**KNOW YOUR NUMBERS**

# A roadmap to regulatory compliance

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# Roadmap to regulatory compliance

## Congratulations—Your business is growing

A growing business is an exciting opportunity for most employers, as they focus on their customers and service. Although it might not be at the forefront of their strategic plan or annual calendar, employers should be aware that with growth comes increased regulatory compliance in the employee benefits and human resources world. Employers should also be aware that for every set of regulations, federal and state agencies count heads in different ways. Under some regulations an employer might be over 50 employees, and under others, might be under. Use this roadmap to guide your regulatory compliance as a growing employer![1]

1 An employer's size is determined based on the common ownership rules under the Internal Revenue Code and ERISA.

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| **Uninformed Services Employment & Reemployment Rights Act (USERRA)** | All Employers | USERRA poster | Reference Guide |
| **Immigration Reform & Control Act (IRCA)** | All Employers | No specific required poster | Handbook for Employers on Completing the I-9 |
| **Employee Retirement Income Security Act (ERISA)** | 2 or more employees (concerted) | No specific required poster | General Employer Information<br>Form 5500 |
| **Equal Pay Act of 1963/ Lilly Ledbetter Fair Pay Act of 2009** | 2 or more employees | EEO is the Law | Equal Pay Act |
| **National Labor Relations Act (NLRA)** | 2 or more employees | NLRA Rights Poster | Employee Rights |
| **Occupational Safety & Health Act (OSHA)** | 10 or more employees | Job Safety & Health: It's the Law Poster | Help for Employers<br>OSHA At a Glance<br>State OSHA Plans |
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| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Title VII of the Civil Rights Act of 1964** | 15 or more employees | **EEO is the Law** | **Discrimination Practices** |
| **Age Discrimination in Employment Act (ADEA)** | 15 or more employees | **EEO is the Law** | **Facts about Age Discrimination** |
| **Consolidated Omnibus Budget Reconciliation Act (COBRA)** | 20 or more employees | Employers are responsible for an Initial/General COBRA Notice, an election notice, a notice of termination of COBRA coverage, a qualifying event notice that is sent to plan administrators, and a notice of unavailability<br>**COBRA Model Election Notice COBRA Model General Notice** | **FAQs on COBRA Continuation Health Coverage**<br>**Employers Guide to COBRA** |
| **Medicare Secondary Payer Rules (MSP)** | 20 or more employees | No specific required poster | **Medicare Secondary Payer Booklets** |
| **Family and Medical Leave Act (FMLA)** | 50 employees w/in a 75 mile radius | **Employee Rights Under**<br>**FMLA Poster**<br>**Designation Notice** | **Employee Notice Requirements under the Family and Medical Leave Act**<br>**FMLA Employer Guide** |
| **Mental Health Parity Act/Mental Heath Parity & Addiction Equity Act (MHPAEA)** | 50 or more employees | **Model Notice for Exempt Employers** | **Compliance Materials Index** |
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| **Fair Labor Standards Act**<br>**(FLSA) & ACA Breastfeeding Break Requirements** | 50 or more employees (If less than 50, employers must show meeting the requirements would create an undue hardship) | No specific required poster | **FAQ - Break Time for Nursing Mothers** |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Worker Adjustment Retraining Notification (WARN) Act** | 100 or more employees | No specific required poster | FAQ on the WARN act<br>Warn Act Employer Guide |
| **EEO-1 Report** | 100 or more employees | No specific required poster | FAQ on EEO-1 |

| FAIR LABOR STANDARD ACT (FLSA) | DEPARTMENT LABOR, WAGE, & HOUR DIVISION |
|---|---|
| **What** | The FLSA requires employees be paid the federal minimum wage, as well as time and one half for hours worked over 40 hours a week. The FLSA covers all workers who are engaged in or producing goods for interstate commerce or are employed in enterprises. Local laws should also be considered. |
| **Who** | Covered employees and employers include: hospitals, federal/state/local agencies, live-in facilities for the sick, aged, mentally ill, or developmental disabled, preschool, elementary or secondary schools of higher learning,<br>any company that is an enterprise with a $500,000 annual volume of receipts, a company that was grandfathered before March of 1990, and employees who meet certain exemptions under guidelines for executives, administrative help, professional, outside sales members, and certain computer related occupations.<br><br>Employees are individually covered when they are engaged in interstate or foreign commerce, they are jointly employed by a covered employer, they are domestic workers who work more than 8 hours a week for one or more employers or earn at least $1700 in a calendar year from one employer. |
| **Records** | • FLSA requires employers preserve payroll records, collective bargaining agreements, and sales and purchase records for at least three years.<br><br>• Records with wage computations should be kept for at least 2 years. |

| HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) | HHS, DEPARTMENT OF JUSTICE, OFFICE OF CIVIL RIGHTS, STATE ATTORNEYS GENERAL |
|---|---|
| **What** | HIPAA requires safeguarding the privacy of an individual's health care information, establishes standards for ensuring confidentiality, integrity, and accessibility of electronic health information. Provides nondiscrimination requirements for group health plans. |
| **Who** | All employers with a group health plan are subject to HIPAA non-discrimination requirements.<br><br>Privacy and security regulations apply to greater standards for covered entities, which are health plans, health care providers, and health care clearinghouses. |

| HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) | HHS, DEPARTMENT OF JUSTICE, OFFICE OF CIVIL RIGHTS, STATE ATTORNEYS GENERAL |
|---|---|
| **Nondiscrimination** | • Cannot deny eligibility for benefits on the basis of a health factor.<br>• A group health plan cannot require employees to pass a physical exam for enrollment.<br>• A group health plan cannot deny or delay enrollment in the plan because an individual is in the hospital or other health care facility. |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Employee Retirement Income Security Act (ERISA)** | 2 or more employees (concerted) | No specific required poster | General Employer Information<br>Form 5500 |
| **Equal Pay Act of 1963/ Lilly Ledbetter Fair Pay Act of 2009** | 2 or more employees | EEO is the Law | Equal Pay Act |
| **National Labor Relations Act (NLRA)** | 2 or more employees | NLRA Rights Poster | Employee Rights |

| UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA) | DEPARTMENT OF LABOR, DEPARTMENT OF DEFENSE |
|---|---|
| **What** | USERRA protects civilian job rights and benefits for veterans and active and reserve military personnel called to active duty. |
| **Who** | USERRA applies to active duty and inactive duty for training, National Guard duty, absence for work for an exam to determine fitness for duty, duty performed by intermittent employees of the National Disaster Medical systems when active for public health emergencies, and for related trainings.<br><br>USERRA applies to any public or private employer that pays wages or has control over employment opportunities, so long as the employee provides advance written or oral notice, the cumulative length of absence does not exceed 5 years, and the employee reports back to work or submits an application for reemployment in accordance with USERRA |

| I-9 VERIFICATION | U.S. CITIZENSHIP AND IMMIGRATION SERVICES |
|---|---|
| **What** | • Employers must verify that individuals are authorized to work in the United States. The I-9 is used for all employees hired after November 6, 1986. |
| **Who** | • All employers who recruit, refer for a fee, or hire an individual are required to verify their identity and eligibility to work within 3 days of starting work for positions in the US.<br>• Exceptions apply for individuals employed for casual domestic work in private homes on a sporadic basis, independent contractors, individuals employed by contractors, and individuals not working on US soil. |
| **Nondiscrimination** | • Employers must complete Section 2 of the I-9 and inspect an employee's documentation<br>• Forms must be retained for as long as the employee works for the employer, and after termination, then for the later of 3 years from the date of hire or one year after termination |

| EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) | DEPARTMENT OF LABOR, EMPLOYEE BENEFIT SECURITY ADMINISTRATION (TITLE I) |
|---|---|
| **What** | ERISA protects both pension benefits and health and welfare benefits, requiring disclosure and reporting to participants and beneficiaries, establishes standards of conduct and responsibility for fiduciaries, obligations for fiduciaries, and provides remedies and sanctions. |
| **Who** | ERISA applies to any employee welfare benefit plan established or maintained by any employers engaged in commerce. Exceptions apply for:<br>• Church plans (requires legal analysis to determine if facts and circumstances exist)<br>• Government plans<br>• Indian Tribal governments<br>• Voluntary group plans that meet certain requirements |
| **Reporting** | Some reporting exceptions exist for small, unfunded, and/or insured plans. These exemptions apply only to reporting, the rest of ERISA still applies to these plans.<br>• Plan must cover fewer than 100 participants at the beginning of the plan year<br>• Unfunded plans must have no plan assets and no insurance (Unfunded is not the same as fully insured v self-funded). Unfunded plans are paid as needed solely from the general assets of the employer maintaining the plan.<br>• Small insured plans are also exempt so long as the benefits are paid exclusively through insurance policies, premiums are paid directly by the employer from general assets (may include participant contributions) and insurance refunds are refunded to participants within 3 months. |

| EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) | DEPARTMENT OF LABOR, EMPLOYEE BENEFIT SECURITY ADMINISTRATION (TITLE I) |
|---|---|
| **Reporting** | Plans that do not qualify for the reporting exemptions must file an annual 5500 report with the Department of Labor.<br><br>Plans that do not qualify for the reporting exemption must provide an annual Summary Annual Report (SAR) to the plan participants. |

| EQUAL PAY ACT OF 1963/ LILLY LEDBETTER FAIR PAY ACT OF 2009 | EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, NATIONAL LABOR RELATIONS BOARD |
|---|---|
| **What** | The Equal Pay Act (EPA) of 1963 prohibits gender based wage discrimination. The Lilly Ledbetter Fair Pay Act of 2009 clarifies that each paycheck that contains discriminatory compensation is actionable under Title VII of the Civil Rights Act of 1964. |
| **Who** | • Employees of an employer of any size may allege a violation directly to the courts.<br>• Employees of an employer with 15 or more employees may file a pay equity claim with the EEOC under Title VII and the ADA.<br>• Employees of an employer with 20 or more employees may file a pay equity claim with the EEOC under the ADEA. |
| **Forms of Pay** | • Salary<br>• Overtime pay<br>• Bonuses<br>• Stock options<br>• Profit sharing<br>• Life insurance<br>• Vacation and holiday pay<br>• Reimbursement expenses |
| **Reporting** | Beginning in 2017, employers with 100 employees (50 if the employer is a federal contractor) must report wages from Box 1 of W-2s on the revised EEO-1 Report<br>• Requirement currently on hold pending review |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Occupational Safety & Health Act (OSHA)** | 10 or more employees | Job Safety & Health: It's the Law Poster | Help for Employers<br>OSHA At a Glance<br>State OSHA Plans |

| NATIONAL LABOR RELATIONS ACT (NLRA) | NATIONAL LABOR RELATIONS BOARD |
|---|---|
| **What** | • The NLRA protects the rights of employees and employers. It encourages collective bargaining and is intended to curtail harmful private sector labor and management practices. |
| **Who** | The NLRA applies to most private sector employers, including manufacturers, retailers, private universities, and health care facilities. However, the Act specifically excludes individuals who are:<br>• Employed by Federal, state, or local government<br>• Employed as agricultural laborers<br>• Employed in the domestic service of any person or family in a home<br>• Employed by a parent or spouse<br>• Employed as an independent contractor<br>• Employed as a supervisor (supervisors who have been discriminated against for refusing to violate the NLRA may be covered)<br>• Employed by an employer subject to the Railway Labor Act, such as railroads and airlines<br>• Employed by any other person who is not an employer as defined in the NLRA<br>Employees covered by the National Labor Relations Act are afforded certain rights to join together to improve their wages and working conditions, with or without a union. The NLRA protects the rights of employees to engage in "concerted activity", which is when two or more employees take action for their mutual aid or protection regarding terms and conditions of employment.<br>• Protected concerted activity includes discussions about wages, benefits, and safety with their coworkers, their employer, or a government agency.<br>A few examples of protected concerted activities are:<br>• Two or more employees addressing their employer about improving their pay.<br>• Two or more employees discussing work-related issues beyond pay, such as safety concerns, with each other.<br>• An employee speaking to an employer on behalf of one or more co-workers about improving workplace conditions. |

| OCCUPATIONAL SAFETY AND HEALTH ACT | DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) |
|---|---|
| **What** | The DOL's OSHA administration monitors and enforces workplace safety. All employers (even those with less than 10 employees) must maintain a safe work environment. |

| OCCUPATIONAL SAFETY AND HEALTH ACT | DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) |
|---|---|
| **Who** | The Act extends to private sector employment in any of the 50 states, the District of Columbia, Puerto Rico, U.S. Virgin Islands, and several other U.S. possessions. Federal and state public employment is not subject to OSHA coverage under the Act. Federal employment worksites were made subject to OSHA inspection by an executive order.<br><br>The 10-employee headcount includes part time, full time, seasonal, and new-hire employees who were employed at any time during the last calendar year. |
| **Records & Reporting** | • Employers of all sizes: Report to the nearest OSHA office all work-related fatalities within 8 hours, and all work-related inpatient hospitalizations, all amputations and all losses of an eye within 24 hours.<br><br>• Employers with 10 or more employees, or employers in higher risk fields: Keep records of work related injuries and illnesses.<br><br>• Employers with 10 or more employees: Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses (OSHA Form 300). On February 1, and for three months, covered employers must post the summary of the OSHA log of injuries and illnesses (OSHA Form 300A).<br><br>• Have a written emergency action plan and fire prevention plan and make it accessible to all employees. |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
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| **Americans with Disabilities Act (and amendments) (ADA)** | 15 or more employees | Job Safety & Health: It's the Law Poster | Help for Employers<br><br>OSHA At a Glance<br><br>State OSHA Plans |
| **Genetic Information Nondiscrimination Act** | 15 or more employees | EEO is the Law | Facts about GINA |
| **Pregnancy Discrimination Act** | 15 or more employees | EEO is the Law | Pregnancy Discrimination<br><br>Legal Rights for Pregnant Works |
| **Title VII of the Civil Rights Act of 1964** | 15 or more employees | EEO is the Law | Discrimination Practices |

