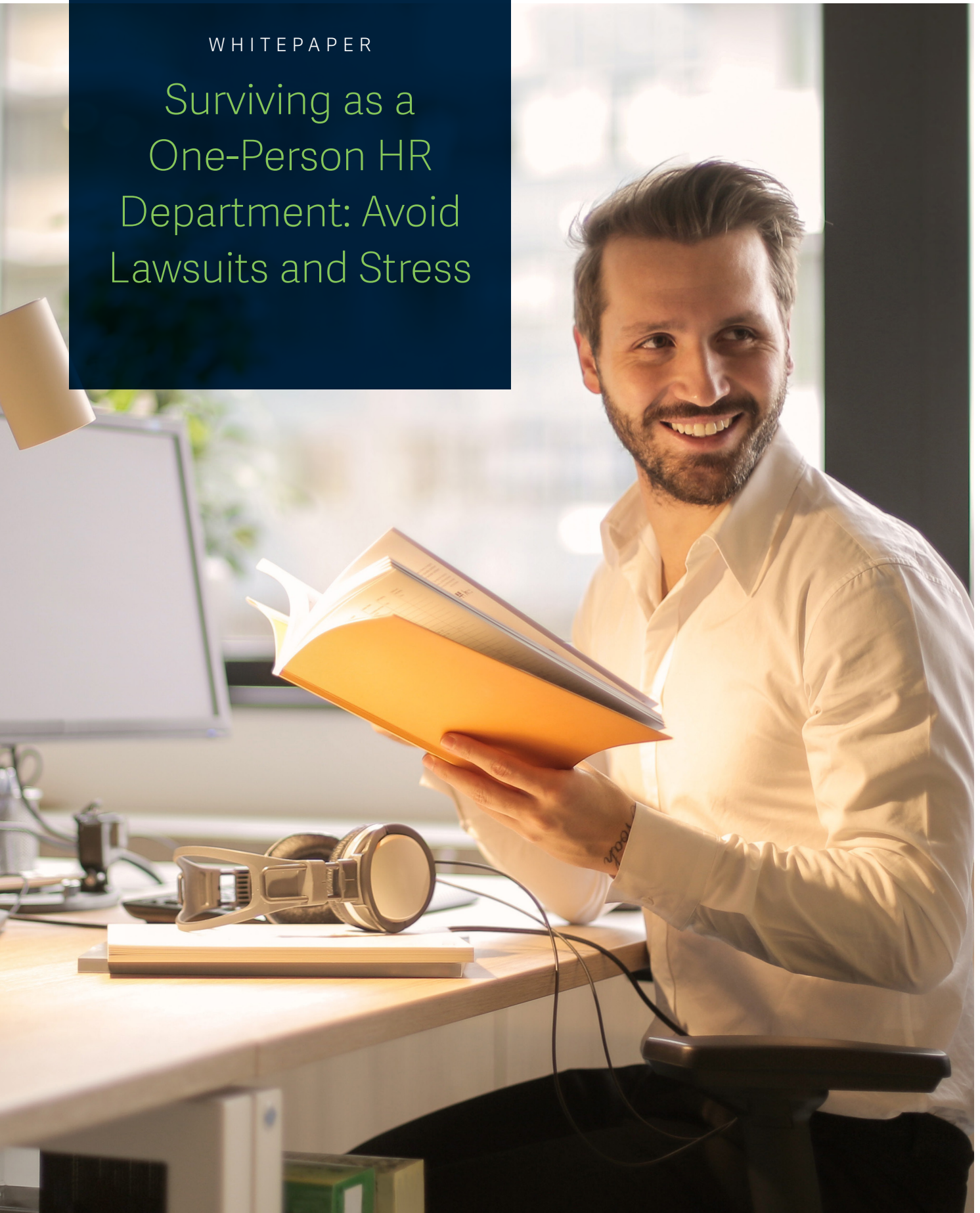


WHITEPAPER

Surviving as a One-Person HR Department: Avoid Lawsuits and Stress



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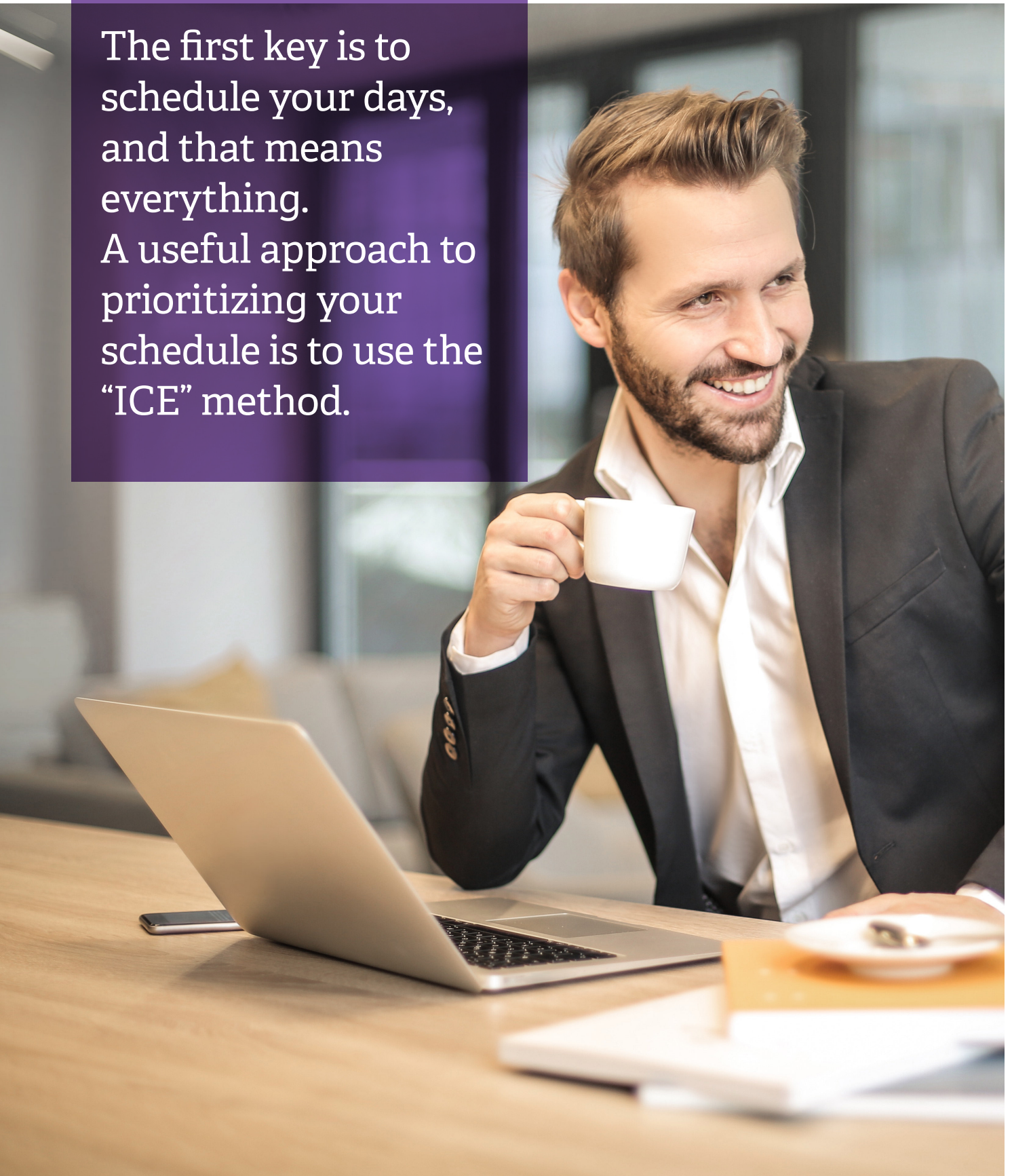
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Surviving as a One-Person HR Department:

Avoid Lawsuits and Stress

As a one-person HR department you are constantly juggling demands for your time. You are probably handling payroll, safety and other issues in addition to your responsibilities for hiring, developing, disciplining and terminating.

