



**Community Building with Attorney Resources**

4920 N IH 35, Austin, Texas 78751

512-374-2710, [www.texasbar.org](http://www.texasbar.org)

## Labor and Employment Audit

Organization Name: \_\_\_\_\_

Completed By: \_\_\_\_\_

Date: \_\_\_\_\_

### Organizational Information

1. Does the organization have a federal identification number?

**Yes      No**

2. **How many employees does the organization have?** \_\_\_\_\_

**Full-time?** \_\_\_\_\_

**Part time?** \_\_\_\_\_

**Temporary positions?** \_\_\_\_\_

3. **Personnel Policy Manual**

a. Does the organization have an updated personnel policy manual?

**Yes      No**

b. Has it been reviewed by an attorney?

**Yes      No**

c. Does the manual contain a disclaimer that the manual is not intended to be a contract and that employment is at will?

**Yes      No**

d. Does the manual contain a provision that indicates that any policies or practices may be modified at any time?

**Yes      No**

e. Does the organization comply with its written personnel policies and procedures?

**Yes      No**

#### 4. Job descriptions

- a. Does the organization have current job descriptions for all employees?  
**Yes      No**
- b. Do the job descriptions clearly specify in detail:
- |                          |            |           |
|--------------------------|------------|-----------|
| Responsibilities?        | <b>Yes</b> | <b>No</b> |
| Essential job functions? | <b>Yes</b> | <b>No</b> |
| Reporting relationships? | <b>Yes</b> | <b>No</b> |

#### 5. Independent Contractors

- a. Does the organization utilize independent contractors?  
**Yes      No**
- b. If so, are they covered by a written contractor agreement?  
**Yes      No**
- c. Has their independent contractor status been verified by an attorney?  
**Yes      No**
- d. Does the organization comply with the IRS rules governing the status of independent contractors and report compensation to independent contractors on IRS Form 1099 MISC?  
**Yes      No**

#### 6. Personnel Records

- a. Does the organization maintain a personnel file for each employee?  
**Yes      No**
- b. Is the information that identifies employees' physical or mental disability or veteran status kept in a separate file?  
**Yes      No**
- c. Does the organization keep a record of changes in employee status, such as promotions or leaves of absence?  
**Yes      No**
- d. Are medical records or records containing medical, insurance, or benefits information maintained separately from other personnel records and privacy protected?  
**Yes      No**

- e. Are I-9 forms kept in a location separate from other personnel records?  
**Yes No**
7. Are there security procedures in effect to protect employee privacy?  
**Yes No**
8. Are I-9 forms maintained for three years after the hire date or one year after the date of termination, whichever is later?  
**Yes No**
9. Does the organization maintain all other personnel records for at least four years?  
**Yes No**

### **State and Federal Requirements**

1. Does the organization comply with the reporting requirements of the Texas Workforce Commission, including the filing of Form C-1 and, if required, Form C-3 quarterly wage reports along with the payment of unemployment insurance tax?  
**Yes No**
2. Does the organization withhold federal income taxes and federal social security and medicare taxes from taxable wages paid to employees, pay the employer share of taxes, and deposit all such funds in a timely manner and with the appropriate IRS forms?  
**Yes No**
3. Does the organization obtain a completed IRS Form 1-9 and Form W-4 from all new employees?  
**Yes No**
4. Does the organization furnish each employee with a completed IRS Form W-2 by January 31 for the previous calendar year?  
**Yes No**
5. Does the organization file quarterly wage reports (IRS Form 941) with the IRS?  
**Yes No**

