

Get Your HR in Shape for 2020

Healthy HR Habits to
Implement Right Now

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What We'll Cover

Healthy HR Habits for 2020:

1. Review your recordkeeping processes
2. Update your personnel policies
3. Check your labor law postings
4. Classify workers correctly
5. Conduct harassment and diversity training
6. Document discipline consistently
7. Continue your HR education

Healthy HR Habit #1

Review Your Recordkeeping Processes



Review Your Recordkeeping Processes

In general, employment records must be maintained for one year from the employee's termination date. There are a few exceptions:

- Resumes and job applications should be held for a minimum of 1 year
- I-9 forms must be kept for three years after an employee's hire date, or one year after the employment ends, whichever is later

Review Your Recordkeeping Processes

- W-4 forms need to be saved for at least four years after the date taxes were due or paid, based on IRS guidelines
- Payroll records – such as pay stubs, proof of overtime wages and payroll deductions – for non-exempt “hourly” employees should be saved for a minimum of three years (4 years under FICA)
- Personnel records related to wages, such as performance reviews or work schedules, must be stored for at least two years

Review Your Recordkeeping Processes

Best Practices:

- Do not keep everything past their discard date in order to meet timekeeping guidelines
- This can lead to disorganization and can even count against you in an investigation
- Review your records periodically and discard the ones you don't need to keep

Healthy HR Habit #2

Update Your Personnel Policies



Update Your Personnel Policies

- Employee manuals need to cover more than breaks and dress code
- Workplaces are changing, and handbooks need to reflect the shifts
- Addressing the latest workplace trends can help set clear boundaries, prevent misunderstandings and protect your business

Update Your Personnel Policies

Remote Workers:

- Essential if you allow employees to work from home or some other location outside the main office
- However, not all jobs and employees are well-suited for remote work
- Questions to address in a remote worker policy:
 - *Who is eligible for remote work?*
 - *Do you have any limitations on remote work?*
 - *How will you monitor your remote workers?*

Update Your Personnel Policies

Social Media:

- This policy outlines how an organization and its employees should conduct themselves via the web
- A social media policy can help protect your company's reputation
- Make sure you draft it to withstand scrutiny from the NLRB
- Questions to consider with your social media policy:
 - *Do you need a policy for both business and personal use?*
 - *What guidelines need to be established?*
 - *What about the use of social media while at work?*

Update Your Personnel Policies

Drugs and Alcohol:

- Trending policy due to expanding laws legalizing marijuana use
- Marijuana is still against federal law ... generally you can prohibit and test for it
- Questions to address in your drugs and alcohol policy:
 - *What substances do you want to prohibit?*
 - *What testing procedures do you want in place?*
 - *How will you handle employees legally prescribed marijuana for medical issues?*

Update Your Personnel Policies

Weapons in the Workplace:

- Under OSHA, employers have an obligation to protect employees from workplace violence
- You can address weapons and violence separately or combine them in one policy
- Questions to address in a weapons in the workplace policy:
 - *What items will you consider weapons?*
 - *What conduct do you want to prohibit?*
 - *What disciplinary measures do you want in place?*

Update Your Personnel Policies

Politics in the Workplace:

- Having a policy limiting political expression and activities can help prevent conflicts and even employee lawsuits
- Include phrasing that supports your company's zero-tolerance stance against coercion, harassment and retaliation
- Questions to address in your politics policy:
 - *What are your workplace rules?*
 - *What activities are prohibited?*
 - *Are there restrictions surrounding email use?*

Update Your Personnel Policies

Best Practices:

- Decide if you're missing any trending policies
- Check state and local laws when creating policies
- List the disciplinary consequences for violations
- Have employees sign an acknowledgment stating they received the policies
- Keep a copy of the signed acknowledgement in the employee's personnel file

Healthy HR Habit #3

Check Your Labor Law Postings



Check Your Labor Law Postings

These five federal postings apply to almost every U.S. employer:

1. Equal Employment Opportunity Commission (EEOC) – 15 or more employees
2. Occupational Safety and Health Administration (OSHA)
3. Uniformed Services Employment and Reemployment Rights Act (USERRA)
4. Fair Labor Standards Act (FLSA)
5. Employee Polygraph Protection Act (EPPA)

Plus, the FMLA posting is required for larger businesses.

