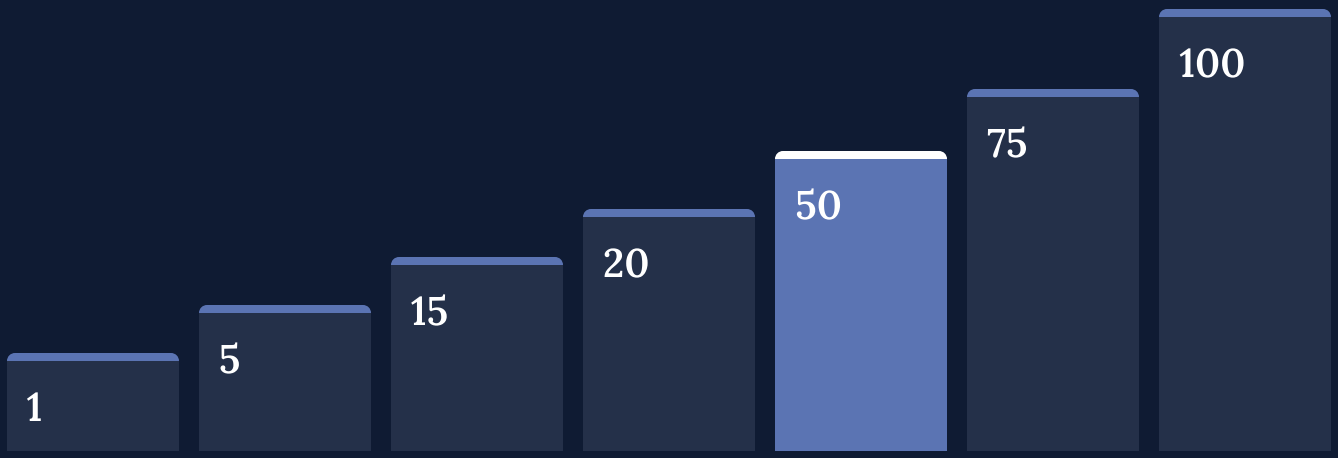
HR COMPLIANCE FOR GROWING COMPANIES

The rules change as you grow. *Most founders find out the hard way.*

Seven compliance mistakes companies make between employee #1 and #250, and how a fractional HR partner helps you stay ahead of them.



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A NOTE BEFORE YOU START

Most compliance problems I see aren't caused by bad intentions. They come from a company that grew faster than its people practices.

The offer letter template from employee #3 is still in use at employee #40. A contractor quietly became a full-time team member. A manager handled a termination the way they did at their last job. None of it feels risky until a former employee files a charge, a wage claim arrives, or an auditor asks for records you don't have.

This guide is for founders, operators and leadership teams at companies with roughly 1 to 250 employees. It covers the federal rules that apply everywhere and flags where state laws commonly go further. It won't make you an employment lawyer. It will show you where the most common gaps are, what each one costs if it goes wrong, and what "good" looks like at your size.

If you read it and realize you have a few gaps, that's normal. Fixing them in order of risk is exactly what I help companies do.

Peter Herrera

Founder, Herrera HR Growth Partners

SECTION 01

The 10-minute compliance check

Answer honestly. “Sort of” or “I think so” counts as a no.

1	Job postings include pay ranges wherever a state or city requires them, and you know whether your states ban questions about pay history.	YES	NO
2	Each contractor has a written agreement, and you’ve checked that they really are contractors and not employees under the federal and state tests that apply to you.	YES	NO
3	Every salaried, overtime-exempt person meets both the salary test *and* the duties test, not just the job title.	YES	NO
4	Your paid leave policy meets the paid sick leave and paid family leave laws in every state and city where you have employees.	YES	NO
5	Employees and managers have completed harassment prevention training on the schedule your states require, and you can prove it.	YES	NO
6	You have a current employee handbook, and every employee has signed an acknowledgment for the latest version.	YES	NO
7	I-9s are complete for every current employee and kept separate from personnel files and medical information.	YES	NO
8	If you use fingerprint or face-scan timeclocks, you have a written biometric policy and employee consent where state law requires it.	YES	NO
9	Managers document performance problems in writing, as they happen, before anyone is let go.	YES	NO
10	You know which federal and state laws you became subject to at your current headcount, and which ones apply at your next hiring milestone.	YES	NO

COUNT YOUR YES ANSWERS

9–10

You’re in good shape. Use this guide to pressure-test the details and plan for your next headcount milestone.