So how can you stay on top of everything you need to do today, next week, sometime this quarter or before the end of the year?

This White Paper gives you tools to help prioritize and get everything done, stay compliant with the employment laws that matter most and legally and effectively manage employee relations. And it includes a few hints about how to handle your bosses, too.

Schedule Everything!

This is one of the most critical pieces of the puzzle. To succeed as a one-person HR department, you need to take the time to create and maintain consistent processes. It's the only way to stay above water with the many and varied demands you face every day.

The first key is to schedule your days, and that means everything. A useful approach to prioritizing your schedule is to use the "ICE" method.

Is a task IMPORTANT? Does it have to get done today?

CAN it wait? Can I put it behind other tasks today or put it off to another day?

Is it an EMERGENCY? If so, you need to handle it right now, but you still need to have an idea of how you'll re-prioritize your other tasks and rearrange your schedule to handle them. Build some slack into your schedule to help accommodate any emergencies that come up.

And don't forget to build in time for longer-term projects, like reviewing your policies and procedures checking for changes to laws and regs and updating employee manuals and other important documents.

Rule of thumb: Don't let policy reviews go longer than a year or you'll be putting your organization in possible legal or financial jeopardy. Better if you can do them once a quarter or at least twice each year.

Taming The Email And Phone Monster

In the meantime, to help avoid living in a constant state of interruption, set aside specific times to review and respond to emails and phone calls.

Many HR pros find it works well to do this first thing in the morning, around lunch and towards the end of your day. That way, you'll be able to clear the decks before you leave and know what has to get done tomorrow.

Take the time to learn the organizing features of your email application. By setting up folders, rules, and alerts, you can be sure you don't miss critical messages from the CEO. And, when it's time to sit down to review your inbox, you'll be able to see which folders need your attention now and which ones — like newsletters or employment law bulletins — can wait until you have time to review them, save or act on the ones important to you, and purge the rest.

The Courage To Say No

But, when it comes to interacting directly with employees and other managers and supervisors, it is important to protect your time.

Have the courage to ask anyone who "drops by" if they can check back via email or come back during a time you've set aside for meetings. The stuff that really isn't important will get dropped and everyone will be better prepared for discussion that do happen.

If you need help, check with your IT group or look for online tutorials. The work you put in up front to learn and set up email tools will stop constant email pinging from distracting you and, since you've set aside times to check your email, you won't worry you're missing important messages.

Of course, you won't only be dealing with people electronically. It is critical that HR pros get out of their office and interact with employees regularly — try to check in with at least one department or group each week. In many ways, you are the face of the company and employees need to know you are engaged and interested in how they are getting on. That way they'll know you are available, and they can come to you with any questions or concerns.

That goes for outside the office, as well. You'll be invited to attend dozens of HR seminars and trade shows every year and asked to join every professional group in your region. These can be important sources of support for a small HR department, but just say no to almost all of them.

Look for a couple of outside groups that can be truly useful to you, like local industry associations or your state HR council. You want to spend your valuable time with people who share the same issues and have addressed the same challenges.



Templates And Standard Forms Will Save Your Time — And Your Sanity

As a one-person shop wearing multiple hats in addition to HR — payroll and workplace safety are probably under your wing as well — protecting your time is the one constant theme.

That includes not reinventing the wheel when it comes to the hundreds of forms you work with during a year. The good news? There really is no reason to.

The key here is to take advantage of the work that government agencies have already done for you and then create standard templates for everything else. Many HR form templates are available on the Internet.

It is still a huge job, but remember you use about 15% of those forms 80% of the time. Hiring, worker classification, FMLA, vacation and other leave requests are good examples. Start with those and then work on the rest as they come up.

For government forms, go to the EEOC, DOL, NLRB and other employment-related agencies' websites. Download a copy of everything they offer, even if you don't know if you'll ever need it.

