



# An Employment Compliance Checklist for Tech Startups

Insights

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After years of brainstorming, planning and raising funding, you've finally gotten your startup off the ground. Launching a startup is exhilarating – but it's also easy to overlook compliance basics in the rush to get your product out the door. It's critical to lay the groundwork for a legally sound workplace before you hire employees or work with independent contractors so you can avoid the many legal landmines you might face. Getting your employment house in order as early as possible will signal to investors, clients, and future hires that you're building a real company. Here's your startup's practical roadmap to get compliant, stay lean, and grow smart.

## □ What to Do Before You Hire

Before extending your first offer, make sure you're handling these key pre-hire tasks:

- **Engage Experienced Counsel:** Your very first step should be engaging workplace counsel who has experience working with tech startups. This checklist will give you a leg up on getting started, but you'll need tailored specific assistance to ensure you hit all the right notes from the start.
- **Compliant Job Notices and Applications:** Before you even start the hiring process, make sure your applications and job notices pass legal muster in each and every jurisdiction in which you might hire. Some state and local laws have strict rules about what you can and can't inquire about in your applications (like references to criminal background checks), and others set transparency requirements regarding salary ranges and other items.
- **Offer Letters:** Customize templates for *exempt* and *non-exempt* positions. Include terms like compensation, job classification, benefits, at-will status, contingencies (reference checks, background checks, etc.), and required documentation (such as I-9 forms).
- **Interview Prep:** Standardize your interview questions and train hiring managers. Develop a list of screening questions and broader, open-ended questions to guide your hiring managers. Avoid illegal or problematic questions about criminal history, age, family status, disability, national origin and any other protected categories.
- **Rejection Templates:** Send polite, non-discriminatory rejection letters to applicants not selected.
- **Classification Check:** Review whether the role is properly classified under the Fair Labor Standards Act (FLSA) and applicable state law – exempt vs. non-exempt – and whether the

position should be classified as an employee or independent contractor. Misclassification can be costly, and can devastate a company even before it is up and running.

## ✓ What to Give Every New Hire

Once an offer is accepted, every employee should receive:

- A copy of your **Employee Handbook or Policy Guide**, with key provisions like:
  - At-will employment language
  - Equal Employment Opportunity (EEO) policy
  - Harassment and discrimination policies
  - Problem-solving procedures
  - Reasonable accommodation policy/ interactive process
  - Other rules of conduct and reporting procedures
- A formal **job description**, outlining duties and responsibilities
- A **healthcare marketplace notice**, as required under the ACA
- A **benefit enrollment packet**, if applicable
- A **Fair Credit Reporting Act Notice of Rights**, if applicable

**Pro tip:** Use an **onboarding checklist** to make sure nothing gets missed.

## □ What to Have Them Sign

Keep your legal bases covered by having employees sign:

- **Offer letter** (with clear at-will language)
- **Handbook acknowledgment form**
- **Emergency contact form**
- **Direct deposit authorization** (note: Florida requires voluntary consent)
- **Job description acknowledgment**
- **FCRA authorization** if conducting background checks
- **I-9 form** and **W-4 tax form**
- **Benefit enrollment forms**
- Optional – but wise in many cases:
  - **Jury trial waiver** (if not using arbitration agreements)
  - **Proprietary Information and Inventions Agreement (PIIA)**

- **Non-Disclosure Agreement (NDA)**

## □ What to Keep on File

Maintain a secure and organized system for:

- Employment application
- Signed onboarding documents
- Benefit enrollment forms (if applicable)
- Separate I-9 binder (required to be stored separately from personnel files)
- Background check documentation (if used)
- Records for EEO-1 reporting (for employers with 100+ employees or certain federal contractors)

**Bonus:** Start building your record retention system now – it gets harder to do later.

## □ What Policies to Put in Place

Even with a small team, you need basic policies that reflect compliance and your company culture:

- **Anti-Harassment Policy:** Extend this to off-site events and virtual environments
- **Equal Opportunity Policy:** Comply with federal, state, and local laws
- **Reasonable Accommodation Policy:** Include pregnancy, disability, and religion
- **Code of Conduct:** Cover professionalism, workplace safety, and use of company property
- **Problem-Solving Procedure:** Give employees a way to raise issues internally

Remember, these policies not only set expectations, but can also be your first line of defense if a dispute later arises.

## ⚖️ What Legal Standards to Understand

There are numerous statutes and regulations for you to navigate as you start hiring workers, but there are some key legal standards that should be front and center as you build your team:

- **Fair Labor Standards Act (FLSA)** – the main federal wage and hour statute that should guide your policies on salary, compensation, methods and frequency of pay, breaks, meals, and more.
- **Title VII and Related Laws** – the law that prohibits discrimination based on race, sex, national origin, religion, and more. Many state laws go further and protect categories like marital status and more.
- **Americans with Disabilities Act (ADA)** – requires reasonable accommodations and prohibits

disability discrimination.

- **Immigration Reform and Control Act (IRCA)** – requires I-9 verification for all employees.
- **Federal and State Background Check Laws** – they trigger specific consent, disclosure, and adverse action requirements under the Fair Credit Reporting Act (FCRA).
- **State Wage Transparency Laws** – these may mandate pay scale disclosures in job postings and require timely wage notices.
- **Stock Options and Equity Compensation** – Offering stock options? Understand the difference between ISOs and NSOs, their tax treatment, vesting schedules, and required disclosures.
- **Independent Contractor Standards** – many states have adopted the “ABC test” or similar rules that make it harder to classify workers as contractors.

## □ How to Stay Compliant as You Grow

As you scale, revisit your infrastructure regularly. Consider:

- Whether you need a formal **Employee Handbook** or state-specific addenda
- If your stock option practices need to align with **FLSA rules and offer letter disclosures**
- When to introduce **arbitration agreements** or updated NDAs
- How to handle **remote workers** in different states, triggering multi-jurisdictional compliance

**Looking Ahead:** A quarterly legal check-in can help prevent small issues from becoming big problems.

## □ Final Tip: Don't Wait to Ask for Help!

As a founder or member of the management team of a startup, we know there is a lot on your plate. And while all the growth/change can be overwhelming, letting compliance fall by the wayside can have devastating consequences. To ease the burden, work with experience legal counsel early to build scalable employment practices that fit your business model.

## Conclusion

If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [Tech Industry Team](#). We will continue to monitor workplace law developments as they apply to employers in the tech industry, so make sure you are subscribed to [Fisher Phillips' Insights System](#) to get the most up-to-date information directly to your inbox.

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