6–8

Typical for a growing company. A handful of gaps, at least one of which probably carries real risk.

0–5

Your people practices haven’t kept up with your growth. Start with the gaps that carry legal exposure. I can help you rank them.

SECTION 02

What applies at your headcount

Employment law doesn't arrive all at once. It switches on in steps as you hire. Here are the main federal thresholds that apply in every state.

1+

- Minimum wage, overtime and pay records (FLSA)
- Form I-9 for every hire
- Equal Pay Act
- Workplace safety (OSHA)
- Break time and a private space for nursing employees (PUMP Act)
- Background check notices (FCRA)
- Employees' right to discuss pay and working conditions (NLRA)
- Military service job protection (USERRA)

15+

- Title VII (discrimination and harassment)
- Americans with Disabilities Act
- Pregnant Workers Fairness Act
- GINA (genetic information)

20+

- Age Discrimination in Employment Act (ADEA)
- COBRA health coverage continuation

50+

- FMLA job-protected leave (50 employees within 75 miles)
- ACA employer coverage requirement and reporting (50 full-time equivalents)

100+

- EEO-1 demographic reporting
- WARN Act notice for mass layoffs and plant closings

How to read your number

Thresholds count differently from law to law: some count all employees, some count full-time equivalents, and some look back over the past 20 weeks or the prior calendar year. Part-time and remote staff usually count. If you are within a few hires of a threshold, plan for it now; the obligations apply the day you cross it.

State law usually applies sooner

Federal discrimination law starts at 15 employees, but many states cover employers with as few as one. Federal law has no paid sick leave requirement, but many states and cities do. Always check the states where your employees actually work, not just where your company is based. The next page shows where states most often go further.

Where states commonly go further

These are the areas where state and city laws most often add to the federal baseline. The examples aren't a complete list, and new laws pass every year.

TOPIC	FEDERAL BASELINE	WHAT STATES OFTEN ADD
Minimum wage	$7.25 an hour	Most states and many cities set a higher rate, often adjusted every year.
Overtime	Over 40 hours a week; exempt salary at least $684 a week	Daily overtime in some states, like California; higher exempt salary thresholds in states like California, New York and Washington.
Paid sick leave	None required	Required in many states and cities, commonly 40 hours or more a year.
Paid family and medical leave	FMLA: unpaid, at 50+ employees	Paid leave programs funded through payroll in a growing number of states, including California, New York, Washington, Massachusetts and Colorado.
Discrimination coverage	Starts at 15 employees (20 for age)	Many states cover much smaller employers, some starting at one employee, and add protected categories.
Harassment training	Not required	Required in states including California, New York, Illinois, Connecticut, Delaware and Maine, plus some cities.
Pay in job postings	Not required	Pay ranges required in a growing list of states, including California, Colorado, Illinois, New York and Washington. Many also ban salary history questions.
Contractors	IRS and DOL tests	Stricter "ABC" tests in some states, like California, Massachusetts and New Jersey; written freelancer contracts required in places like New York and Illinois.
Final pay	No federal deadline	Deadlines from the same day to the next payday, and some states require payout of unused vacation.
Expenses	Only when costs push pay below minimum wage	Some states, including California and Illinois, require reimbursing necessary work expenses.
Biometric privacy	No general law	Notice and consent rules for fingerprints and face scans in states like Illinois, Texas and Washington.

Hiring remotely? You just entered a new state.

A remote employee is generally covered by the laws of the state where they work, not where your company is based. One out-of-state hire can mean registering for payroll taxes and unemployment there, plus new rules on pay, leave and required notices.

SECTION 03

Seven compliance mistakes growing companies make

Each one is common, fixable, and costlier the longer it sits.