| AMERICANS WITH DISABILITIES ACT (AND AMENDMENTS) (ADA) | DEPARTMENT OF LABOR, DEPARTMENT OF JUSTICE, DEPARTMENT OF TRANSPORTATION, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION |
|---|---|
| **What** | The Americans with Disabilities Act of 1990 prohibits private employers with 15 or more employees, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. Employers are required to offer "reasonable accommodation" to "qualified" individuals to:<br>• Ensure equal opportunity to the application process<br>• Enable disabled employees to perform essential functions of the position held or desired<br>• Enable employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities |
| **Who** | An employer with 15 or more employees must provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship. A reasonable accommodation is any change in the work environment or in the way a job is performed that enables a person with a disability to enjoy equal employment opportunities.<br>Count each full time employee and each part time employee if the part-time employee worked 20 or more weeks in the current or preceding calendar year. |
| **Medical Exams/ Questions** | Employers cannot ask disability related questions or conduct medical exams before an offer of employment. |
| **Attendance** | Employers cannot have "no fault" attendance policies. |
| **Records** | Files must be maintained for at least one year following the date of the document/ personnel action was taken, whichever was later. |

| GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA) | DEPARTMENT OF HEALTH AND HUMAN SERVICES, DEPARTMENT OF LABOR, DEPARTMENT OF THE TREASURY, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION |
|---|---|
| **What** | Title II of GINA protects individuals against employment discrimination on the basis of genetic information. Genetic information means:<br>• Information about an individual's genetic tests;<br>• Information about the genetic test of a family member;<br>• Family medical history;<br>• Requests for and receipt of genetic services by an individual or a family member; and<br>• Genetic information about a fetus carried by an individual or family member or of an embryo legally held by an individual or family member using assisted reproductive technology. |

| GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA) | DEPARTMENT OF HEALTH AND HUMAN SERVICES, DEPARTMENT OF LABOR, DEPARTMENT OF THE TREASURY, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION |
|---|---|
| **What** | GINA prohibits the use of genetic information in making employment decisions, such as hiring, firing, advancement, compensation, and other terms, conditions, and privileges of employment. For example, it would be illegal for an employer to reassign an employee from a job it believes is too stressful after learning of his family medical history of heart disease. There are no exceptions to the prohibition on using genetic information to make employment decisions. Employers must keep genetic information about applicants and employees confidential and, if the information is in writing, must keep it apart from other personnel information in separate medical files. |
| **Who** | GINA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies, labor organizations, joint labor-management training and apprenticeship programs, and the federal government. |
| **Exceptions** | There are six very limited circumstances under which an employer may request, require, or purchase genetic information:<br>• Where the information is acquired inadvertently, in other words, accidentally;<br>• As part of a health or genetic service, such as a wellness program, that is provided by the employer on a voluntary basis;<br>• In the form of family medical history to comply with the certification requirements of the Family and Medical Leave Act, state or local leave laws, or certain employer leave policies;<br>• From sources that are commercially and publicly available, including newspapers, books, magazines, and electronic sources (such as websites accessible to the public);<br>• As part of genetic monitoring that is either required by law or provided on a voluntary basis; and<br>• By employers who conduct DNA testing for law enforcement purposes as a forensic lab or for human remains identification. |

| PREGNANCY DISCRIMINATION ACT (PDA) | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **What** | The PDA is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees who are similar in their ability or inability to work. An employer cannot refuse to hire a woman because of her pregnancy related condition as long as she is able to perform the major functions of her job. An employer cannot refuse to hire her because of its prejudices against pregnant workers or because of the prejudices of co-workers, clients, or customers. The PDA also forbids discrimination based on pregnancy when it comes to any other aspect of employment, including pay, job assignments, promotions, layoffs, training, fringe benefits, firing, and any other term or condition of employment. |

