

# A Small Business Guide To HR Compliance

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# WHAT IS HR COMPLIANCE?

Human resources (HR) compliance plays a critical role in your business that cannot be overstated. At its core, **HR compliance is the practice of ensuring that your business is following all federal, state, and local employment laws and regulations.**

HR compliance is a necessary component of any business because it's about recognizing the responsibilities you have as an employer and making the right decisions and taking the right steps to protect your business and employees. But it can be a challenging burden to small business owners and HR teams.



Read on to learn why HR compliance is important for small businesses and why managing it is so challenging, too. We'll discuss some of the most common compliance issues and the steps your growing business can take to keep up with HR compliance. And we'll explain how an HR partner is one of the best tools you can have to avoid compliance issues.

## WHY HR COMPLIANCE IS IMPORTANT TO RUNNING A SMALL BUSINESS

Just like with any company, your small business has legal obligations. It's bound by tax, wage, and payroll rules, health and safety requirements, family and medical leave laws, workers' compensation requirements, and many others.

But one of the biggest challenges for businesses is that laws and regulations change often, and the penalties for violating them can be financially devastating. Without a strong understanding of HR compliance in the first place or a reliable way to keep up with regulatory changes, your business could be subjected to:

- ✔ Audits by various enforcement agencies
- ✔ Exorbitant fines for non-compliance
- ✔ Back wages owed to employees
- ✔ Lawsuits from employees and others
- ✔ Possible criminal prosecution
- ✔ A damaged business reputation

Violations of the Fair Labor Standards Act (FLSA) can result in criminal prosecution and fines up to

**\$10,000<sup>1</sup>**

The average cost to defend a Family and Medical Leave Act (FMLA) lawsuit is

**\$80,000<sup>1</sup>**



**When HR compliance is a guiding principle of your business, you can:**

- ✔ Keep up with new and changing laws that directly impact your business
- ✔ Ensure your workplace and employment practices are fair and transparent
- ✔ Create a positive, trustworthy work environment for employees
- ✔ Make informed labor decisions with greater confidence
- ✔ Safeguard your finances and business reputation
- ✔ Manage risk appropriately

As your business evolves, it has to compete for everything from brand recognition to customer loyalty to talent acquisition. Shoring up HR compliance now can help you stay focused on your business goals and competitive gains without worrying that you'll get derailed by a severe penalty, lawsuit, or worse.

## WHY MANAGING HR COMPLIANCE CAN BE DIFFICULT

As necessary as HR compliance is, it can be quite challenging to manage. While a large enterprise has many resources at their disposal for managing compliance, your small business has to make do with smaller budgets and less staff.



<sup>1</sup> Source: U.S. Department of Labor.

<sup>2</sup> The Cost of Noncompliance When Managing Employee Absence. ESIS. August 2020.

Each year, the average business owner spends at least

**\$12,000**

on regulations, and nearly

**1 in 3**

spend more than

**80 hours**

dealing with federal regulations alone.<sup>3</sup>

Many small businesses don't have a dedicated HR team. Instead, HR responsibilities may get delegated to one or two people on top of their other job duties. And more often than not, the business owner ends up handling HR.

If your business does have its own in-house HR team, the volume of daily work can often be overwhelming, or your staff may not have the legal expertise needed to fully understand labor laws and compliance. This makes it difficult to give compliance the time and focus it requires so you can avoid serious issues.

Dedicating budget and staff to HR compliance is crucial but it can be a tall order for a small business that has many other competing interests and priorities.

## COMMON HR COMPLIANCE ISSUES

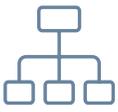
Despite best intentions, sooner or later many small businesses will run into a compliance issue. They may not even realize it right away simply because it's so easy to miss a key detail or a critical deadline, or mistakenly think some aspect of a law doesn't apply to them.

The biggest regulatory difficulties cited by small businesses are:

- 1 Complexity of rules
- 2 Difficulty understanding and interpreting rules.<sup>4</sup>



## Here are some of the more common HR compliance issues:



### **Incorrect Employee Classification**

There are important differences between an employee and an independent contractor, as well as who is exempt or non-exempt from overtime pay. Making mistakes on employee classification and overtime pay affects tax reporting and can put your business in hot water with the IRS.



### **Form and Filing Errors**

No matter how innocently it happens, any kind of form or filing error can open the door to major fines. For example, under the Affordable Care Act (ACA), a mistake on a payee statement now costs \$280 per return, and filing late can cost up to \$550 per return.<sup>5</sup> The penalty for incorrect I-9 paperwork now ranges from \$237 to over \$2,500.<sup>6</sup>



### **Job Posting Failures**

As part of the Equal Pay for Equal Work Act, all job postings now have to include the offered pay or pay range along with a description of any other compensation, such as bonuses or commissions. As well, job and promotion opportunities have to be announced to all employees on the same business day. Missing any of these requirements can incur fines of \$500 to \$10,000 per violation.<sup>7</sup>



### **No Employee Handbook**

The employee handbook is where you can outline employee rights as well as your work-related policies, how you evaluate employee performance, and your legal justification for termination. If you don't provide a compliant handbook that clearly states your policies, you run the risk of wrongful termination lawsuits – not to mention a workforce that doesn't know what's expected of them.



