

# **HUMAN RESOURCES AUDIT FOR CONNECTICUT EMPLOYERS**

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## **I. GENERAL GUIDELINES**

1. Are required state and federal employment law posters displayed where employees can review them (such as, depending on the size and type of employer, posters pertaining to the Federal Fair Labor Standards Act; Federal Equal Employment Opportunity; Federal Occupational Safety and Health Act; Federal Family and Medical Leave Act; Federal Uniform Services Employment and Reemployment Rights Act; Federal Polygraph Protection Act; CT Sexual Harassment; CT "Discrimination is Illegal"; CT Workers' Compensation; CT Unemployment Compensation; CT "Notice of Electronic Monitoring"; CT "Notice of Privacy Protection"; CT Paid Sick Leave; and CT Wage and Workplace Standards?
2. Is the Company registered in the unemployment compensation system and contributing to payroll taxes?
3. Does the Company have appropriate workers' compensation insurance in place?
4. Does the Company have appropriate Director & Officers ("D&O") liability insurance and/or Employment Practices Liability Insurance ("EPLI") in place?
5. Is the Company a federal or state contractor which needs to comply with affirmative action obligations?
6. Does the Company file and maintain EEO-1 forms and VETS-100 forms annually (as applicable)?

## **II. HIRING GUIDELINES**

### ***Applications & Advertisements***

1. Is an employment application being used that complies with federal and state laws?
2. Does the Company ensure that all information on the application has been completed and that the application has been signed and dated where required?
3. Does the Company ensure that all applications/resumes are reviewed to determine if each candidate meets minimum job qualifications?

4. Has the Company reviewed the criteria to be used in reviewing applications, making sure that the criteria are legitimate, business-related and non-discriminatory?
5. Are open positions posted internally and/or with the state job service (as applicable)?
6. Are employment advertisements reviewed for accuracy and legality?
7. Has the Company properly classified the position before accepting applications? (i.e., employee vs. independent contractor; full-time vs. part-time; exempt (from overtime) vs. non-exempt)?
8. Does the Company have a job description that accurately reflects the qualifications for the position (i.e., education, experience, licenses) and essential and non-essential functions of the position for which the Company can demonstrate a business necessity?

### ***Interviewing***

9. Is the Company consistent in the personnel used to conduct interviews, the types of interviews conducted (i.e., phone screen vs. in-person) and the number of interviews conducted?
10. Are all interviewers appropriately instructed as to lawful inquiries and provided with an interview checklist and examples of both lawful inquiries and questions not to ask?
11. Does the Company ensure that interviewers are consistent in the subject areas explored and the types of questions asked during interviews by means of developing a standard set of questions to be asked of all applicants and keeping a record of the questions used?
12. Does the Company recommend that interviewers complete a written interview report following each interview?

### ***Background Checks***

13. Are applicants required to sign an appropriate written authorization allowing the Company to conduct reference and background checks in compliance with the requirements of the Fair Credit Reporting Act ("FCRA")?

14. Does the Company understand the circumstances when an applicant (or current employee) may be required to consent to a request for a “credit report” as a condition of employment and when credit scores may be used in making hiring or employment decisions?
15. Does the Company not require an employee or job applicant to disclose the existence of any arrest, criminal charge or conviction that has been “erased” under Connecticut law?
16. Does the Company make hiring (and employment decisions) based on criminal convictions (and, if so, only if a business necessity can be established and the connection between the convictions and the job is not too remote) and not based on arrest records?
17. Does the Company understand that only public information available on social networking sites may be obtained regarding applicants (or employees) and may be used when making employment decisions (in same lawful manner as background information is otherwise obtained and used), without requiring applicants or employees to provide social networking passwords as condition of employment?
18. Are references appropriately checked before an offer of employment is communicated to the applicant?
19. If an applicant (or employee) might be rejected based upon a report issued by background checking agency, does the Company provide notice to the applicant (or employee) prior to taking any adverse action based on the consumer report (except as a result of an investigation into misconduct) and provide a copy of the report and a summary of the FCRA to the applicant (or employee)?

***Pre-Employment Testing***

20. Does the Company conduct pre-employment drug testing in accordance with required notice and testing procedures?
21. Does the Company prohibit the use of lie detector tests for pre-employment screening (and during the course of employment)?
22. Does the Company prohibit medical examinations or inquiries about medical conditions before a job offer has been made?

23. If the Company requires an applicant to perform a physical agility test or a job skills test as a condition of employment, can the Company demonstrate that the test is job-related and justified by business necessity?
24. If the Company requires an applicant to perform a written test as a condition of employment (such as an honesty test), can the Company demonstrate that there is a rational relationship between test scores and job performance and that the test does not have a disparate impact on minority job applicants?