| PREGNANCY DISCRIMINATION ACT (PDA) | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **Who** | Employers with 15 or more employees.<br><br>Count each full-time employee and each part time employee if the part time employee worked 20 or more weeks in the current or preceding calendar year. |
| **Leave and benefits** | • An employer may not single out pregnancy related conditions for medical clearance procedures that are not required of employees who are similar in their ability or inability to work. For example, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy related conditions to do the same.<br><br>• Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work because of a pregnancy related condition and recovers, her employer may not require her to remain on leave until the baby's birth. Nor may an employer have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.<br><br>• Under the PDA, 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. Employers must hold open a job for a pregnancy related absence the same length of time that jobs are held open for employees on sick or temporary disability leave.<br><br>• Any health insurance provided by an employer must cover expenses for pregnancy related conditions on the same basis as expenses for other medical conditions. The PDA specifies, however, that insurance coverage for expenses arising from abortion is not required, except where the life of the mother is endangered or medical complications arise from an abortion.<br><br>• If an employer provides any benefits to workers on medical leave, the employer must provide the same benefits for those on medical leave for pregnancy related conditions.<br><br>• Employees with pregnancy related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits. |
| **Records** | Files must be maintained for at least one year following the event. |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Age Discrimination in Employment Act (ADEA)** | 20 or more employees | **EEO is the Law** | **Facts about Age Discrimination** |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Consolidated Omnibus Budget Reconciliation Act (COBRA)** | 20 or more employees | Employers are responsible for an Initial/General COBRA Notice, an election notice, a notice of termination of COBRA coverage, a qualifying event notice that is sent to plan administrators, and a notice of unavailability of COBRA coverage.<br><br>COBRA Model Election Notice COBRA Model General Notice | **FAQs on COBRA**<br><br>**Continuation Health Coverage**<br><br>**Employers Guide to COBRA** |
| **Medicare Secondary Payer Rules (MSP)** | 20 or more employees | No specific required poster | **Medicare Secondary Payer Booklets** |

| TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **What** | This law makes it illegal to discriminate against someone based on 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.<br><br>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.<br><br>Discriminatory practices under these laws also include:<br><br>• Harassment on the basis of race, color, religion, sex, national origin, disability, genetic information, or age;<br><br>• Against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;<br><br>• Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities, or based on myths or assumptions about an individual's genetic information; and<br><br>• Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group. |

| TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **Who** | Employers with 15 or more employees<br><br>Count each full-time employee and each part time employee if the part time employee worked 20 or more weeks in the current or preceding calendar year. |
| **Notice** | Employers are required to post notices to all employees advising them of their rights under the laws EEOC enforces and their right to be free from retaliation. Such notices must be accessible, as needed, to persons with visual or other disabilities that affect reading. |

| AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **What** | The Age Discrimination in Employment Act of 1967 (ADEA) protects applicants and employees who are 40 years of age or older from employment discrimination based on age.<br><br>Under the ADEA, it is unlawful to discriminate against a person because of his or her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. Harassing an older worker because of age is also prohibited.<br><br>It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.<br><br>The ADEA permits employers to favor older workers based on age even when doing so adversely affects a younger worker who is 40 or older.<br><br>Harassment can include, for example, offensive or derogatory remarks about a person's age. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).<br><br>The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.<br><br>The ADEA generally makes it unlawful to include age preferences, limitations, or specifications in job notices or advertisements. A job notice or advertisement may specify an age limit only in the rare circumstances where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the normal operation of the business. |

| AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) | EQUAL OPPORTUNITY EMPLOYMENT COMMISSION |
|---|---|
| **What** | The Older Workers Benefit Protection Act of 1990 (OWBPA) amended the ADEA to specifically prohibit employers from denying benefits to older employees. Congress recognized that the cost of providing certain benefits to older workers is greater than the cost of providing those same benefits to younger workers, and that those greater costs might create a disincentive to hire older workers. In limited circumstances, an employer may be permitted to reduce certain benefits based on age, as long as the cost the employer incurs to provide those benefits to older workers is no less than the cost of providing the benefits to younger workers.<br><br>Employers are permitted to coordinate retiree health benefit plans with eligibility for Medicare or a comparable state-sponsored health benefit. |
| **Who** | The ADEA applies to private employers with 20 or more employees, state and local governments, employment agencies, labor organizations and the federal government.<br><br>Count each full-time employee and each part time employee if the part time employee worked 20 or more weeks in the current or preceding calendar year. |
| **Records** | Records relating to the ADEA must be kept for one year. |

| CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) | CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF LABOR; EMPLOYEE BENEFITS, SECURITY ADMINISTRATION INTERNAL REVENUE SERVICE |
|---|---|
| **What** | COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.<br><br>COBRA outlines how employees and family members may elect continuation coverage. It also requires employers and plans to provide notice. |
| **Who** | Private sector employers with group health plans and 20 or more employees on more than 50 percent of its typical business days in the previous calendar year, considering both full time and part time employees. |
| **Duration** | COBRA continuation coverage is extended from the date of the qualifying event for a limited period of either 18 or 36 months. The maximum coverage period depends on the type of the qualifying event. |
| **Cost** | The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the cost of the plan for similarly situated individuals covered under the plan who have not incurred a qualifying event. |

| MEDICARE SECONDARY PAYER (MSP) | CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES |
|---|---|
| **What** | MSP provisions under the Social Security Act ensure that Medicare does not pay for services when other health insurance coverage is primarily responsible for paying. The MSP rules prohibit employers with 20 or more employees from inducing an active employee 65 or older to elect Medicare instead of the group health plan, but employers may provide employees with education on coverage options. The MSP rules do not affect retirees or spouses of retirees because retirement is not "current employment."<br>• Impermissible incentives include reimbursing employees who are enrolled in supplemental Medicare programs, including Parts B, C, and D.<br>• Employers must offer employees age 65 or over the same group health plan coverage offered to younger workers.<br>• Employers must offer employees with Medicare-eligible spouses the same spousal benefits as employees with spouses that are not Medicare-eligible. This also includes same sex spouses.<br>• Employees can elect Medicare or the group health plan, or both – it is their choice. |
| **Who** | Employers are considered to have 20 or more employees if they have 20 or more full-time and part-time employees for each working day in each of 20 or more calendar weeks in the current or preceding year.<br>• Each leased and part-time employee counts as a full employee. Employees that are not enrolled in a group health plan are included in the headcount.<br>• Self-employed individuals participating in the group health plan are not counted as part of the 20.<br>Once an employer had 20 or more employees working on each day of 20 calendar weeks in a current year, no matter how few employees there were in the preceding year, it must offer primary coverage for the remainder of that year and throughout the following year, even if the number of employees drops under 20 during that time. |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Family and Medical Leave Act (FMLA)** | 50 employees w/in a 75 mile radius | **Employee Rights Under FMLA Poster**<br>**Designation Notice** | **Employee Notice Requirements under the Family and Medical Leave Act**<br>**FMLA Employer Guide** |
| **Mental Health Parity Act/ Mental Heath Parity & Addiction Equity Act** | 50 or more employees | **Model Notice for Exempt Employers** | **Compliance Materials Index** |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Patient Protection & Affordable Care Act (ACA)** | 50 or more employees | Notice of Coverage Options (New Hires)<br><br>Summary of Benefits & Coverage | **What Employers Need to Know About the ACA (IRS)**<br><br>**DOL Information for Employers** |
| **Fair Labor Standards Act (FLSA) & ACA Breastfeeding Break Requirements** | 50 or more employees (If less than 50, employers must show meeting the requirements would create an undue hardship) | No specific required poster | **FAQ - Break Time for Nursing Mothers** |

| FAMILY & MEDICAL LEAVE ACT (FMLA) | DEPARTMENT OF LABOR WAGE AND HOUR DIVISION |
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| **What** | The FMLA 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. Eligible employees are entitled to:<br><br>Twelve workweeks of leave in a 12-month period for:<br><br>• The birth of a child and to care for the newborn child within one year of birth;<br><br>• The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;<br><br>• To care for the employee's spouse, child, or parent who has a serious health condition;<br><br>• A serious health condition that makes the employee unable to perform the essential functions of his or her job;<br><br>• Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or Twenty- six workweeks of leave during a single 12-month period to care for:<br><br>• A covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).<br><br>Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason.<br><br>If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval. |

| FAMILY & MEDICAL LEAVE ACT (FMLA) | DEPARTMENT OF LABOR WAGE AND HOUR DIVISION |
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| **What** | Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.<br><br>Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. |
| **Who** | A covered employer is a:<br><br>• 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;<br><br>• Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or<br><br>• Public or private elementary or secondary school, regardless of the number of employees it employs.<br><br>An eligible employee is one who:<br><br>• Works for a covered employer;<br><br>• Has worked for the employer for at least 12 months;<br><br>• Has at least 1,250 hours of service for the employer during the 12 month period immediately preceding the leave; and<br><br>• Works at a location where the employer has at least 50 employees within 75 miles. |
| **Notice** | Covered employers must:<br><br>• Post a notice explaining rights and responsibilities under the FMLA. Covered employers may be subject to a civil money penalty for willful failure to post;<br><br>• Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;<br><br>• When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and<br><br>• Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement. |