6. Does the organization post or provide to its employees the required employment notices, including the following:
- |  |            |           |
|--|------------|-----------|
| a. Texas Unemployment Compensation Act     | <b>Yes</b> | <b>No</b> |
| b. Texas Payday Law                        | <b>Yes</b> | <b>No</b> |
| c. Fair Labor Standards Act                | <b>Yes</b> | <b>No</b> |
| d. Employee Polygraph Protection Act       | <b>Yes</b> | <b>No</b> |
| e. Family Medical Leave Act                | <b>Yes</b> | <b>No</b> |
| f. Americans with Disabilities Act         | <b>Yes</b> | <b>No</b> |
| g. Equal Employment Opportunity Commission | <b>Yes</b> | <b>No</b> |
| h. OSHA                                    | <b>Yes</b> | <b>No</b> |
| i. Texas Worker's Compensation Act         | <b>Yes</b> | <b>No</b> |
7. Does the organization comply with workplace safety laws?  
**Yes      No**
8. Is anyone under 18 years of age employed?  
**Yes      No**
9. If so, is the organization in compliance with legal requirements regarding the employment of minors?  
**Yes      No**
10. Does the organization comply with its employee benefit plan requirements?  
**Yes      No**
11. Does the organization provide notice about the Earned Income Tax Credit to each employee from whom the organization did not withhold any income tax, by providing the employee with IRS Notice 797?  
**Yes      No**
12. If the organization has more than 4 employees, does the organization pay unemployment compensation tax?  
**Yes      No**
13. If the organization has more than 4 employees, has it made an election under the Texas Unemployment Compensation Act to pay reimbursements instead of contributions?  
**Yes      No**

14. Does the organization have any employees on military leave?

**Yes No**

15. Does the organization timely report any new employees to the Texas New Hire program?

**Yes No**

### **Recruitment and Hiring**

1. Are applicants required to complete and sign an employment application?

**Yes No**

2. Does the application form exclude any questions or specifications as to the applicant's race, ethnicity, religion, sex, age, national origin, ancestry, physical/mental disability, or any other categories protected by federal or other state and local law?

**Yes No**

3. Does the organization use language in job advertisements that is sex, race, and age neutral?

**Yes No**

4. Does the organization use recruiting methods that do not discriminate or exclude persons because of their race, sex, age, or national origin?

**Yes No**

5. Does the application inform the applicant that employment with the organization is at will?

**Yes No**

6. Does the organization require an applicant to consent to a reference check in writing?

**Yes No**

7. Are applicants notified that they will be required to submit proof of eligibility to work in the United States within 3 days following the commencement of employment?

**Yes No**

8. If subject to the ADA, has the organization taken any of the following steps to ensure compliance?
- a. Identified an individual or group of individuals to be responsible for ensuring compliance?  
**Yes      No**
  - b. Reviewed existing job descriptions and prepared new ones to clearly specify the requisite skills, experience, background, and other qualifications for the job position?  
**Yes      No**
  - c. Reviewed existing job descriptions and prepared new ones to clearly specify the essential and the non-essential job functions?  
**Yes      No**
  - d. Trained supervisory personnel on the requirements of the ADA?  
**Yes      No**
9. How are employees selected?  
**Preliminary screening:** \_\_\_\_\_  
**Interview by committee:** \_\_\_\_\_  
**Interview by supervisor:** \_\_\_\_\_  
**Other:** \_\_\_\_\_
10. Are the interviewers properly trained to avoid discriminatory pre-employment inquiries?  
**Yes      No**
11. Does the organization use an interviewer checklist to ensure a consistent interview process?  
**Yes      No**
12. Are references checked and a record kept?  
**Yes      No**

## **Job Offers**

1. Does the organization have a standardized offer procedure?  
**Yes      No**
2. Does the procedure make clear that an offer of employment does not create an expectation or a right to employment for any specified length of time?  
**Yes      No**
3. Does the procedure make clear the organization's right to change the terms and conditions of employment?  
**Yes      No**

## **Training**

1. Is training provided to supervisors regarding employment actions that could generate lawsuits, such as harassment (including sexual harassment), discrimination, wrongful discharge, defamation, assault and battery, false imprisonment, and other unlawful policies?  
**Yes      No**
2. Are all employees trained regarding unlawful harassment and discrimination?  
**Yes      No**
3. Do employees verify in writing that they have attended training programs?  
**Yes      No**
4. Do new employees receive orientation and training?  
**Yes      No**
5. Are training programs offered to all employees in a fair and consistent manner?  
**Yes      No**

