

# HR COMPLIANCE AFFECTS EMPLOYERS OF ALL SIZES

November 2020



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EMPLOYER SIZE	PROVISION
<b>ALL EMPLOYERS</b>	<ul style="list-style-type: none"><li>• Consumer Credit Protection Act (CCPA)</li><li>• Employee Polygraph Protection Act (EPPA)</li><li>• Employee Retirement Income Security Act (ERISA) (Other than governmental employers and certain church plans.)</li><li>• Equal Pay Act (EPA)</li><li>• Fair Credit Reporting Act (FCRA)</li><li>• Fair Labor Standards Act (FLSA)</li><li>• Federal Income Tax Withholding (FITW)</li><li>• Federal Insurance Contribution Act (FICA)</li><li>• Federal Unemployment Tax Act (FUTA)</li><li>• Health Insurance Portability and Accountability Act (HIPAA)</li><li>• Immigration and Nationality Act (INA)</li><li>• Immigration Reform and Control Act (IRCA)</li><li>• National Labor Relations Act (NLRA)</li><li>• Newborns' and Mothers' Health Protection Act (NMHPA)</li><li>• Occupational Safety and Health Act (OSH Act)</li><li>• Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)</li><li>• Uniformed Services Employment and Reemployment Rights Act (USERRA)</li></ul>
<b>15 OR MORE EMPLOYEES</b>	<ul style="list-style-type: none"><li>• Americans with Disabilities Act (ADA)</li><li>• Genetic Information Nondiscrimination Act (GINA)</li><li>• Pregnancy Discrimination Act (PDA)</li><li>• Title VII of the Civil Rights Act (Title VII)</li></ul>
<b>20 OR MORE EMPLOYEES</b>	<ul style="list-style-type: none"><li>• Age Discrimination in Employment Act (ADEA)</li><li>• Consolidated Omnibus Budget Reconciliation Act (COBRA)</li></ul>
<b>50 OR MORE EMPLOYEES</b>	<ul style="list-style-type: none"><li>• Family and Medical Leave Act (FMLA)</li><li>• Mental Health Parity and Addiction Equity Act (MHPAEA)</li></ul>
<b>100 OR MORE EMPLOYEES</b>	<ul style="list-style-type: none"><li>• Worker Adjustment and Retraining Notification Act (WARN)</li></ul>
<b>ADDITIONAL LAWS</b>	<ul style="list-style-type: none"><li>• Affordable Care Act (ACA)</li><li>• Women's Health and Cancer Rights Act (WHCRA)</li></ul>

## ALL EMPLOYERS

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Consumer Credit Protection Act (CCPA)</b></p>	<p>Protects employees from discharge because their wages are garnished for any one debt and limits the amount of wages garnished in any one week.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Employee Polygraph Protection Act (EPPA)</b></p>	<p>Prohibits most private employers from using lie detector tests, either for pre-employment screening or during the course of employment.</p> <p>Applies to most private employers.</p>	<p><b>Posting Requirements:</b> Every employer subject to the EPPA must post and keep posted on its premises a <a href="#">notice</a> explaining the act. The notice must be posted in a prominent and conspicuous place in every establishment of the employer where it can readily be observed by employees and applicants for employment. There is no size requirement for the poster.</p> <p><b>Notice Requirements:</b> There are <a href="#">specific notices</a> that must be given to examinees and examiners in instances where polygraph tests are permitted.</p>
<p><b>Employee Retirement Income Security Act (ERISA)</b></p>	<p>Sets minimum standards for retirement and health benefit plans in private industry in the areas of standards of conduct, fiduciary rules, and reporting requirements to the government and to the plan participants. ERISA does not require any employer to establish a plan, but employers who establish plans must meet certain minimum standards.</p> <p>ERISA covers retirement, health, and other welfare benefit plans such as life, disability, and apprenticeship plans.</p> <p><b>Note:</b> ERISA does not apply to plans sponsored by governmental employers (such as cities, counties, and public school districts) or certain church plans.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements — Welfare Plans:</b> ERISA contains several notice requirements for health and welfare plans, including a summary plan description (SPD). For health plans, other notices may be required depending on the number of employees and benefits offered by the plan. Examples include, but are not limited to, COBRA, HIPAA, WHCRA, and ACA notices. See the <a href="#">Reporting and Disclosure Guide for Employee Benefit Plans</a> for certain basic disclosure requirements under ERISA.</p> <p><b>Notice Requirements — Retirement Plans:</b> ERISA contains several notice requirements for retirement plans, such as the SPD, individual benefit statements, and the summary annual report. See above for guide.</p>