***Making the Offer***

25. Has the Company carefully reviewed all of the information that has been compiled concerning the applicant during the pre-employment process, looking at the information as critically and objectively as possible?
26. Is the Company prepared to articulate and demonstrate, with specific information, why a particular applicant has been chosen over others, making sure that the reasons for choosing a particular candidate are legitimate and non-discriminatory?
27. Does the Company wait to make offers until all steps in the pre-employment process have been completed?
28. Does the Company provide written offers of employment containing information pertaining to position, hours of work, salary, starting date and benefits and any contingencies upon which the offer is based (i.e., results of criminal record checks; drug testing; completion of I-9 Form; post-job offer medical examinations)?
29. Does the written job offer state that it sets forth the complete terms of the offer and supersedes any prior oral or written representations to the contrary?
30. Has the Company decided whether to provide an employment agreement to certain new hires containing non-compete, non-solicitation and/or non-disclosure provisions (as applicable)?
31. Does the Company understand the “do’s and don’ts” when turning down other applicants?

### ***Orientation***

- 32. Is orientation standardized for all departments and is an appropriate orientation checklist followed?
- 33. Does the Company have a handbook/personnel policies to provide to a new hire, containing policies pertaining to, among other things: “at-will” employment (non-unionized employers); workplace harassment or discrimination; reasonably accommodating qualified disabled individuals; equal employment opportunities/affirmative action statement (as applicable); disciplinary rules/rules of conduct; employee complaint procedures; employee leave (FMLA, vacation leave, sick leave, etc.) and employee benefits (insurance, 401(k), etc.)?
- 34. Do new hires sign an appropriate handbook receipt/“at-will” disclaimer (non-unionized employers) and receipt for other orientation materials and equipment?
- 35. Are all new hires asked to complete the I-9 Forms with appropriate documentation?
- 36. Does the Company report each new hire to the state labor department?

### ***Wages and Benefits***

- 37. Are employee benefits programs communicated to employees during orientation, in the handbook and when changes/improvements are made?
- 38. Has the employee been properly classified as exempt vs. non-exempt under state and federal wage and hour laws?
- 39. Has the new hire completed all necessary tax withholding and wage deduction authorization forms?

### ***Employment Documents***

- 40. Has the Company established a separate personnel file for each employee, containing any documents which are used or have been used by an employer to determine such employee's eligibility for employment, promotion, additional compensation, transfer, termination, disciplinary or other adverse personnel action?
- 41. Does the Company keep the employee's personnel file in a locked file cabinet or otherwise in a secure, private location with access limited to those with a “need to know”?

- 42. Has the Company established a separate medical file for each employee containing any and all records in the employer's possession pertaining to medical exams, workers' compensation claims, reasonable accommodation issues under the Americans With Disabilities Act ("ADA") or family and medical leave act ("FMLA") requests?
- 43. Does the Company keep the employee's medical file in a locked file cabinet or otherwise in a secure, private location with the most restricted access possible?
- 44. Does the Company maintain I-9 forms in separate files for their employees, without retaining copies of the documents presented by the employee to satisfy the requirements of the I-9 forms?
- 45. Does the Company know how long to maintain personnel files, medical files, I-9 forms, wage and hour records, OSHA records and employment policies/handbooks?

### **III. EMPLOYMENT GUIDELINES**

#### ***Wages and Benefits***

- 46. Is the Company in compliance with state and federal wage-hour laws, including those pertaining to minimum wage, overtime pay and exemptions, time record-keeping, meal breaks, not working more than six consecutive days in a calendar week, wage deductions, wage garnishments, payment for training time, travel time and "on call" time, retention of wage records, weekly or bi-weekly payment of wages, direct deposits and pay stub information?
- 47. Are men and women receiving equal pay for performing the same job (unless other legitimate reasons such as seniority justify differences in pay)?
- 48. Are wage increases given in a consistent manner, based upon as objective criteria as possible?
- 49. Is there a continuing program in place to gather necessary data to ensure that the wages and benefits remain comparable to the competitive area?
- 50. Does the Company properly issue COBRA notices to employees at time of insurance enrollment and at time of qualifying events during employment (such as divorce from an employed spouse; reduction in hours)?

51. Does the Company not maintain any policies that prohibit employees or applicants from inquiring about, discussing or disclosing information about the terms or conditions (such as pay and benefits) of their own employment or of any other applicant or employee in a lawful manner (including when exercising any rights to engage in protected concerted activity)?
52. Does the Company have a policy which states that employees may treat information about the terms or conditions (such as pay and benefits) of their own employment as confidential to the extent that they prefer not to share such information with others and that employees may not share information about another's terms and conditions of employment (including information about another's pay) when others do not wish them to do so?
53. Does the Company have a policy which states that employees remain subject to discipline if they have access to compensation/benefit information of other employees or applicants as part of the essential functions of their job and they disclose that information to others who do not otherwise have access to such information without their consent (unless the disclosure was made in response to a formal complaint or charge, in furtherance of an investigation by the Company or any outside party, or as part of any legal or administrative proceeding or hearing or consistent with the Company's legal duty to furnish such information)?
54. Does the Company have policies which specify whether employees are eligible for wage advances, vacation time advances and/or loans, and if so, also have proper forms (as approved by the CT Department of Labor, as necessary) to obtain reimbursement of such advances and/or security for such loans?

