



When Was the Last Time your Company had a Checkup?

EMPLOYMENT PRACTICES REVIEW CHECKLIST



About Fisher Phillips

If it has been a while, or if you can't even remember the last time your company reviewed its employment-related practices, it's time for a "checkup." Changes in employment law occur not only when new laws are passed, but also as the courts interpret existing laws. Even subtle legal changes sometimes affect a company's practices and what should be included in a company's policies and procedures. To remain in compliance with applicable laws and best practices, a company should schedule periodic reviews of human resources policies, practices and procedures to ensure that they are up-to-date.

At Fisher Phillips, we routinely help our clients audit human resource practices and ensure employment law compliance. With our help, you can make sure that you are doing things right. This checklist serves as a guide to help you review your pay and benefits practices, policies and procedures, such as recruiting and hiring, training and supervising, granting leaves of absence, disciplining and terminating employees, and many other matters. We can review your policies, practices and procedures to make sure they comply with all recent changes in labor and employment laws, and that they represent "best practices" for your company. If you do not have all of the right policies, practices or procedures in place, don't worry – we can work with you to develop them.

If you have any questions or concerns after reviewing this checklist, we can provide you with the information needed to help you conduct an internal review. We recommend that you contact a Fisher Phillips attorney prior to completing this checklist as this may serve to protect your company's responses under the attorney-client privilege.

About this Checklist

This checklist provides only a general outline for an internal review of some labor and employment law policies, procedures, and practices. The list is not a complete or all-inclusive summary of necessary employment law forms or practices. Important areas, such as those relating to COBRA, HIPAA, workers' compensation, management development programs, and other subjects are omitted from this checklist. The "correct" answers to these questions may depend on multiple factors, including state and local laws and laws regulating a particular type of business.

For a complete analysis, employers need to consider the nature of their business and the particular laws and regulations that apply. This document is not intended to constitute legal advice. However, employers may find it helpful to review this general outline with their labor and employment law counsel. Among other things, use of this checklist in conjunction with legal counsel may serve to protect the responses under the attorney-client privilege.

If you have any questions or concerns after reviewing the checklist, let us provide you with the information you need or help you with your periodic review. Prior to completing this checklist, please contact a Fisher Phillips attorney to assist you and ensure that responses are confidential.

DOCUMENTATION AND FILING SYSTEMS

| | Yes | No |
|--|--------------------------|--------------------------|
| Do you have and follow a written record retention and destruction policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are medical records maintained in a secure, confidential manner separate from personnel records? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you comply with the EEOC's recordkeeping requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are personnel records up-to-date including changes in employee contact information, gender or employment status? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether applicable state law allows your employees to review their personnel file? | <input type="checkbox"/> | <input type="checkbox"/> |

APPLICATION STAGE

| | | |
|---|--------------------------|--------------------------|
| Have you ensured that your recruiting methods are non-discriminatory? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are job openings posted internally and externally? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the company developed an adequate job description for each job? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are job descriptions updated at least annually? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company retain copies or screenshots of external job advertisements and postings? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do job postings contain EEO language and, if applicable, Affirmative Action language? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there any language in the job postings or job descriptions that could be viewed as discriminatory? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the company's application for employment been reviewed by employment counsel in the last 12 months? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a completed, signed application for employment for each employee, including rehires? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are applicants asked to self-identify race/ethnicity, gender, veteran status and disability, if required? If applicants do self-identify, does the company use the required form for disability? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company test offerees for illegal drugs before they begin employment? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are all offers of employment made subject to satisfactory background checks? | <input type="checkbox"/> | <input type="checkbox"/> |
| For applicants who will drive as part of their job duties, do you check their driving record? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are past employment verification and reference checks completed for all offerees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you send offer-of-employment letters and do they contain employment at-will language? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are any employment tests used? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are employment tests (if any) reviewed for compliance with the Uniform Guidelines on Employee Selection Procedures? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are your managers trained to avoid making unlawful inquiries during interviews? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company train managers to hire the appropriate, best qualified applicants? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are your managers trained not to write notes and comments on applications and resumes? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a process for the collection, review and storage of applications? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a reliable applicant tracking system? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have policies in place to deal with restrictive covenant issues, such as reviewing an applicant's agreements with prior employers? | <input type="checkbox"/> | <input type="checkbox"/> |