1 Hiring without a consistent process

When every manager interviews their own way, you get uneven decisions and an uneven paper trail. State and city laws add rules many founders haven't heard of.

WHAT GOES WRONG

- Job postings missing a pay range where state or city law requires one
- Asking about salary history where it's banned
- Off-script interview questions about age, family plans, religion, national origin or health
- Turning someone down over a background check without the required notices
- Using AI screening tools without the notices some states and cities now require

WHAT GOOD LOOKS LIKE

- A written scorecard for each role, built from the job's real duties
- The same core questions for every candidate, with notes saved
- Posting templates with pay ranges built in
- A background check process that follows the FCRA and state and local limits on using conviction and credit history
- Offer letters that don't promise more than you intend

WHERE I HELP Interview kits, posting and offer templates, and manager training so your hiring holds up and fills roles faster.

2 Misclassifying workers

There are two classification decisions, and both carry back-pay, tax and penalty exposure: employee versus contractor, and exempt versus non-exempt from overtime.

EMPLOYEE OR CONTRACTOR?

- Calling someone a contractor doesn't make them one. The IRS, the U.S. Department of Labor and your state each apply their own test, and some states use a strict "ABC" test.
- Red flags: you set their hours, they do core company work, they work only for you, or they used to be an employee.
- Some states and cities require written contracts for freelancers.

EXEMPT OR NON-EXEMPT?

- To be exempt from overtime, a person generally needs a salary of at least **$684 a week ($35,568 a year)** *and* must meet a duties test. That federal threshold was restored in May 2026, and some states set a higher one.
- A job title like "manager" or "coordinator" doesn't decide it. The actual work does.
- Recheck every time a role changes or a job description is rewritten.

WHERE I HELP A classification audit of every role and contractor, with a fix-it plan in order of risk.

3 Getting pay and hours wrong

Wage and hour claims are among the most common employment claims, and they often cover a whole group of employees at once, going back years.

WHAT GOES WRONG

- Non-exempt staff answering messages or finishing work off the clock
- Paying below the local minimum. The federal rate is **$7.25**, but most states and many cities set it higher.
- Not reimbursing business expenses, like a personal phone used for work, in states that require it
- No break time or private space for nursing employees, which federal law requires
- Final paychecks that miss your state's deadline, which can be the same day

WHAT GOOD LOOKS LIKE

- Accurate time records for every non-exempt employee, including edits approved by the employee
- A clear after-hours communication rule for hourly staff
- A written expense reimbursement policy
- A calendar of minimum wage changes for every state and city where you have employees
- A final-pay checklist used for every separation

WHERE I HELP A pay practices review, built with your payroll provider, so the system does the right thing by default.

4 Mishandling leave

Leave is where federal, state and city rules overlap the most, and where well-meaning managers get into trouble by saying "we can't hold your job."

THE LAYERS TO KNOW

- **Paid sick leave:** no federal requirement, but many states and cities require it
- **State paid family leave:** insurance programs in a growing number of states, funded through payroll
- **FMLA** at 50+ employees: up to 12 weeks of unpaid, job-protected leave
- **Other state leave:** jury duty, voting, military family, domestic violence and school activities
- **ADA:** leave can be a reasonable accommodation, even when no other leave law applies

WHAT GOOD LOOKS LIKE

- A PTO policy designed to satisfy every law that applies to you, not one policy stacked on another
- One person who handles leave requests and the required notices
- Health benefits continued as required during protected leave
- A return-to-work step and an accommodation conversation, documented
- No discipline for absences that are legally protected

WHERE I HELP Leave policy design and case-by-case guidance when someone needs time away.

5 Treating harassment prevention as a box to check

Federal law starts at 15 employees, but many state laws cover much smaller companies. And retaliation, not the original complaint, is consistently the most common charge filed with the EEOC.