## ALL EMPLOYERS

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Equal Pay Act (EPA)</b></p>	<p>Amended the FLSA to prohibit sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Fair Credit Reporting Act (FCRA)</b></p>	<p>Governs the use of consumer reports by employers (background checks).</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> Employers must:</p> <ul style="list-style-type: none"> <li>• Provide applicants with a clear, written disclosure that a consumer report may be obtained for employment purposes;</li> <li>• Certify to consumer reporting agencies that they have fully complied with the FCRA's disclosure requirements;</li> <li>• Provide notice to applicants/employees of contemplated adverse action based on a consumer report, together with a description in writing of the applicant's/employee's rights under the FCRA (<a href="#">Summary of Rights Under the Fair Credit Reporting Act</a>); and</li> <li>• Provide notice to applicant/employee of an adverse action determination (such as rejection of an applicant or discharge of an employee) based on a consumer report, with various additional information.</li> </ul>

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FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Fair Labor Standards Act (FLSA)</b></p>	<p>Establishes standards for minimum wages, overtime, recordkeeping, and child labor. The act applies to enterprises with employees who engage in interstate commerce, produce goods for interstate commerce, or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce. For most firms, a test of not less than \$500,000 in annual dollar volume of business applies. However, the act does cover the following regardless of their dollar volume of business: hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill, or disabled who reside on the premises; schools for children with a mental or physical disability or gifted; preschools, elementary schools, secondary schools, and institutions of higher education; and federal, state, and local government agencies. Employees of firms that do not meet the \$500,000 annual dollar volume test may be covered in any workweek when they are individually engaged in interstate commerce, the production of goods for interstate commerce, or an activity that is closely related and directly essential to the production of such goods. Also, domestic service workers (such as housekeepers, full-time babysitters, and cooks) are normally covered by the law. For additional coverage information, see the Wage and Hour Division <a href="#">Fact Sheet #14: Coverage Under the FLSA</a>.</p>	<p><b>Posting Requirements:</b> Every employer of employees subject to the FLSA's minimum wage provisions must post, and keep posted, a notice explaining the act in a conspicuous place in all of their establishments. Although there is no size requirement for the poster, employees must be able to readily read it.</p> <p>Covered employers are required to post the <a href="#">general Fair Labor Standards Act poster</a>; however, certain industries have posters designed specifically for them. Employers of <a href="#">agricultural employees</a> and <a href="#">state and local government employees</a> can either post the general Fair Labor Standards Act poster or their specific industry poster.</p> <p><b>Notice Requirements:</b> The FLSA has no requirement for notice to an employee prior to termination or layoff. In some situations, the WARN Act provides for notice to workers prior to layoff. Some states may have requirements for employee notification prior to termination or layoff.</p>
<p><b>Federal Income Tax Withholding (FITW)</b></p>	<p>Requires employers to withhold taxes on employee wages.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Federal Insurance Contribution Act (FICA)</b></p>	<p>Imposes taxes on both employers and employees to fund Social Security and Medicare.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Federal Unemployment Tax Act (FUTA)</b></p>	<p>Imposes a federal unemployment tax (only paid by employers) that, with state unemployment programs, provides for unemployment compensation to workers who lose their jobs.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> None</p>