NEW HIRE STAGE

| | Yes | No |
|---|--------------------------|--------------------------|
| Do you provide a comprehensive orientation program for new employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is a new hire or orientation checklist completed for each employee? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do new hires sign an arbitration agreement or jury trial waiver? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has your arbitration agreement been updated recently to reflect significant legal changes? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the mandated "new hire reporting" completed and submitted to the state for each new hire? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether your state allows mandatory direct deposit? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether your state has pay card requirements and/or limitations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is a written document explaining the employee's pay plan given to the employee? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have current emergency contact information for each employee? | <input type="checkbox"/> | <input type="checkbox"/> |
| For employees who carry company property, does the company issue a receipt for the property? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do receipts for company property contain language authorizing the company to deduct for loss, damage, or failure to return the property to the extent allowed by law? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is a current employee handbook given to each employee for reference? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a signed, dated acknowledgment of receipt for the handbook in each employee's personnel file? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a signed, dated acknowledgment of receipt for the No Harassment policy for each employee? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has employment counsel reviewed your employee handbook within the last two years? | <input type="checkbox"/> | <input type="checkbox"/> |
| For employees who drive their own or company cars in the course of their jobs, do you require evidence of their automobile insurance? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you conduct driving records checks at least every two years? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you require such employees to report changes in their driving status, such as DUIs or license suspensions? | <input type="checkbox"/> | <input type="checkbox"/> |

PROTECTING CONFIDENTIAL INFORMATION AND VALUABLE RELATIONSHIPS

| | | |
|---|--------------------------|--------------------------|
| Do employees who have access to confidential information execute confidentiality agreements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you discuss unfair competition with new hires, including prohibiting the use of a prior employer's property or confidential information? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have written agreements with key employees and those with significant customer relationships (management, inside and outside salespeople, R&D personnel, IT personnel, etc.) to prevent them from doing the following: | | |
| • Working on behalf of a competitor during employment and after termination? | <input type="checkbox"/> | <input type="checkbox"/> |
| • Soliciting your customers during employment and after termination? | <input type="checkbox"/> | <input type="checkbox"/> |
| • Soliciting your employees during employment and after termination? | <input type="checkbox"/> | <input type="checkbox"/> |
| • Using or disclosing your confidential information during employment and after termination? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do employees with access to your business strategies have agreements not to compete, in states where permissible? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you recently reviewed your agreements to make sure they: (1) comply with current law in the states in which you operate including time, territory, and scope; and (2) take advantage of favorable changes in state law? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you are located in multiple states, do you tailor restrictive covenant agreements to each state's requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| When an employee is terminated, do you immediately delete the employee's access to computers, phone systems and private property areas? | <input type="checkbox"/> | <input type="checkbox"/> |

PROTECTING CONFIDENTIAL INFORMATION AND VALUABLE RELATIONSHIPS *continued*

| | Yes | No |
|--|--------------------------|--------------------------|
| Do you have policies in place to deal with the departure of employees (such as shutting off their cell phone accounts and preserving electronic evidence)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have policies authorizing your company to remotely wipe company information from personal devices in the event a device is lost or stolen? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you “back up” your computers and maintain copies of the back-up tapes for long enough that you could investigate, remedy and prove employee computer theft/tampering? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you determined what information is most critical for your business and would be most harmful if it fell into the hands of a competitor? | <input type="checkbox"/> | <input type="checkbox"/> |
| When you make disclosures of confidential information to other businesses (vendors, potential business partners, etc.), do you use a non-disclosure agreement? | <input type="checkbox"/> | <input type="checkbox"/> |
| For your sales force, do you limit each employee’s access to the customer database to only those customers for which the employee is responsible? | <input type="checkbox"/> | <input type="checkbox"/> |
| As allowed by state law, do you update employee agreements when employees change job duties and/or geographic territories? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you periodically audit your personnel files to make sure that critical employees have signed, current restrictive covenant agreements on file? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you made sure that your severance/release agreements don’t supersede any restrictive covenant agreements you want to enforce? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you mark important documents “Confidential”? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you limit access to confidential information on and off your computers to only those employees with a legitimate need to know? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have policies and/or an agreement in place that explicitly state what employees are authorized to do (and must refrain from doing) on your computer system? | <input type="checkbox"/> | <input type="checkbox"/> |