WHAT'S REQUIRED

- A written anti-harassment policy with clear reporting options
- Regular training in states that require it, including California, New York, Illinois, Connecticut, Delaware and Maine, plus some cities
- A clear way to report concerns that doesn't run only through the employee's manager
- Limits on confidentiality terms in harassment cases under the federal Speak Out Act and many state laws

WHAT GOOD LOOKS LIKE

- Training tracked by name and date
- Every complaint logged, investigated promptly and closed out in writing
- Managers trained to escalate instead of solving it quietly
- A check on every decision affecting someone who recently raised a concern, before it happens

WHERE I HELP Policy, training schedules, workplace investigations and coaching for the manager in the middle.

6 Letting employee records slide

Records are your evidence. If a claim or audit comes, what matters is what you can produce, not what you remember.

WHAT GOES WRONG

- Missing or incomplete I-9s, or I-9s filed inside personnel files
- Medical notes and accommodation records mixed in with performance files
- Pay and time records thrown out too early (federal law requires at least 3 years; some states require longer)
- Fingerprint or face-scan timeclocks used without the notice and consent some states require. Illinois's biometric law alone has produced major settlements.
- No process when an employee asks to see their file, a right in many states

WHAT GOOD LOOKS LIKE

- Separate, access-controlled files: personnel, medical, I-9 and payroll
- A written retention schedule, followed when records are destroyed
- A quick I-9 self-audit, fixing errors the right way
- Your HR system set up with the right permissions, not shared logins

WHERE I HELP A records and HRIS cleanup so you're audit-ready, with a retention schedule your team can follow.

7 Terminating without a paper trail

A termination is the moment most claims begin. A former employee who feels blindsided, or who recently raised a concern, is the one most likely to call a lawyer.

WHAT GOES WRONG

- The first written record of a performance problem is the termination letter
- Glowing reviews on file for someone being let go “for performance”
- Two employees with the same issue, handled two different ways
- A termination soon after leave, a complaint or an accommodation request
- Separation agreements that don’t meet state or age-discrimination requirements

WHAT GOOD LOOKS LIKE

- Clear expectations, timely feedback and a fair chance to improve
- A written progression: coaching, then a documented warning, then a performance plan with dates and measurable goals
- A pre-termination review: same facts, same outcome, no protected activity in play
- Final pay, benefits notices and any state-required separation notices handled on time
- A respectful, well-planned separation conversation

WHERE I HELP A second set of eyes before any termination, plus separation planning and agreements prepared with your counsel.

THE PATTERN BEHIND ALL SEVEN

None of these is a lack of effort. Each one is a missing system.

Founders and office managers usually handle HR in the gaps between their real jobs. Each mistake above comes from a decision made quickly, by a different person each time, without a standard to follow. The fix is rarely a thick binder. It’s a few clear policies, templates your managers will actually use, and someone who knows the rules watching for changes as you grow.

That’s the role a fractional HR partner fills: senior HR leadership on a monthly retainer, at a fraction of the cost of a full-time hire.

> **Rules keep changing**
>
> States pass new employment laws every year. Recent trends include pay ranges in job postings, paid sick and family leave, rules on AI in hiring, expanded lactation rights and pay data reporting. Plan a policy review at least once a year, and every time you cross a headcount threshold or hire someone in a new state.

SECTION 04

Build your safeguards

Three safeguards protect a growing company the most: a handbook that matches how you really operate, a consistent paper trail, and one standard process for big people decisions.

Safeguard 1: An employee handbook that fits

A handbook does two jobs. It tells employees what to expect, and it shows that you told them. A downloaded template that doesn't match your actual practices can hurt you more than having no handbook. Have every employee sign an acknowledgment, review the handbook every year, and get new signatures when it changes.

WHAT A HANDBOOK SHOULD COVER

Equal opportunity and anti-harassment
Protected categories under federal, state and local law, how to report a concern, and a clear statement that retaliation is prohibited.

Employment basics
At-will status, classifications, introductory periods and how job changes work.

Pay and timekeeping
Pay schedule, overtime approval, accurate time records, deductions and expense reimbursement.

Paid leave and time off
A PTO policy built to meet the paid leave rules in each state where you have employees, plus FMLA and other required leave.