Then, fill in all the repetitive info on your master forms, like company name and address, employer identification number, industry classification, etc.

Write up templates for any letters you'll need, like FMLA notification letters, requests for references, offer letters, beneficiary designation letters and termination letters. You'll customize those as needed but having the basics ready to go and only changing or adding specifics will save you a ton of time.

Many of those forms will need to go out to multiple employees or outside recipients at the same time, so take the time to understand the mail merge function in Outlook or other mail and information management tool you use. The time you invest up front will once again save hours of work later.

The Employee Handbook – Make It A Priority

You've created your schedule and have your most important forms set up and ready for when you need them.

Now it's time to tackle one of the really big jobs you're going to do a few times over the course of the year — revising the employee handbook.

Updating your employee handbook at least once a year is a must-do, high-priority task but it's a good idea to review this cornerstone document more frequently if you can fit it into your schedule.

Changes in laws and regulations also change what should and shouldn't be included in your handbook. And, if you can do this once a quarter or even twice a year, it will be a more manageable task timewise.

Beyond legal and regulatory changes, it's a good idea to recall any specific issues you had to deal with over the last 12 months or so.

Did you have problems with employees skirting your dress code? Has attendance gotten a little loose?

Complaints about smoking close to the entrance? Friction between employees over politics or other issues? Any employee suggestions or complaints about benefits?

Those are the topics you'll want to look at closely. Were your policies adequate to handle them or do you need to improve them and reflect the changes in your handbook?

Remember to make sure that everyone knows about any changes you've made, and your managers and supervisors are ready to emphasize and enforce the changes. That will save you some hassles down the road.

So, what should your handbook include beyond those specific issues that have cropped up since the last review?

First, the handbook should open with a message from leadership laying out the company's mission and strategic priorities. That message should be positive and inspiring, to set the tone for everything that follows.

Best practice reminder — It's important to review the entire handbook to make sure you aren't creating legal obligations for the organization that might come back later to haunt you.

Remember, when referring to the organization, avoid "words of obligation" like shall, must, or will. Instead, say that the organization may, could or can.

On the other hand, all language laying out your expectations for employees should include obligation words. One hint — don't use "should." It's ambivalent and leaves room for interpretation.



Performance And Conduct

An area you need to review carefully is the section dealing with performance and conduct expectations. Even if included in job descriptions, repeat it here.

Working hours, break times and duration, tardiness policies and travel requirements need to be spelled out precisely. Some of these will be regulated, depending on your industry and other factors. This section should explain how employees' attendance is scheduled and monitored. Dress code, customer and coworker interactions and other expectations should be included.

Your disciplinary process needs to be clearly laid out, as must your termination process.

For smaller organizations, the employee handbook should include a detailed, updated job description for every position. This is a big job, but you need to set down clear expectations for every worker that reflects any changes in job responsibilities since the last revision. Also, those descriptions are a critical tool for performance evaluations and any discipline needed down the road.

Leave Policies

Your leave policies also need to be detailed and clearly defined. For example, "You will accrue X days of (vacation, PTO, sick) after Y weeks of work. You can begin using leave days after you have been employed for X weeks." You'll want to spell out whether employees accrue leave in at different rates in different buckets or if there is combined under one PTO category.

And be sure to include (and update) any special categories of leave, like birthdays or work anniversaries.

All legally mandated leaves such as FMLA need to be carefully defined and both employer and employee obligations need to be detailed completely. (Here's where you'll have no choice about the wording. The good news is that all those requirements are spelled out in material from the government that you can cut and paste.)

For other benefits, like your 401K and health and life insurance, you'll want to summarize for the handbook and direct employees to the individual plan documents.

Any fringe benefits you offer can be described in general terms, especially if you aren't sure that they'll be permanent. Employee discounts, wellness programs, commuting reimbursements are some examples.

Discrimination, Harassment And Other Serious Conduct Problems

An increasing portion of your conduct policy is also determined by regulations. Discrimination and harassment, equal employment opportunity and other legally mandated policies need to be included in your handbook. Make sure your review includes local, state, and federal rules.