NONDISCRIMINATION, HARASSMENT, AND RETALIATION

| | | |
|--|--------------------------|--------------------------|
| Do you have written policies prohibiting discrimination, harassment, and retaliation? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a formal grievance or problem-solving procedure? | <input type="checkbox"/> | <input type="checkbox"/> |
| In the last 12 months, have your managers and employees been trained about the company’s discrimination, harassment, and retaliation policies? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are training session attendance sheets and handouts maintained? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have an internal policy or procedure for investigating employee complaints? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you inspect company premises for any materials that may violate the company’s No Harassment policies (including posters, graffiti, screen savers, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed day-to-day operating procedures and policies to eliminate discrimination on the basis of sex or pregnancy (e.g., leaves of absence or other benefits)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company consistently enforce dress and grooming policies? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed your dress and grooming policies for EEO considerations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you adopted a gender neutral paternity leave policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you still use a “maternity leave” policy, have you carefully reviewed whether it meets current legal requirements? | <input type="checkbox"/> | <input type="checkbox"/> |

WAGE/HOUR AND PAY EQUITY COMPLIANCE

| | Yes | No |
|--|--------------------------|--------------------------|
| Have you recently re-evaluated the status of exempt employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you recently reviewed your pay practices for discrimination and/or pay inequalities on the basis of sex? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you maintain accurate records of hours worked by non-exempt employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do any of your timeclocks round time entries? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have tipped employees? If so, do you use tip pools? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you follow all federal and state tip pool rules? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are all non-exempt employees properly paid overtime? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether your state requires daily or weekly overtime? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you employ anyone under 18 years of age, do you comply with child labor requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do non-exempt employees perform work during breaks or lunch periods? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you operate in any state which requires meal or break periods? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do any of your timeclocks automatically deduct for meal and break periods? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do any non-exempt employees perform work at home (including emails, phone calls, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do any non-exempt employees have remote access to company systems through electronic or personal devices? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do any non-exempt employees perform work prior to the start or end of their shift without receiving compensation? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are deductions from pay justified by law or a written agreement that complies with the law? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know which states strictly limit deductions from pay? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do employees paid on commission or bonus have a detailed written pay plan? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are non-exempt employees properly compensated for travel time? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do non-exempt employees have the ability to review and correct their time records? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether your state requires reimbursement to employees for business expenses? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed whether the company pays overtime on bonuses, commissions, and incentives paid to non-exempt employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed whether "independent contractors," "casual labor," "contract employees," or "freelancers," might instead be employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you prohibit employees from discussing their wages with one another? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does your employment application request information regarding an applicant's salary history? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are wages ever withheld for failure to return company property or equipment? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you require forfeiture of unused vacation and/or paid time off at the end of employment? | <input type="checkbox"/> | <input type="checkbox"/> |

FAIR CREDIT REPORTING ACT (FCRA)

| | | |
|--|--------------------------|--------------------------|
| Do applicants complete a disclosure and authorization form prior to the company obtaining a criminal history or credit report? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the disclosure and authorization on an individual form, consisting solely of the disclosure and authorization? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the form allow for reports during continued employment? | <input type="checkbox"/> | <input type="checkbox"/> |
| When FCRA issues arise, is the current "Summary of Your Rights Under the FCRA" sent? | <input type="checkbox"/> | <input type="checkbox"/> |
| When FCRA issues arise, is a pre-adverse action letter sent? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are the required special procedures followed for using Investigative Consumer Reports? | <input type="checkbox"/> | <input type="checkbox"/> |