Accommodations
How to ask for a disability, pregnancy, lactation or religious accommodation, and what happens next.

Conduct and performance
Expectations, attendance, how performance concerns are handled and how decisions get made.

Technology, privacy and biometrics
Use of company systems, confidentiality, and any biometric notice your state requires.

Safety and violence prevention
Reporting injuries, workers' comp, a drug-free workplace and state marijuana laws.

Remote and hybrid work
Where people can work, equipment, expenses, and the state law that applies to out-of-state employees.

Who to contact
A named person or role for benefits, pay questions, leave and concerns, including a backup who isn't the employee's manager.

> ### Right-sized, not oversized
>
> A 12-person startup doesn't need a 90-page handbook. It needs the required policies, written in plain language, plus the few rules that matter for your business. Add to it as you grow, with state supplements when you hire in new states.

Safeguard 2: A paper trail written as things happen

If it isn't written down, it's your word against theirs. Good documentation is short, factual and written at the time. It describes what happened and what needs to change. It doesn't guess at why.

HARD TO DEFEND

"Jordan always has a bad attitude and never takes the job seriously. Probably burned out. Talked about it."

EASY TO DEFEND

"Oct. 6: Met with Jordan about three missed client deadlines in September (9/8, 9/19, 9/29). Going forward, all deliverables are due by the agreed date or flagged 48 hours ahead. We'll review on Nov. 3. Repeated misses may lead to a written warning."

RULES OF THUMB

- Stick to facts you saw: dates, examples, impact
- Avoid absolutes like "always" and "never"
- State the expectation and the next step
- Send a short recap email after the conversation

KEEP IT CONSISTENT

- Document good performance too, not just problems
- Make sure reviews match what you say in real time
- Store records in one place, not managers' inboxes
- Use the same templates for every team

Safeguard 3: One process for big decisions

Before any termination, demotion or pay cut, work through these questions. If you can't check every box, pause.

- [ ] **Was the expectation clear?** Is it in writing, through a job description, policy, plan or email?
- [ ] **Did they get a real chance to improve?** Was there feedback, time and support, all documented?
- [ ] **Is it consistent?** Have others with the same issue been treated the same way?
- [ ] **Any protected activity recently?** Leave, a complaint, an accommodation request, a workers' comp claim or a pay question?
- [ ] **Would the file make sense to a stranger?** Could an investigator follow the story from the records alone?
- [ ] **Is the exit planned?** Final pay, benefits notices, any state-required notices, system access and a separation agreement, if you're using one?

SECTION 05

When a claim lands

A charge, demand letter or agency notice is stressful, but deadlines are real and ignoring it makes everything worse. Here's what to do first.

First 24 hours

- Note the response deadline
- Tell your employment counsel and your EPLI insurer, if you have one
- Limit who knows to those who need to

Within 72 hours

- Issue a hold: no deleting email, Slack, texts or files
- Gather the personnel file, policies, pay and time records
- Remind managers: no retaliation

Before you respond

- Review the facts internally
- Build a timeline from the records
- Prepare a factual, consistent response with counsel

CLAIM TYPE	WHO HANDLES IT	WHAT YOU'LL NEED
Discrimination, harassment or retaliation	EEOC (federal) or your state fair employment agency. Charges are often cross-filed with both.	Policies, training records, complaint and investigation files, and the full decision trail.
Unpaid wages or overtime	U.S. Department of Labor, your state labor department, or a private lawsuit	Time and pay records, classification rationale, approved time edits and expense policies.
Unemployment	Your state unemployment agency	The reason for separation and proof of it. Contest a claim only when you can document misconduct, since it affects your tax rate.
Workplace injury	Your workers' comp carrier and your state workers' comp agency	A prompt injury report, witness information and return-to-work options. Never retaliate for filing.
Attorney demand letter	Your employment counsel	Everything above. Don't contact the former employee directly about it.

The best defense starts long before the claim

Employment Practices Liability Insurance (EPLI) can cover defense costs, but insurers look at your policies, training and documentation when they price it and when they pay. The safeguards in Section 04 help on both counts.

