



## **HR Risks** ©

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### **Introduction:**

Personnel departments were first created prior to WWI to help companies deal with union organizations and to help satisfy the shortage of workers caused by soldiers fighting overseas. As soldiers returned home from the war and the unemployment rate increased, many companies felt their newly created personnel departments were superfluous and disbanded them altogether. However, this disturbing trend began to reverse itself following the Great Depression as union membership grew five-fold from 1933-1945. During this same time period, the FDR administration and Congress began instituting employment legislation aimed at addressing workplace issues concerning, among other things, how to pay employees fairly and union rights.

Fast-forward to 2009. As the traditional Personnel Department has evolved into Human Resources, federal and state legislatures continue addressing a myriad of issues geared towards expanding and protecting employees' rights. Similar to FDR, President Obama's first few months in office have also yielded actions and discussions aimed at strengthening this pro-employee slant. As a result of significant business reforms, HR will continue to expand its strategic role and sphere of influence within the organization.

### **Issues and Risks:**

In today's evolving and fluid global economy, employers are facing workforce challenges, heretofore, unimagined, unaddressed, and immeasurably complex. Legislation granting additional employee rights seems to be popping up on a daily basis. Even the most forward-thinking and well-intentioned companies are bound to misstep and inadvertently non-comply with certain federal, state and/or local statutes. Despite costly and time-consuming efforts by companies to protect themselves from employee claims of unfair treatment, workers will always seek remedies for what they perceive to be unjust.

Listed below are some of the more common areas in which organizations fail to act properly or legally. Failure to properly comply with the plethora of laws pertaining to each of these issues can result in tremendous financial, civil, and in some cases, criminal penalties. While this list is certainly not exhaustive, it will help identify and address

some of the more common issues and concerns likely to confront employers for years to come.

- **Harassment**-companies AND EXECITIVES can be liable for a supervisor's actions where sexual harassment results in a tangible employment action or where a hostile work environment is created.
- **Discrimination**-employment laws prohibit denying equal opportunity to certain groups of employees for reasons unrelated to their individual qualifications.
- **Worker Safety**-detailed safety rules and guidelines have been established to mitigate the potential for catastrophes, accidents, violence, and other signs of imminent danger.
- **Unfair Labor Practices**-formal procedures and practices have been created to resolve conflicts between employees and management in areas related to grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
- **Accommodating A Disability**- companies are legally required to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others.
- **Internet & Data Security**-as organizations become technologically integrated and electronically dependent, new vulnerabilities arise while trying to adequately secure and protect proprietary data and information.
- **Employee Benefits**-companies are not required to provide various insurances, vacations, or other benefits; however, for those firms that do offer benefits, laws have been created to regulate and mandate terms and conditions for benefits provided.
- **Employee Pay & Status**-laws have been established to ensure individuals working for any employer receive fair pay for all work performed
- **Discipline and Discharge**-employees who fail to comply with established work rules, or do not perform in an acceptable manner, must still be treated fairly and equitably.
- **Forms and Records**-both company and employee information, and access to that information, must be properly maintained and retained to afford legally mandated assurances of privacy and confidentiality.

### **Conclusion:**

As the relationship between employers and employees continues to evolve, it will become increasingly more difficult for an organization to create and maintain an optimum and legally compliant workplace. Unfortunately, there is no panacea for dealing with the multitude of changes and impacts that will continue to influence the utilization and treatment of employees. While many rudimentary practices needed to satisfy applicable legal obligations will be the same or similar for every company, each organization should seek to establish its own policies and procedures in concert with its unique mission statement and related set of core values. To this end, the role of a human resources practitioner will become more pronounced as businesses respond to a growing number and list of employee complaints. It behooves every organization to retain the services of an HR professional to stay abreast and comply with the legal and societal changes affecting how it conducts business.