FAIR CREDIT REPORTING ACT (FCRA) *continued*

| | Yes | No |
|---|--------------------------|--------------------------|
| Do you counsel employees with access to FCRA information about its proper use? | <input type="checkbox"/> | <input type="checkbox"/> |
| When you finish using the consumer report, do you dispose of it in a secure manner? | <input type="checkbox"/> | <input type="checkbox"/> |
| When reviewing a consumer report, are you aware of additional EEO considerations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you know whether your state has criminal history or credit report limitations (e.g. Ban-the-Box laws)? | <input type="checkbox"/> | <input type="checkbox"/> |

FAMILY AND MEDICAL LEAVE ACT (FMLA)

| | | |
|--|--------------------------|--------------------------|
| Do you have 50 or more employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have more than one facility or operation? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you determined which of your facilities have 50 or more employees within 75 miles (subject to the FMLA)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you require employees to request medical leave in writing? | <input type="checkbox"/> | <input type="checkbox"/> |
| When employees request medical leave, do you provide them with a “Notice of Eligibility and Rights and Responsibilities Form”? | <input type="checkbox"/> | <input type="checkbox"/> |
| When employees request medical leave for themselves or a family member, do you require them to provide medical certification? | <input type="checkbox"/> | <input type="checkbox"/> |
| Once an employee provides a Qualifying Medical Certificate, do you provide them with a Notice of Designation? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you require employees on medical leave to submit periodic status reports? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are FMLA eligible employees who are on leave because of a workers’ compensation injury or because of a short term disability, placed on FMLA leave when appropriate? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers trained to recognize when a leave request implicates the FMLA? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does your FMLA policy use a rolling 12-month calculation period for leave to minimize abuse? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you properly designating and managing the use of intermittent FMLA leave? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a medical leave/personal leave policy for employees who are ineligible for FMLA? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does your state require paid or unpaid family and medical leave benefits under state law? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you properly consider workers’ compensation claims to see if the claims also are an FMLA event? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have employees in states with state-based family, medical and leave laws more generous than FMLA? | <input type="checkbox"/> | <input type="checkbox"/> |

BENEFITS

| | | |
|---|--------------------------|--------------------------|
| Do you have a compliant ERISA plan and summary plan descriptions (SPD) for health insurance, life insurance, accidental death & dismemberment insurance, retirement savings plans, STD and/or LTD benefits? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you conduct annual nondiscrimination testing and confirm contribution limits are satisfied for your health and welfare plans, including HRAs, HSAs, or FSAs? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a written cafeteria plan document to authorize pre-tax payment of employee insurance premiums? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do your group health plans provide equal coverage for all employees without regard to sex, disability, pregnancy, genetic information, health-status, or compensation? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have committee charters and procedures in place to ensure compliance with your fiduciary duties under ERISA for your welfare and retirement plans? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you an applicable large employer under the ACA? | <input type="checkbox"/> | <input type="checkbox"/> |