SECTION 06

Your options for HR support

There's no single right answer. It depends on your size, budget and how much complexity you're carrying. Here's an honest comparison.

OPTION	WHAT YOU GET	THE TRADE-OFF	BEST FIT
Do it yourself	No added cost. The founder or office manager handles it.	Your most expensive time goes to tasks outside your expertise, and gaps go unnoticed until something goes wrong.	The first few hires, with outside help on call
HR software and payroll	Automated payroll, onboarding, e-signatures and some policy templates	Tools carry out decisions. They don't make judgment calls or coach a manager through a hard conversation.	Every company, alongside a person who sets it up right
PEO (co-employment)	Bundled payroll, benefits, workers' comp and compliance support	Shared liability, less flexibility, and HR support that is often a call center rather than someone who knows your business	Companies that mainly want access to large-group benefits
Full-time HR hire	A dedicated person, on site, every day	A senior HR leader is a big fixed cost. A junior hire may not have the judgment you need on risky calls.	Usually 100–150+ employees, or high complexity
Fractional HR partner	Senior HR leadership on a monthly retainer. Strategy and hands-on work from someone who knows your team and your history.	Not on site every day. Works best with a clear point of contact on your side.	Roughly 10–250 employees, growing fast or carrying risk

Fractional works alongside what you already have

A fractional partner doesn't replace your payroll provider, PEO, benefits broker or employment lawyer. I make sure those pieces are set up correctly and working together, and I bring in counsel when a situation calls for legal advice. That usually means fewer and shorter legal bills.

Signs it's time for fractional HR

You're hiring faster than you can onboard. Managers keep bringing you people problems. You crossed 15, 50 or 100 employees. You just had a close call, or you're preparing for funding or an acquisition and need clean HR records.

Signs it's time for a full-time hire

The HR workload is steady at four or more days a week, you have multiple locations or union work, or you need someone on site every day. When that time comes, I can help you hire your first HR leader and hand the work over cleanly.

SECTION 07

How we'd work together

Most clients work with me on a monthly retainer: one partner for the whole people side of your business, priced by your headcount and the level of support you need.

WHAT A RETAINER COVERS

- A compliance review, with gaps ranked by risk
- A handbook, policies and templates that fit your size
- Hiring process, offer letters and onboarding
- Manager coaching on feedback, performance and hard conversations
- Employee relations, investigations and terminations
- Ongoing monitoring of new laws in every state where you have employees

ALSO AVAILABLE WHEN NEEDED

- **Fixed-scope projects:** a compliance audit, a handbook build, a pay structure or a classification review
- **Interim HR leadership:** coverage during a transition, a leave or a search for your first HR leader

1

Intro call

A short conversation about your company, your team and what's taking up your time.

2

Quick review

I look at what's in place today and flag the gaps, ranked by risk and impact.

3

A clear plan

You get a proposal with scope, priorities and pricing before any work begins.

4

Work begins

I start with the most urgent items and keep you updated without adding meetings.

20+ years
of HR leadership

4 industries
financial services, healthcare, hospitality and tech

2 companies
where I built HR from scratch

1 to 250
employees: the companies I serve

ABOUT PETER HERRERA

I've spent more than 20 years leading HR in financial services, healthcare, hospitality and tech. I was the first HR leader at a five-venue hospitality group, and later built the HR function at a tech company. Both times, I started from scratch while the business kept growing.

I started Herrera HR Growth Partners to give founders that same senior partnership without a full-time hire: practical answers in days, policies that fit on a page, and the structure you need for your next stage of growth. I'm based in Chicago and work with growing companies across the U.S.

YOUR NEXT STEP

Find your gaps before *someone else does.*

Bring your answers from the 10-minute check to a free intro call. We'll talk through where you stand and the first two or three things I'd fix in your place.

FREE 20-MINUTE INTRO CALL

What you'll leave with

- A plain-language read on your biggest compliance risks at your headcount and in your states
- What changes at your next hiring milestone, and when to prepare
- How a monthly retainer would work for a company your size

No pitch deck, no obligation. If you don't need me, I'll tell you.

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