## ALL EMPLOYERS

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Health Insurance Portability and Accountability Act (HIPAA)</b></p>	<p>Provides for the portability of employee health care plans and provides for the protection of certain health care-related information.</p> <p>For more information, see:</p> <ul style="list-style-type: none"> <li>• <a href="#">Summary of HIPAA Privacy Rule</a></li> <li>• <a href="#">Summary of HIPAA Security Rule</a></li> </ul> <p>With some limited exceptions, HIPAA applies to all health plans, including self-insured and fully insured plans.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b></p> <ol style="list-style-type: none"> <li>1. <a href="#">HIPAA Privacy Notices</a> to inform plan participants how their protected health information (PHI) will be used and safeguarded.</li> <li>2. SPDs and summary of material modifications (SMMs) should include: (1) description of the classes eligible for coverage, when coverage starts and ends, and the circumstances that could result in loss of eligibility; (2) explanation of events (such as acquiring new dependent(s) or suffering loss of coverage under another plan) that allow employee to make midyear enrollment changes; and (3) notification of where participants and beneficiaries can go for assistance or information on their rights under ERISA and HIPAA.</li> </ol>
<p><b>Immigration and Nationality Act (INA)</b></p>	<p>The law prohibits: 1) citizenship status discrimination in hiring, firing, or recruitment or referral for a fee; 2) national origin discrimination in hiring, firing, or recruitment or referral for a fee; 3) unfair documentation practices during the employment eligibility verification, Form I-9, and E-Verify processes; and 4) retaliation or intimidation.</p> <p>Regulates the admission of foreign workers into the U.S. and in certain circumstances allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature (visas).</p>	<p><b>Posting and Notice requirements:</b></p> <p>The requirements vary by the classification of alien or foreign worker being hired. See the specific INA chapters to determine the notices and poster requirements for each immigration category.</p>

## ALL EMPLOYERS

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<b>Immigration Reform and Control Act (IRCA)</b>	Prohibits employers from knowingly hiring unauthorized aliens or hiring individuals without completing the employment eligibility verification process. Requires all employers in the U.S. to use Form I-9, <i>Employment Eligibility Verification</i> . Prohibits discrimination based on national origin and citizenship or immigration status with respect to hiring, firing, and recruitment or referral for a fee.	<b>Posting Requirements:</b> None  <b>Notice Requirements:</b> None
<b>National Labor Relations Act (NLRA)</b>	Guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity. Applies to most private sector employers, including manufacturers, retailers, private universities, and health care facilities. The NLRA does not apply to federal, state, or local governments; employers who employ only agricultural workers; and employers subject to the Railway Labor Act.	<b>Posting Requirements:</b> None at this time. The National Labor Relations Board (NLRB) has attempted to establish a posting requirement but the requirement has been enjoined by the federal courts.  <b>Notice Requirements:</b> None
<b>Newborns' and Mothers' Health Protection Act (NMHPA)</b>	Requires group health plans that offer maternity coverage to pay for at least a 48-hour hospital stay following childbirth (96-hour stay in the case of a Cesarean section).	<b>Posting Requirements:</b> None  <b>Notice Requirements:</b> All group health plans that provide maternity or newborn infant coverage must include a statement in their SPD advising participants of the NMHPA requirements.
<b>Occupational Safety and Health Act (OSH Act)</b>	<p>Requires compliance with the act's standards, as enforced by the Occupational Safety and Health Administration (OSHA), to provide employees with a workplace free from recognized hazards. Requires employers to provide information and training about job hazards, makes retaliation for violations illegal, and establishes reporting requirements for work-related injuries and fatalities.</p> <p>Employers with more than 10 employees are required to keep a record of serious work-related injuries and illnesses. Employers in certain low risk industries are exempt. Employers must report any worker fatality within eight hours and any amputation, loss of an eye, or hospitalization of a worker within 24 hours.</p>	<b>Posting Requirements:</b> Covered employers must conspicuously post the OSHA <a href="#">Job Safety and Health: It's the Law</a> poster. Employers in a state with an OSHA-approved <a href="#">state plan</a> may be required to post a state version of the OSHA poster. Federal government agencies must use the federal agency <a href="#">poster</a> .  <b>Notice Requirements:</b> Employers are required to conspicuously post the <i>Summary of Work-Related Injuries and Illnesses</i> ( <a href="#">OSHA Form 300A</a> ) by February 1 of the year following the year covered by the form and keep it posted until April 30 of that year.
<b>Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)</b>	Requires employers to report newly hired employees to state new hire directories for child support enforcement.	<b>Posting Requirements:</b> None  <b>Notice Requirements:</b> None