BENEFITS *continued*

| | Yes | No |
|---|--------------------------|--------------------------|
| Are you part of an aggregated controlled or affiliated service group for benefit plan testing and ACA liability? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is health coverage “affordable” and provide “minimum value” if you are an applicable large employer? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you report group health plan eligibility information to employees on Form 1095 series and to the IRS on the Form 1094 series if you are a large employer or self-insured? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you provide a uniform summary of benefits and coverage to participants and beneficiaries at appropriate times (i.e. application for coverage and at renewal)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you provide proper notices for retirement and welfare plans required under the ACA, ERISA, CHIPRA, HIPAA, Medicare Part D, and COBRA? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you prepare a Summary of Material Modifications (SMMs) to notify employees of changes in medical plans within 60 days before their effective date? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you prepare SMMs to notify employees of changes in your non-medical welfare plans within 210 days of the close of your benefit year? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do your payroll settings for 401(k) deductions accurately capture the definition of compensation in your 401(k) plan for deferral purposes? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you ensure the automatic enrollment provisions, if any, in your 401(k) plan are timely implemented? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you in compliance with Form 5500 filing requirements and file a Form M-1 if you sponsor a multiple employer welfare arrangement? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you complete a Summary Annual Report (SAR) for ERISA plans? | <input type="checkbox"/> | <input type="checkbox"/> |
| On an annual basis and upon changes affecting your Medicare Part D plan’s creditable coverage status, do you provide the plan’s creditable status to the Centers for Medicare and Medicaid Services (CMS)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you comply with Medicare Secondary Payer restrictions and notice requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you comply with the Mental Health Parity and Addiction Equity Act (MHPAEA), the Newborns’ and Mothers’ Health Protection Act (NMHPA), and the Women’s Health and Cancer Rights Act (WHCRA)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does your payroll system reflect the annual Social Security (FICA) taxable wage and the addition of an additional employee-paid Medicare tax for employees earning more than \$200,000? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you recently audited whether all wages are being captured and taxed properly for imputed income (e.g., employer provided life insurance coverage in excess of \$50,000)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you engage in timely Actual Deferral Percentage and Actual Contribution Percentage discrimination testing on your 401(k) plan(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is your company prepared to meet the IRS deadline for distribution to employees of their excess deferrals and excess annual additions beyond the statutory maximum under your qualified retirement plan(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you ensure that documentation provided electronically or posted on a company website is in compliance with the DOL’s safe harbor provisions? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have compliant HIPAA Privacy and Security Procedures and conduct annual training for employees with access to protected health information? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you maintain procedures in case of a HIPAA breach (including a breach log and reporting procedure)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do your severance, long-term incentive and executive nonqualified retirement plans comply with the requirements of 409A or qualify for an exception by design? | <input type="checkbox"/> | <input type="checkbox"/> |

IMMIGRATION (IRCA) COMPLIANCE

| | Yes | No |
|---|--------------------------|--------------------------|
| Do you maintain I-9 forms for all current employees hired after November 6, 1986? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are I-9 forms completed within the time limit required after hiring? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you using the most recent version of the I-9 form? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you photocopy the supporting documents listed in Section 2 of the I-9 form? | <input type="checkbox"/> | <input type="checkbox"/> |
| If so, do you apply this practice consistently for all employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you maintain your I-9s for all current employees in a separate file (not the personnel file)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you move the I-9 forms for terminated employees to a different file and calculate the date when you can purge them? | <input type="checkbox"/> | <input type="checkbox"/> |
| For terminated employees, do you periodically review the I-9 forms to see which forms have met the retention date requirements and can be purged? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you actually purge the I-9 forms? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you maintain a tickler/reminder system to assure timely re-verification of expiring work authorization documents? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you require employees to present specific identity and work authorization documents? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers/company representatives trained on I-9 requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you review a terminating employee's I-9 as part of the exit process? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you required by state law to use E-Verify to verify the employment authorization of new hires and rehires? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are you required by federal contract to use E-Verify to verify the employment authorization of new hires, rehires and existing employees working on the federal contract? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you participate in E-Verify and the employee presents a U.S. Passport, Passport Card, Permanent Resident Card or Employment Authorization Document, do you retain a photocopy of the document? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you close all cases in E-Verify after receiving a final case result? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers/company representatives trained on E-Verify requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you been audited by the U.S. Immigration and Customs Enforcement for I-9 form and E-Verify compliance? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you registered for the IMAGE program? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you sponsor employees for temporary work or permanent visa status? | <input type="checkbox"/> | <input type="checkbox"/> |
| If so, do you maintain the correct documentation files? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you been audited by the U.S. Department of Homeland Security or the U.S. Department of Labor in connection with any visa program? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you obtain the appropriate inbound/outbound visas for employees who travel and work internationally? | <input type="checkbox"/> | <input type="checkbox"/> |