| MENTAL HEALTH PARITY ACT/MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT | DEPARTMENT OF LABOR, DEPARTMENT OF TREASURY |
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| **What** | The Mental Health Parity Act of 1996 (MHPA) prohibits large group health plans from imposing less favorable annual or lifetime dollar limits on mental health benefits than those applied to medical/surgical benefits.<br><br>The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) extends the MHPA protections by preventing group health plans with mental health (MH) and substance use disorder (SUD) benefits from imposing more restrictive requirements than those applied to medical/surgical benefits. The mental health parity requirements apply to all covered persons under a group health plan, including covered spouses and dependents.<br><br>For employers with a group health plan that are not ALEs under the ACA, the ACA requires coverage of MH/SUD services as one of ten essential health benefit (EHB) categories in non-grandfathered individual and small group plans. |
| **Who** | MHPAEA requirements do not apply to:<br><br>• Self-insured non-Federal governmental plans that have 50 or fewer employees;<br><br>• Self-insured small private employers that have 50 or fewer employees;<br><br>• Group health plans and health insurance issuers that are exempt from MHPAEA based on their increased cost (except as noted below). Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least two percent in the first year that MHPAEA applies to the plan or coverage or at least one percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage.<br><br>These exemptions last one year. After that, the plan or coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least one percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year; and<br><br>• Large, self-funded non-Federal governmental employers that opt-out of the requirements of MHPAEA. Non-Federal governmental employers that provide self- funded group health plan coverage to their employees (coverage that is not provided through an insurer) may elect to exempt their plan (opt-out) from the requirements of MHPAEA by following the Procedures & Requirements for HIPAA Exemption Election posted on the Self-Funded Non-Federal Governmental Plans webpage. |

| MENTAL HEALTH PARITY ACT/MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT | DEPARTMENT OF LABOR, DEPARTMENT OF TREASURY |
|---|---|
| **Partly** | Group health plans with MH/SUD benefits require the following:<br>• The same (or higher) annual or lifetime dollar limits for MH/SUD benefits as they apply to medical/surgical benefits.<br>• Parity between medical/surgical and MH/SUD benefits with regard to financial requirements (such as deductibles, copayments, coinsurance, and out-of-pocket limits) and quantitative treatment limitations (such as number of treatments, visits, or days of coverage).<br>• A plan cannot have separate cost-sharing requirements that only apply to MH/SUD benefits.<br>• The substantially all/predominant test is used and applied separately to six classifications of benefits:<br>1. Inpatient in-network<br>2. Inpatient out-of-network<br>3. Outpatient in-network<br>4. Outpatient out-of-network<br>5. Emergency<br>6. Prescription drug<br>• Parity between medical/surgical benefits and MH/SUD benefits as to nonquantitative treatment limitations (NQTLs), which are limits on the scope or duration of treatment that are not expressed numerically (such as geographic limits, facility-type limits, and medical management standards). Qualitative treatment limitations are subject to numerical tests.<br>• Specific information and reasons from insurers when coverage for MH/SUD treatment is denied. |

| PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA) | DEPARTMENT OF TREASURY, HHS, CMS |
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| **What** | UThe ACA has many provisions, but applicable large employers (ALEs), or employers with 50 or more full time and full time equivalent employees must comply with the employer mandate, or “employer shared responsibility” provisions.<br><br>ALEs must either offer health coverage that is considered minimum essential coverage, that is “affordable,” and that provides “minimum value” to their full-time employees (and their dependents), or potentially make an employer shared responsibility payment to the IRS. |

| PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA) | DEPARTMENT OF TREASURY, HHS, CMS |
|---|---|
| **Who** | An employer's size under the ACA is based on its average number of employees over the prior calendar year (even if the employer has a non-calendar year plan).<br>• At the end of the calendar year, the employer must add the total number of full-time and full-time equivalent employees for each calendar month, add each month's total together, and divide by 12.<br>• If there is a fractional number of full-time equivalent employees for a month, the fraction is kept (to the nearest hundredth).<br>• If there is a fraction after the total calendar year average is determined, the fraction is dropped (i.e., the employer rounds down).<br>• An employee who averages 30 or more hours per week (130 hours per month) counts as one full-time employee for the month.<br>• Part-time employees (those who average less than 30 hours per week) count on a pro- rata basis and their hours are combined to create "full-time employee equivalents."<br>• This is done by adding up the hours of all less than full-time (30 hours) employees for a calendar month and dividing the total by 120.<br>• All hours worked by the full-time equivalent employee are considered for this calculation, including any overtime. |
| **Reporting** | ALEs also have information reporting responsibilities regarding minimum essential coverage offered to employees. These responsibilities require employers to send reports to employees and to the IRS.<br>ALEs must report to the IRS information about the health care coverage (or lack of coverage) they offered to full-time and full-time equivalent employees. The IRS will use this information to administer the employer shared responsibility provisions and the premium tax credit. This is done with IRS Forms 1094-C and 1095-C.<br>ALEs also must furnish to employees a statement that includes the same information provided to the IRS. Employees may use this information to determine whether, for each month of the calendar year, they may claim the premium tax credit on their individual income tax returns. This is done with IRS Form 1095-C. |