## **Personnel Evaluations, Promotions, and Transfers**

1. Does the organization have a standardized evaluation system based on job-related objective criteria?  
**Yes      No**
2. Does the organization conduct evaluations annually by a person familiar with the employee's performance and keep a written record?  
**Yes      No**

3. Does the organization train supervisors on how to conduct consistent evaluations and give constructive feedback to employees?  
**Yes            No**
4. Does the organization use an evaluation and promotional system that gives all employees an equal opportunity for advancement or promotion?  
**Yes      No**
5. Are employees required to sign an acknowledgment that they received the performance review?  
**Yes      No**
6. Does the organization have a performance improvement process that incorporates qualitative job performance measures?  
**Yes      No**
7. Does the organization have a process for employees to comment or appeal an evaluation?  
**Yes      No**

### **Compensation**

1. Are non-exempt employees paid at least twice a month?  
**Yes      No**
2. Does the organization have regular pay days?  
**Yes      No**
3. Has the organization posted a notice of day, time, and place of regular pay days?  
**Yes      No**
4. Does the organization make any impermissible deductions from an employee's salary?  
**Yes      No**
5. Is the compensation paid to female employees equal to that paid to male employees performing the same work?  
**Yes      No**
6. Are non-exempt employees paid time-and-a-half for all time worked in excess of 40 hours in one work week?  
**Yes      No**

7. Are all employees paid at least the minimum wage unless the law permits paying them a sub-minimum wage?  
**Yes      No**
8. Does the organization pay for attendance at meetings and training programs that are not voluntary?  
**Yes      No**
9. Does the organization pay for meal periods if the employees are required to answer the phones during that time?  
**Yes      No**
10. Does the organization pay for travel time from job site to job site during the work day?  
**Yes      No**
11. Does the organization pay for unauthorized overtime work performed by nonexempt employees?  
**Yes      No**
12. Does the organization follow the special legal requirements for employees age 17 and younger?  
**Yes      No**
13. Does the organization have written authorization for direct deposit of paychecks?  
**Yes      No**

### **Safety and Health**

1. Does the organization have a safety program?  
**Yes      No**
2. Are emergency exit procedures in place?  
**Yes      No**
3. Are employees trained on safety procedures?  
**Yes      No**
4. If more than 15 employees does the organization have an alcohol and drug abuse policy?  
**Yes      No**



## **Discipline**

1. Does the organization have a procedure to give an employee notice of deficiencies and an opportunity to improve?  
**Yes      No**
2. Are all employees treated similarly with regard to performance measurements?  
**Yes      No**
3. Does the procedure include written notification to the employee that continued egregious conduct and failure to correct actions could result in discharge?  
**Yes      No**

## **Termination**

1. Does the organization have procedures for termination of employees?  
**Yes      No**
2. Are exit interviews conducted for terminating employees?  
**Yes      No**
3. Does the organization retain terminated employees' records for four years?  
**Yes      No**
4. Does the organization provide an employee who is involuntarily terminated with a paycheck no later than the 6<sup>th</sup> day after the termination, and an employee who resigns with a paycheck no later than the next regularly scheduled payday?  
**Yes      No**
5. Does the organization utilize consistent documentation and procedures for terminations?  
**Yes      No**
6. Are termination decisions reviewed by higher-level management or a committee prior to implementation?  
**Yes      No**
7. Are terminations handled as confidentially as possible?  
**Yes      No**
8. Does the organization have a designated person to provide references for former employees?  
**Yes      No**

9. Does the organization require a written release from liability from the employee for employment references?  
**Yes      No**
10. If more than 20 employees, does the organization provide information on COBRA rights?  
**Yes      No**
11. Are employees who return from military leave only terminated for just cause within the first year after returning from military leave?  
**Yes      No**