WORKPLACE SECURITY

| | | |
|--|--------------------------|--------------------------|
| Does the company have a "no weapons" policy compliant with state law? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a "zero tolerance" for violence policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a complaint system for allegations of workplace violence and threats? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are employees and supervisors trained regarding workplace violence, including response to an active shooter? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a contingency plan for bomb threats or incidents of alleged workplace violence or threats? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have an emergency action plan? | <input type="checkbox"/> | <input type="checkbox"/> |

WORKPLACE SECURITY *continued*

| | Yes | No |
|--|--------------------------|--------------------------|
| Has the company conducted a workplace security audit within the last two years? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company use spyware or a spam buster on its computer networks? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a “disaster recovery hot-site”? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company consistently enforce policies on solicitation, distribution, and access to the premises? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company keep OSHA 300 logs? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company electronically report the information on the 300A summary to OSHA? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a drug testing program for reasonable suspicion and post-accident that is compliant with OSHA’s new rules? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a safety incentive program compliant with OSHA’s new rules? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a policy in place on how to proceed if OSHA arrives? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company report fatalities, amputations, and in-patient hospitalizations timely to OSHA? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have a policy in place to prevent bullying and workplace violence? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company train its employees on the use of fire extinguishers if they are required to use them in case of a fire? | <input type="checkbox"/> | <input type="checkbox"/> |

SAFETY MATTERS

| | | |
|---|--------------------------|--------------------------|
| Has your workforce been audited by a safety professional within the last two years? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does each locality or worksite maintain OSHA 300 logs (unless exempt)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are OSHA 300A summaries posted within the required three-month period and properly updated (unless exempt)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company use written safety instructions or manuals? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do employees sign an acknowledgment of receipt of safety rules? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do employees receive required safety training about safety matters? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are training session attendance sheets and handouts maintained? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a safety committee? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a Job Safety Analysis (JSA) for each job presenting hazards? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are Safety Data Sheets (SDS) maintained for all chemicals used on company premises? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a written Hazard Communication Plan? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a Bloodborne Pathogens Plan, if required? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a Confined Space Entry program, if applicable? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have an OSHA “8(c)” whistleblower/anti-retaliation policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you participated in an OSHA 8(c) consulting program? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you conducted a hazard assessment to determine whether your employees are required to use any personal protective equipment (PPE)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have certification that your employees have been trained on the proper use of PPE? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have written certification that you have conducted a respiratory or audiometric assessment? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a work practice for the removal of defective equipment (i.e., tagging)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have a lockout/tagout policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you report work-related in-patient hospitalizations, amputations, loss of an eye, and/or fatalities? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you use temporary employees, have you reviewed OSHA’s temporary employee initiative? | <input type="checkbox"/> | <input type="checkbox"/> |

SAFETY MATTERS *continued*

| | Yes | No |
|--|--------------------------|--------------------------|
| Do you have suitable eye and body wash facilities, if required? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have personnel adequately trained in first aid, if required? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you conduct regular inspections for the most common OSHA citations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have policies governing contractors providing services on site? | <input type="checkbox"/> | <input type="checkbox"/> |
| If you use safety incentive programs, are they lawfully compliant? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is your company ISO 45001 certified? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed your safety policies in the last 12 months? | <input type="checkbox"/> | <input type="checkbox"/> |

EVALUATION, DISCIPLINE, AND SEPARATIONS

| | | |
|--|--------------------------|--------------------------|
| Are all new hires subject to an introductory period? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are performance evaluations conducted for all employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers trained to conduct performance evaluations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers trained about and evaluated on compliance with employment laws? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers trained about and evaluated on documenting all personnel issues and disciplinary actions? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is there a written progressive discipline system that limits your discretion? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are verbal warnings memorialized in writing? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are employees given copies of all written discipline? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does one person review all terminations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are terminations compared to prior discipline against others for similar offenses? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are exit interviews conducted for all voluntary terminations? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are separating employees asked to sign a waiver for the company to give future employment references? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company direct all reference checks to a central person? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are managers trained how to respond to requests for employment references? | <input type="checkbox"/> | <input type="checkbox"/> |
| At separation of employment, are wages paid at the time required by state law? | <input type="checkbox"/> | <input type="checkbox"/> |
| At separation, do you handle accrued but unused time off in accordance with company policy and applicable state law? | <input type="checkbox"/> | <input type="checkbox"/> |
| At separation, are employees reminded of restrictive covenant agreements they signed? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company discuss the return of company property with the separating employee? | <input type="checkbox"/> | <input type="checkbox"/> |