Consider, for example, New York's sexual harassment regs: NY state and NYC both require employers to have a sexual harassment policy and provide annual training including 1) interactive content,

2) explanations of federal and state harassment laws, 3) descriptions of remedies and rights, and 4) details on how and where employees can get complaints heard and investigated.

NYC rules, however, add responsibility to educate workers on “bystander” intervention, explain manager and supervisor responsibilities and define and give examples of retaliation. New York City employers also need to post a sexual harassment prevention poster and provide a copy to new hires.

During the handbook review process, make sure you do some research to see whether courts have made any rulings that need to be reflected in your update. Courts have found many organizations’ performance and conduct policies too general to support disciplinary actions or firings, for example, leading to expensive settlements.

You can trip over social media policies, too. A good way to avoid rules that might infringe on employees’ free expression rights is to tie your social media policy to other policies. You might prohibit workers from using any organization-owned systems in ways that violate any other policies, for example, explicitly pointing to prohibitions against harassment, discrimination, or other defined misconduct and, of course, any illegal activities.

Communicate Any Changes To The Policy Handbook

None of this hard work means anything until you have made sure that every employee has received — and acknowledged receiving — the handbook and your managers and supervisors understand what is in it and are trained to enforce the policies you’ve crafted.

And don’t take our word for it. Back in 1998, the U.S. Supreme Court agreed with a lower court that just having a policy wasn’t enough to relieve an employer for responsibility when supervisors sexually harassed an employee.

Because the organization didn’t make sure employees knew of the policy and failed to oversee supervisors’ conduct, the court found it had allowed a hostile workplace. While that case resulted in a nominal award of \$1.00 to the plaintiff, sexual harassment settlements in the #metoo era routinely exceed \$10 million and jury awards have reached hundreds of millions. A fraction of that is enough to sink a small employer.

It is important to note that you won’t need to send out the entire handbook every time you make an update. Keep each section separate, with a short cover page for each. You can share just the sections you’ve revised, highlighting the key changes. Even if it is just one page, make sure everyone acknowledges they got a copy of the changes.





Keeping Up To Date On The Six Critical HR Activities

How can you find the information you need to be sure you're compliant with all the relevant laws and regulations? The best way is to identify at least one reliable source of information for each of the six primary "buckets" of HR: Hiring, Discipline, Termination, Recordkeeping and Retention, Administering Policies and Procedures and Legal Updates.

Hiring

Remember, hiring is HR's greatest responsibility and the source of greatest value to any organization. If you're successful attracting great employees, you'll spend far less time with discipline and terminations. "Hire smart and fire less" should be your motto.

Once you've found a promising candidate, carefully targeted and structured interviews are key. Make sure you have a set of specific questions for each position. Guides to conducting patterned interviews and other hiring tools are readily available online, in books and from HR software companies and consultants.

Discipline And Termination

This is one of those places that having a ready-to-use template can help a lot. Best example is a Performance Improvement Plan, or PIP, template. Having it set up in advance gives you the opportunity to make sure you cover all necessary bases with your PIPs and that your process complies with all applicable laws and regulations.

Recordkeeping And Retention

It is critical that you know and follow all local, state, and federal requirements for recordkeeping and retention. What records must you make and what forms are required? How long must you keep

them? Almost all HR records must be kept at least three years, but many must be kept longer. Which records need to be kept separately to preserve confidentiality? Which must be destroyed and how? Which ones can just be discarded? Are there different requirements for physical and electronic documents? Government websites and local business associations are good sources for this information. Also look for law firm blogs, articles and other resources.

Administering Policies And Procedures

When it comes to administering your workplace policies and ensuring procedures are followed, the simple rule of thumb is to review them regularly and enforce them in a way that's fair, equitable and consistent.