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FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Uniformed Services Employment and Reemployment Rights Act (USERRA)</b></p>	<p>Protects civilian job rights and benefits for veterans and members of reserve components. Provides protections for veterans with disabilities, requires reasonable accommodations for disabilities, and establishes re-employment rights. Establishes five years as the cumulative length an individual may be absent from work for military duty and retain re-employment rights, with exception.</p> <p>Applies to persons who perform duty, voluntarily or involuntarily, in the uniformed services, which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services.</p>	<p><b>Posting and Notice Requirements:</b> Employers are required to provide to persons covered by USERRA a notice of the rights, benefits, and obligations of the employees and employers under USERRA. To do this, employers may post the notice entitled <a href="#">Your Rights Under USERRA</a> where employer notices are customarily placed; the notice may also be mailed or distributed via electronic mail. There is no size requirement for the poster version of the notice.</p>

## 15 OR MORE EMPLOYEES

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Americans with Disabilities Act (ADA)</b></p>	<p>Makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.</p>	<p><b>Posting Requirements:</b> Covered by Title VII posting requirements.</p> <p><b>Notice Requirements:</b> None</p> <p><b>Note:</b> Employers sponsoring certain types of wellness programs are advised to review potential ADA requirements with legal counsel.</p>



## 15 OR MORE EMPLOYEES

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Genetic Information Nondiscrimination Act (GINA)</b></p>	<p>Makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.</p>	<p><b>Posting Requirements:</b> The Equal Employment Opportunity Commission (EEOC) has revised the <a href="#">Equal Employment Opportunity is the Law</a> poster to include information about GINA.</p> <p><b>Notice Requirements:</b> There are notice requirements under the <a href="#">research exception</a> to GINA.</p> <p><b>Note:</b> Employers sponsoring certain types of wellness programs are advised to review potential GINA requirements with legal counsel.</p>
<p><b>Pregnancy Discrimination Act (PDA)</b></p>	<p>Requires covered employers to treat women affected by pregnancy, childbirth, or related medical conditions in the same manner as other applicants or employees who are similar in their ability or inability to work. Prohibits harassment on the basis of pregnancy. Pregnant workers are protected from discrimination based on current pregnancy, past pregnancy, and potential pregnancy. Also, an employer that allows temporarily disabled employees to take disability leave or leave without pay must allow an employee who is temporarily disabled due to pregnancy to do the same.</p>	<p><b>Posting Requirements:</b> Covered by Title VII posting requirements.</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Title VII of the Civil Rights Act (Title VII)</b></p>	<p>Makes it illegal to discriminate against an individual in employment on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.</p>	<p><b>Posting Requirements:</b> Every employer covered by the nondiscrimination and EEO laws is required to post on its premises the <a href="#">Equal Employment Opportunity is the Law</a> poster. The notice must be posted prominently, where it can be readily seen by employees and applicants for employment.</p> <p><b>Notice Requirements:</b> None</p>

## 20 OR MORE EMPLOYEES

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Age Discrimination in Employment Act (ADEA)</b></p>	<p>Protects people who are age 40 or older from employment discrimination based on age. The law makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.</p>	<p><b>Posting Requirements:</b> Covered by Title VII posting requirement.</p> <p><b>Notice Requirements:</b> None</p>
<p><b>Consolidated Omnibus Budget Reconciliation Act (COBRA)</b></p>	<p>Requires most group health plans to offer persons who lose coverage due to certain events the opportunity to continue their coverage on a self-pay basis.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> Group health plans must provide covered employees and their families with certain <a href="#">notices explaining</a> their COBRA rights. They must also have rules for how COBRA continuation coverage is offered, how qualified beneficiaries may elect continuation coverage, and when it can be terminated.</p>