Check Your Labor Law Postings

- Additionally, employers are responsible for state postings
- Beyond these basics, other posting requirements may apply to your business, including:
 - Spanish postings
 - City or county postings
 - Job applicant postings
 - Remote worker postings
 - Industry postings

Check Your Labor Law Postings

Best practices:

- Check to make sure you are complying with all federal, state and local legal requirements
- Don't assume you can update once a year and be covered
- Ensure you have required postings where all employees and job applicants can easily view them

Healthy HR Habit #4

Classify Workers Correctly



Classify Workers Correctly

New FLSA Rule for exempt “salaried” workers:

- On September 24, 2019, the U.S. Department of Labor (DOL) announced a final rule to make 1.3 million workers newly eligible for overtime pay
- The rule went into effect on January 1, 2020
- The minimum salary requirement is now \$684/week or \$35,568 annually
- White-collar duties tests for executive, administrative and professional employees haven't changed

Classify Workers Correctly

Best Practices:

- Make sure all of your exempt, “salaried” workers are making at least \$684/week or \$35,568 annually
- AND, make sure they are able to pass every criteria of one of the DOL job duties tests
- Update job descriptions, if necessary, to ensure they correlate to the DOL tests

Classify Workers Correctly

Independent Contractors:

- It's also imperative that independent contractors are classified correctly
- Too many businesses treat contractors like employees
- This can lead to costly penalties if it's determined that your independent contractors are actually employees under the law

Classify Workers Correctly

Best Practices:

- Have a written contract that says the worker is an independent contractor
- Treat the worker as a vendor under accounts payable
- Allow the worker to set his or her own hours
- Make sure the worker is free to pursue other clients and projects

Healthy HR Habit #5

Conduct Harassment Training



Conduct Harassment Training

- Many employees may not know what constitutes unlawful harassment and may not recognize when their actions are offensive or illegal
- Training can help prevent harassment from occurring in the first place
- Many states now require sexual harassment training

Conduct Harassment Training

Best Practices:

- Conduct harassment and diversity training annually and train new employees upon hire
- Make sure your training program:
 - Reinforces that prohibited conduct will not be tolerated
 - Includes examples of all forms of harassment
 - Emphasizes both severe and subtle instances

Healthy HR Habit #6

Document Discipline Consistently



Document Discipline Consistently

- The importance of performance documentation can't be overstated
- Documentation is an ongoing responsibility of every manager
- It helps ensure you're on top of employee performance
- It's also extremely helpful when it comes to performance appraisals, warnings, promotions, etc.

Document Discipline Consistently

- Many employers follow some type of progressive discipline where an employee is given a series of warnings before termination
- There are many benefits to progressive discipline:
 - It puts employees on notice of the problem
 - It gives them the opportunity to correct the behavior
 - It alerts them to the consequences of not improving
 - It creates a legal record of the problem

Document Discipline Consistently

Best Practices:

- Document your disciplinary process
- Be consistent
- If you have a written progressive policy, be sure it's not so "air-tight" that you're obligated to give warnings in every situation

Healthy HR Habit #7

Continue Your HR Education



Continue Your HR Education

- Self-directed online training is the perfect option for busy professionals
- You can complete courses as your schedule permits, with the option to pick up where you left off
- You can learn about a wide variety of topics that will help you manage employees

Continue Your HR Education

For example, do you know if you can legally:

- Ask about criminal history on a job application?
- Require new employees to produce a U.S. passport to verify work eligibility?
- Make employees take FMLA leave all at once?
- Refuse to pay a non-exempt employee for overtime because it wasn't authorized?
- Fire an alleged harasser without doing a comprehensive investigation?

Continue Your HR Education



- ComplyRight offers free, on demand HR training courses that cover all the essentials
- Start with General Legal Obligations for Employers
- This first course breaks down the “alphabet soup” of federal laws that impact employers
- Once completed, you can move on to the other courses
- Visit complyright.com to get started

Questions



Reminder: All attendees will receive a link to the presentation and slides in a follow-up email.