| FAIR LABOR STANDARDS ACT (FLSA) & ACA BREASTFEEDING BREAK REQUIREMENTS | DEPARTMENT OF LABOR WAGE AND HOUR DIVISION |
|---|---|
| **What** | The FLSA requires employers to provide reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk.<br>• Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. |

| FAIR LABOR STANDARDS ACT (FLSA) & ACA BREASTFEEDING BREAK REQUIREMENTS | DEPARTMENT OF LABOR WAGE AND HOUR DIVISION |
|---|---|
| **Who** | All employers covered by the FLSA must comply with the break time for nursing mothers, regardless of size. Employers subject to the FLSA with 50 or more employees must also provide a place other than a bathroom, that is private, to express breast milk. These rules cover all employees subject to FLSA and not exempt from Section 7, however, state law may cover those employees. |

| LAW | SIZE | POSTER/NOTICES | RESOURCES |
|---|---|---|---|
| **Worker Adjustment Retraining Notification (WARN) Act** | 100 or more employees | No specific required poster | **FAQ on the WARN act**<br>**Warn Act Employer Guide** |
| **EEO-1 Report** | 100 or more employees | No specific required poster | **FAQ on EEO-1** |

| EEO-1 REPORT | EQUAL EMPLOYMENT OPPORTUNITY COMMISSION |
|---|---|
| **What** | The Employer Information Report EEO-1, otherwise known as the EEO-1 Report, is required to be filed with the U.S. Equal Employment Opportunity Commission's EEO-1 Joint Reporting Committee.<br><br>The survey requires company employment data to be categorized by race/ethnicity, gender and job category. |
| **Who** | All companies that meet the following criteria are required to file the EEO-1 report annually:<br><br>• Subject to Title VII of the Civil Rights Act of 1964, as amended, with 100 or more employees; or<br><br>• Subject to Title VII of the Civil Rights Act of 1964, as amended, with fewer than 100 employees if the company is owned by or corporately affiliated with another company and the entire enterprise employs a total of 100 or more employees; or<br><br>• Federal government prime contractors or first-tier subcontractors subject to Executive Order 11246,as amended, with 50 or more employees and a prime contract or first-tier subcontract amounting to $50,000 or more. |
| **Report** | • A sample copy of the EEO-1 form and instructions are available **here**.<br><br>• EEO-1 Report Frequently Asked Questions may be found **here**. |

| WORKER ADJUSTMENT RETRAINING NOTIFICATION (WARN) ACT | DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION |
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| **What** | ThThe WARN Act offers protection to workers, their families and communities by requiring employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g., a labor union); to the State dislocated worker unit; and to the appropriate unit of local government.<br><br>A covered employer must give notice if an employment site (or one or more facilities or operating units within an employment site) will be shut down, and the shutdown will result in an employment loss for 50 or more employees during any 30-day period.<br><br>A covered employer must give notice if there is to be a mass layoff which does not result from a plant closing, but which will result in an employment loss at the employment site during any 30-day period for 500 or more employees, or for 50-499 employees if they make up at least 33% of the employer's active workforce. |
| **Who** | Employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than 6 months in the last 12 months and not counting employees who work an average of less than 20 hours a week.<br><br>Private, for-profit employers and private, nonprofit employers are covered, as are public and quasi-public entities which operate in a commercial context and are separately organized from the regular government.<br><br>Regular Federal, State, and local government entities which provide public services are not covered.<br><br>Employees entitled to notice under WARN include hourly and salaried workers, as well as managerial and supervisory employees. Business partners are not entitled to notice. |
| **Notice** | No particular form of notice is required. However, all notices must be in writing. Any reasonable method of delivery designed to ensure receipt 60 days before a closing or layoff is acceptable. |