## 50 OR MORE EMPLOYEES

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Family and Medical Leave Act (FMLA)</b></p>	<p>Entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. A covered employer is a private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer; public agency, including a local, state, or federal government agency, regardless of the number of employees it employs; or public or private elementary or secondary school, regardless of the number of employees it employs.</p>	<p><b>Posting Requirements:</b> All covered employers are required to display and keep on display a poster explaining the provisions of the FMLA and telling employees how to file a complaint of violations of the act with the Wage and Hour Division. The poster must be displayed prominently where employees and applicants for employment can see it. The poster and all the text must be large enough to be easily read and contain fully legible text. Covered employers must display the poster even if no employees are eligible for FMLA leave. Where the employer's workforce has a significant portion of workers who are not literate in English, the employer is required to provide the notice in a language in which the employees are literate.</p> <p><b>Notice Requirements:</b> Covered employers are required to provide certain notices (General, Eligibility, Rights and Responsibilities, and Designation) at different times.</p> <p>These notices are explained in <a href="#">WHD Fact Sheet #28D</a>.</p>
<p><b>Mental Health Parity and Addiction Equity Act (MHPAEA)</b></p>	<p>Requires group health plans and health insurance issuers to ensure that financial requirements (such as co-pays and deductibles) and treatment limitations (such as visit limits) applicable to mental health or substance use disorder benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical/surgical benefits. MHPAEA supplements prior provisions under the Mental Health Parity Act of 1996 (MHPA), which required parity with respect to aggregate lifetime and annual dollar limits for mental health benefits.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> Upon request, provide the plan participant with a notice describing the plan's criteria for determining medical necessity for mental health or substance use disorder benefits.</p>

## 100 OR MORE EMPLOYEES

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Worker Adjustment and Retraining Notification Act (WARN)</b></p>	<p>Requires employers to provide written notice at least 60 calendar days in advance of plant closings and mass layoffs. A WARN notice is required by: 1) businesses with more than 100 full-time workers (not counting workers who have less than six months on the job and workers who work fewer than 20 hours per week) that are laying off at least 50 people at a single site of employment; or (2) employers with 100 or more workers who work at least a combined 4,000 hours per week, and are a private for-profit business, private non-profit organization, or quasi-public entity separately organized from regular government.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> If an employer orders a plant closing or mass layoff, it is required to provide <a href="#">notification</a> to the employees or their representatives, the state dislocated worker units, (so that they can promptly offer dislocated worker assistance), and the chief elected officials of local governments.</p>

## ADDITIONAL LAWS

FEDERAL STATUTE	WHAT IT DOES	POSTING AND NOTICE REQUIREMENTS
<p><b>Affordable Care Act (ACA)</b></p>	<p>Prohibits health plans from imposing pre-existing condition exclusions, annual or lifetime dollar maximums on essential health benefits, and various other restrictions. Requires applicable large employers (ALEs) to either offer minimum essential coverage that is affordable and provides minimum value to its full-time employees (and their children) or risk paying a shared responsibility payment. Employees are also protected from retaliation for exercising their rights under the law and whistleblowing.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> There are numerous requirements under the ACA requiring group health plans to provide notices to employees, plan participants, and others eligible for benefits of various provisions of the act. For more information, see the Department of Labor <a href="#">Employee Benefits Security Administration Affordable Care Act website</a>.</p>
<p><b>Women's Health and Cancer Rights Act (WHCRA)</b></p>	<p>Provides protections for patients who elect breast reconstruction in connection with a mastectomy. For group health plan participants and beneficiaries receiving benefits in connection with a mastectomy, plans offering coverage for a mastectomy must also cover reconstructive surgery and other benefits related to a mastectomy.</p>	<p><b>Posting Requirements:</b> None</p> <p><b>Notice Requirements:</b> The group health plan or issuer is required to provide participants with a notice of rights under the WHCRA at time of enrollment and annually thereafter.</p>