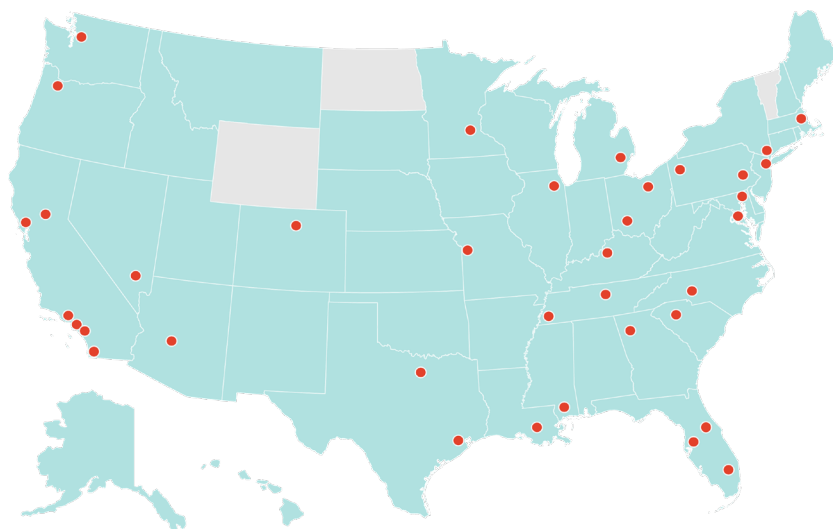
OTHER COMPLIANCE ACTIONS

| | | |
|---|--------------------------|--------------------------|
| Do you know whether you are located in any states or localities requiring paid sick leave? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has your drug and alcohol testing policy been reviewed for compliance with any applicable state laws? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you discipline employees for testing positive for marijuana use? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are applicable federal, state and local employment law posters properly posted? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the EEO-1 Form completed and submitted annually? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you reviewed recent EEO-1 forms to see if they indicate any trend in the representation of women and/or minorities in each EEO-1 job category? | <input type="checkbox"/> | <input type="checkbox"/> |

OTHER COMPLIANCE ACTIONS *continued*

| | Yes | No |
|---|--------------------------|--------------------------|
| Is the VETS-4212 Form completed and submitted annually? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you maintain records on new hires, promotions, layoffs, transfers and discharges? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you provide products or services to federal or state government? | <input type="checkbox"/> | <input type="checkbox"/> |
| If your company performs services under federal contracts or subcontracts, do you maintain an appropriate applicant flow log (separate from personnel and applicant records)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you have an updated Affirmative Action Plan in effect? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you send letters to the State Employment Service or other recruitment sources about job openings? | <input type="checkbox"/> | <input type="checkbox"/> |
| Are company premises accessible to disabled applicants and employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Is your company website accessible to individuals with disabilities? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company make reasonable accommodations for disabilities and religious observance(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the company have an Employee Assistance Program (EAP)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do you consider your employee turnover to be excessive? | <input type="checkbox"/> | <input type="checkbox"/> |

Fisher Phillips is Strategically Located to Best Serve Our Clients



- Fisher Phillips Office Locations
- States in which Fisher Phillips attorneys are admitted

With more than 500 attorneys in 37 offices across the United States, Fisher Phillips is a national labor and employment firm providing practical business solutions for employers' workplace legal problems. We regularly advise and counsel clients on issues surrounding wage and hour, employment discrimination and harassment, litigation, workplace safety, immigration, trade secrets and non-competes, and more.