### **Missed Updates**

The end of the year is the time to update everything from the new social security wage base to minimum wage changes to 401(k) contribution limits so that you start off the new year in compliance. It's also important to update your employee handbook with new policies or protocols. But if you don't do this, you could be communicating or working off of old information and become immediately noncompliant with any number of laws or regulations.

<sup>5</sup> Sheen, Robert. "ACA Penalties Are Increasing in 2022." The ACA Times. Jan. 20, 2022.

<sup>6</sup> Civil Monetary Penalty Adjustments for Inflation. Federal Register. Jan. 11, 2022.

<sup>7</sup> Equal Pay for Equal Work Act. Colorado General Assembly.

This is by no means a complete list. The important takeaway, however, is that your business and HR comprise many moving parts. In the midst of everyday operations, it's not uncommon to make a mistake, overlook a task, or let something slide – any of which could come back to haunt you.

## Additional Resources



How to Classify Employees for HR Compliance

[Read Now](#)



4 Costly Tax Mistakes Small Businesses Make

[Read Now](#)



The Impact of Colorado's Equal Pay for Equal Work Act

[Read Now](#)



3 End-of-Year HR Compliance Mistakes To Avoid

[Read Now](#)

## MANAGING HR COMPLIANCE AS YOUR BUSINESS GROWS

As you grow your business, HR complexity increases. More employees means more information you have to track and record accurately and more legal details that apply – which means more things can go wrong. When the whole company is working hard to expand operations or keep up with increased demand, it's difficult to find the time or a trained staff member who can ensure HR compliance – even when you know it's necessary.



To give HR compliance the attention it deserves, there are a few practices and tools you can implement now:

1

### Stay on Top of Labor Laws

Some new or changing laws are widely publicized, but others aren't. If you don't yet have a system for getting legislative news or legal updates, put one in place right away so that you don't miss an important change. It also helps tremendously to have a legal expert on hand who can help you make sense of the laws and apply them correctly.

2

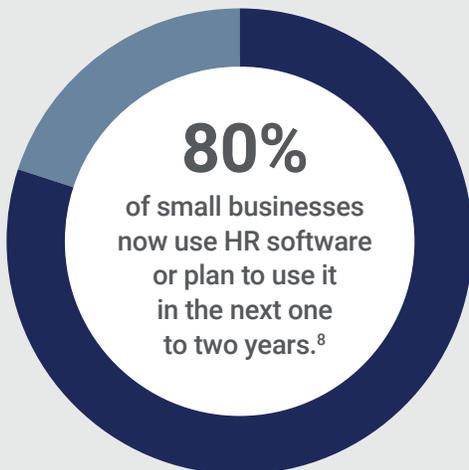
### Update Manager Training

Surprisingly, managers are often the ones who are committing compliance violations, however unintentionally. They're deeply involved in day-to-day operations and may not realize when they've taken a misstep, especially if they don't understand or haven't been educated in the complexities of labor compliance. It's a good idea to train every manager in labor laws so they have a baseline understanding they can apply to their employee hiring, directives, and interactions.

3

### Adopt HR Software

A substantial part of HR compliance is getting information correct and filing it on time. HR software that can automate critical processes like payroll and taxes and store and update employee information can help you avoid errors, information gaps, and missed deadlines that increase your risk of costly non-compliance.



Taking these steps can better prepare your growing business to keep up with HR compliance – and even improve your current compliance practices. It also helps you worry less so you can spend more of your time and focus on the strategies and initiatives that grow your business.

<sup>8</sup> Westfall, Brian. "Is Your Business Ready for an HR Digital Transformation?" Capterra. Nov. 10, 2021.



# HOW OBSIDIAN HR CAN HELP YOU GET COMPLIANT

Obsidian HR has legal experts on staff who are aware of the latest federal, state, and local laws and regulations – with a specific focus on Colorado’s employment laws and how they impact your business. We can answer your questions, advise you on best practices, and keep you updated on regulatory changes. We can also audit your current policies, procedures, and employee handbook – or help you develop them.

Rather than navigate these waters on your own, Obsidian HR provides the knowledge and support you need to get compliant and stay compliant. When you can trust HR compliance to the experts, you and your staff have more time to focus on growing your business and achieving your goals.

**Ready to outsource HR compliance to a trusted, local partner?  
Schedule time with an expert today.**

[Schedule Now](#)





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**Follow us for more! We're constantly sharing information on how to be compliant with changing laws and regulations, hiring and retaining employees, and developing your HR policies and procedures.**

