work-related injuries and illnesses, and promptly report severe incidents to OSHA. Reporting applies to organizations with ten or more employees and to all employers if there is a fatality or multiple injuries.

Emergency Plans: Develop and communicate emergency action plans, including evacuation procedures and routes.

First Aid: Make available first-aid treatment and supplies in the workplace.

Protective Equipment: Provide and require the use of personal protective equipment (PPE) as necessary.

Hazard Communication: Inform employees about hazardous substances in the workplace through proper labeling, safety data sheets, and training.

Safety Posters: Display the OSHA "Job Safety and Health: It's the Law" poster in a prominent location.

OSHA Inspections: Cooperate with OSHA inspectors during workplace inspections, and promptly correct any identified safety and health hazards to uphold compliance.

Please note that these are just general requirements and may not cover all of OSHA's regulations applicable to specific industries or workplaces. Consult with an HR expert, like HR Collaborative, or OSHA directly to ensure complete compliance.

Midwest Labor Law Snapshot

Labor and employment laws in the Midwest vary state-to-state.

It's important to stay current with your state's requirements as they present challenges distinct from local and federal laws.



Illinois

Illinois law provides extensive worker protections. It mandates a higher minimum wage than the federal standard and has comprehensive anti-discrimination laws, inclusive of gender identity and sexual orientation. The state also has laws requiring employers to provide unpaid school visitation leave.



Indiana

Indiana largely follows federal standards, including minimum wage, and has basic anti-discrimination laws. However, it lacks laws concerning paid leave, and does not include protections for sexual orientation or gender identity under its state anti-discrimination law.



Michigan

Michigan maintains extensive wage and hour laws, mandating overtime pay, and a minimum wage higher than the federal standard. It also has comprehensive laws against discrimination, including protections for gender identity and sexual orientation. Notably, Michigan requires employers to provide unpaid leave for employees to attend their children's school activities.



Ohio

Ohio law closely aligns with federal law. It follows the federal minimum wage and has similar anti-discrimination protections. Ohio does not mandate paid or unpaid leave beyond what is required by the federal FMLA.

Compliance Glossary

I-9 (Employment Eligibility Verification Form): A form used by U.S. employers to verify an employee's identity and to establish that the worker is eligible to accept employment in the United States.

ACA (Affordable Care Act): Federal legislation that implements comprehensive health insurance reforms, including coverage for pre-existing conditions, removal of lifetime limits, and allowing children to stay on their parent's insurance until 26.

ADA (Americans with Disabilities Act): A civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

ADEA (Age Discrimination in Employment Act): A federal law that prohibits employment discrimination against persons 40 years of age or older.

ALE (Applicable Large Employer): Employers with 50 or more full-time employees (or equivalent); a classification within the ACA with multiple compliance implications.

COBRA (Consolidated Omnibus Budget Reconciliation Act): Federal law that allows employees to continue their health insurance coverage after leaving employment.

EEO-1 (Employer Information Report): A compliance survey mandated by federal statute and regulations, requiring company employment data to be categorized by race/ethnicity, gender, and job category.

EEOC (Equal Employment Opportunity Commission): A federal agency that administers and enforces civil rights laws against workplace discrimination.

ERISA (Employee Retirement Income Security Act): A federal law that sets minimum standards for pension plans in private industry to protect individuals in these plans.

FLSA (Fair Labor Standards Act): A federal law establishing minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

FMLA (Family and Medical Leave Act): A federal law requiring covered employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons.

GINA (Genetic Information Nondiscrimination Act): A federal law that prohibits genetic discrimination in health insurance and employment.



These are federal forms and/or regulations, but remember that there are also numerous state-specific forms and regulations — it's crucial to stay informed about the laws specific to your region and locale.

The material and information contained in this guide are for general informational purposes. The material or information provided in this guide should not be solely relied on as a basis for making legal, HR, or any other decisions that may impact your business.

HIPAA (Health Insurance Portability and Accountability Act): A federal law that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient's consent or knowledge.

MHPAEA (Mental Health Parity and Addiction Equity Act): A federal law that generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder (MH/SUD) benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits.