Legal And Regulatory Updates

Staying up to date doesn't have to be expensive. In fact, outside of the time you've scheduled for your policy reviews, it often costs you nothing but a little upfront prep time. In addition to the government sources noted below, most HR-focused law firms offer blogs and send out email alerts when regulations change or court decisions impact labor and employment laws. You want to get alerts whenever something changes.

Ask around at your local HR association or chamber of commerce to ID the best sources and sign up. Add any useful blogs to your Internet bookmarks and set up a folder to collect any email alerts that come in. That way, when you're ready to check for changes, everything will already be in one place for you to review. If you prefer hard copy, print out alerts as they come in and store them in individual binders.

Staying Compliant With Employment Laws That Matter The Most

If you ever get pushback on the time required to keep your department up to date, talk about it in a language your leadership will understand – money.

Research shows about 89 percent of employers who get to court lose. The ones that don't get to court have already settled, usually for big bucks. According to employment liability insurer Hiscox, small and mid-sized organizations pay an average of \$160,000 to defend and settle employment claims.

And why do they lose? The most common reasons are a lack of written policies, failing to follow the policies they have written, lack of training for managers and supervisors and ignorance.

Beyond discrimination claims, employers often find themselves on the hook for payouts because they misclassify employees and therefore pay them incorrectly, violating mandated hour and leave policies, and failures by supervisors and managers.

One area where you should keep managers and supervisors out of the picture entirely is filling out unemployment claims. Fewer than a third know enough to catch errors that will cost your organization. Make sure you handle it in HR. It's a lot of work, but it's less work than defending a mistake later.



Why Most Claims Are Filed

Here's a list of the laws and topics that come up most often in workers' claims (and a good list reference for setting up alerts):

1. Title VII of the Civil Rights Act
 - a. Equal employment opportunity
 - b. Discrimination practices in hiring, disciplining and terminations
2. ADA (Americans with Disabilities Act)
3. ADEA (Age Discrimination in Employment Act)
4. Religious discrimination
5. Sexual discrimination
6. Pregnancy discrimination
7. Race, color and national origin discrimination
8. Equal Pay Act
9. Fair Labor Standards Act
 - a. Misclassification of workers –exempt vs. nonexempt
 - b. Overtime violations
 - c. Miscalculations of pay

To head off suits before they happen, remember some key rules.

Investigations should be immediate and thorough. Make sure you cover the five W's: Who, What, When, Where and Why.

Stay impartial. Don't ask for opinions or impressions. Focus on getting the facts. When you're sure you have all the facts, decide and act. Be sure you can defend any actions you do or don't take. When that means disciplining someone, follow the process you've spelled out in your handbook. And be very clear about what your organization considers firing offenses and, when you find they've occurred, be consistent.



The Last Word

You can't prepare for everything, but if you follow the steps outlined in this paper, you'll have a good shot at handling most of what comes your way as a one-person HR shop. To keep sane and stay on top of everything the job will throw at you, remember:

- Protect your time —learn to say no
- Schedule everything
- Document everything
- Learn and use the tools available to you
- Don't reinvent– use templates, set up alerts, find people and groups who can share expertise
- Efficiently communicate policy and procedure changes to employees and managers
- Immediately investigate allegations of misconduct
- Learn the steps to discipline and fire without fear
- Prepare for the unexpected

Where To Find Additional HR Resources:

- www.dol.gov
- www.eeoc.gov
- www.uscis.gov
- www.nlr.gov, and other government websites
- State Chambers of Commerce
- HR Consultants
- Industry and professional associations and HR industry events
- Law firm blogs, websites and newsletters

About HRMorning:

HRMorning enables HR managers and executives to excel by giving them the information, guidance and tools that will allow them to devise ways to handle the myriad of issues that arise both daily and in the strategic long-term.

HRMorning provides in depth coverage of many topics relevant to today's HR professionals including: Talent Management, Policy & Culture, Talent Acquisition, Benefits, Staff Administration, Leadership & Strategy, HR Technology, Compensation & Payroll, Performance Management, Employee Services, Employment Law, Wellness & Safety, Discrimination, Work Location, Staff Departure and HR Career.

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