NLRB (National Labor Relations Board): An independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representatives.

OSHA (Occupational Safety and Health Administration): A federal agency ensuring safe and healthy working conditions for workers by enforcing standards and providing training, outreach, education, and assistance.

PDA (Pregnancy Discrimination Act): An amendment to Title VII of the Civil Rights Act of 1964 that prohibits sex discrimination on the basis of pregnancy.

PUMP Act (Providing Urgent Maternal Protections for Nursing Mothers Act): Federal law that ensures the right of nursing mothers to receive break time in a non-restroom place of privacy to express breast milk while at work.

PWFA (Pregnant Workers Fairness Act): Federal law requires employers with 15 or more employees to provide reasonable accommodations for qualified employees and job applicants with temporary physical or mental limitations due to pregnancy, childbirth, or related conditions.

WARN (Worker Adjustment and Retraining Notification Act): A US labor law that protects employees, their families, and communities by requiring most employers with 100 or more employees to provide 60 calendar-day advance notification of plant closings and mass layoffs.

Compliance Checklist

As part of maintaining HR compliance, it is crucial to regularly review and update your company's practices and policies.

Below is a checklist of essential questions to consider.

○ General Compliance

- Has your employee handbook been updated within the past two years to reflect changes in your culture, workplace practices, and federal/state/local laws?
- Are you up to date on changing labor laws at the Federal, state, and local levels, including updated required notices and labor posters?
- Are employees properly classified as exempt vs. non-exempt and employees vs. contractors?
- Are disciplinary and termination procedures consistently applied and compliant with state and federal labor laws?

○ Record Keeping

- Are employee medical records, background checks, I-9 forms, documents with Social Security Numbers, EEO data, workers comp, and FMLA records kept separate from their personnel file?
- Are I-9 forms completed within three days of an employee start date, including verification of acceptable documents?
- Is there a procedure in place for reporting grievances or potential workplace conflicts?

○ Training & Expectations

- Are all employees adequately trained on workplace anti-discrimination and anti-harassment policies?
- Do you provide employees with their job description, including physical requirements and required certifications? Is it tracked accordingly?
- Do you have remote work policies and agreements in place to be clear on expectations, protect from risk, and follow necessary state laws based on employee location?

○ Leave Management

- Are employees informed about their rights and responsibilities under the FMLA and other labor laws?
- Do you engage in the interactive process when notified of a disability requiring a reasonable accommodation?
- Are you aware of and following your state-specific sick leave laws?



○ Safety

- Are supervisors trained on how to manage workplace injury?
- Are you following OSHA and state health & safety laws by recording workplace injuries?

○ Total Rewards

- Have you established a structure for compensation and pay practices to ensure fair and consistent pay administration?
- Are your payroll practices compliant, including employee deductions, garnishments, time tracking, and tax filing?
- Are you following the rules and regulations for overtime pay, including prohibiting work off the clock?
- Are your pay practices compliant with pay transparency laws?
- Do you distribute required notices to new hires and to employees annually, such as summary plan descriptions and notice of creditable coverage?



Protect Your Business

FREE HR ASSESSMENT BY OUR COMPLIANCE EXPERTS

Compliance is a lot to wrap your head around — **ease your mind with our free HR Health Assessment.**

HR Collaborative's compliance experts will audit your people operations, identifying potential risk areas and compliance alignment with applicable rules and regulations, giving you solid footing as you continue to grow and expand.

Your FREE comprehensive HR Health Assessment will provide a detailed analysis of your risk areas and gaps in your people practices. Our experts will walk you through the results of this multi-point inspection, providing you with deep insights into compliance, culture, and more.

Don't miss out on this exclusive opportunity to invest in your organization's future success. Let HR Collaborative be your trusted partner in maintaining HR compliance and safeguarding your company's culture. Together, we can ensure a compliant and sustainable workplace that stands the test of time.

CONTACT HR COLLABORATIVE TODAY

Let's embark on this journey of transformation with an HR Health Assessment to identify areas of growth, illuminating the path toward a compliance-first approach.

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