### ***Health and Safety***

55. Does the Company (with 50 or more employees in CT) provide two hours worth on training on sexual harassment in the workplace to new supervisors?
56. Does the Company comply with federal OSHA requirements (including providing its employees with a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm; furnishing employees (upon request) with a written statement listing the substances which such employee uses or with which such employee comes into contact that have been identified as toxic and hazardous by OSHA; complying with various OSHA safety and health standards that



have been promulgated; and by compiling a log of workplace injuries and reporting the same)?

57. Does the Company (with 20 or more employees) maintain at least one work area as “nonsmoking”?
58. For employees with workers’ compensation injuries, does the Company provide light duty assignments as may be available?
59. Does the Company conduct drug (and alcohol) testing in accordance with required reasonable suspicion during employment (or in accordance with federal regulations for employees with commercial driver’s licenses or state regulations for employees who operate fork lifts or who are in safety-sensitive positions as designated by the Connecticut Department of Labor)?
60. If applicable, is the Company HIPAA compliant?

***Employee Leave***

61. Does the Company provide and comply with state and federal military leave requirements?
62. Does the Company provide and comply with state jury duty leave requirements?
63. Does the Company provide and comply with state witness and crime victim leave requirements?
64. Does the Company provide and comply with state family violence victim leave requirements?
65. Does the Company provide and comply with state paid sick leave for service workers (as applicable)?
66. Does either the federal (50 or more employees) or state (CT: 75 or more employees) family and medical leave act (“FMLA”) apply?
67. If either the state or federal FMLA applies, does the Company have the proper policies, designation forms and certification forms in place?
68. If an employee requests medical leave or goes out on workers’ comp or short term disability, does the Company simultaneously determine if the condition satisfies the criteria to commence FMLA leave?

- 69. If the employee is about to exhaust his FMLA entitlement, does the Company advise the employee that the leave period is about to be exhausted and request a medical update on the employee's condition and/or return to work status report?
- 70. If FMLA has been exhausted, does the Company conduct an individualized assessment of the employee and engage in the interactive process with the employee to determine whether some further accommodation (such as additional leave) is required under state or federal disability discrimination laws?

***Privacy, Monitoring and Information Technology Use Issues***

- 71. Does the Company (under Connecticut law) provide current and former employees the right to inspect their personnel files (or to obtain copies of the personnel file with or without a charge for copies by the Company) (within seven (7) days and ten (10) days, respectively) after submitting a written request to do so (up to a maximum of two times per year)?
- 72. Does the Company allow employees to submit an explanatory statement to be retained as part of the personnel file if upon inspection there is no agreement on removal or correction of information?
- 73. Does the Company (under Connecticut law) have a policy of not releasing information contained in a personnel file to anyone other than the employee, except to one who performs employment related services for the Company, or in response to a lawfully issued administrative summons or judicial order (including a subpoena), or in response to a request by a law enforcement agency, or to comply with federal, state, or local laws or regulations?
- 74. Does the Company (under Connecticut law) have a policy of not releasing information contained in a medical file to anyone (including the employee) other than to the employee's doctor (pursuant to a written authorization from the employee to do so) or to one who performs employment related services for the Company, or in response to a lawfully issued administrative summons or judicial order, including a subpoena, or in response to a request by a law enforcement agency, or to comply with federal, state, or local laws or regulations?
- 75. Does the Company have policies and procedures in place to guard against and impose penalties for employee misuse or misappropriation of privileged or confidential business-related information and trade-secrets?

76. Does the Company conduct internal investigations of employee misconduct, particularly allegations of sexual harassment, in a manner to protect employee privacy interests (such as an employee's reputation) by only involving employees with a "need to know"?
77. Has the Company implemented disciplinary procedures and other policies (e.g., substance abuse and alcohol policies) which state that employees cannot engage in off-duty conduct which interferes with their ability to perform their jobs or otherwise discredits the Company's reputation in the community or harms the Company's business operations?
78. Has the Company posted a notice of privacy protection for personally identifiable information (such as driver's license numbers, credit or debit card numbers, bank account numbers, identification card numbers, passport numbers, alien registration numbers, and health insurance identification numbers) and adopted and implemented a policy with procedures in place to demonstrate how it will, in fact, accomplish the safeguarding (and proper destruction) of such personal information?
79. If the Company conducts any type of electronic monitoring in the workplace (i.e., monitoring of e-mail, voice-mail, computers etc.), has the Company issued prior written notice of monitoring to employees who may be affected by monitoring, stating the type of monitoring that may occur, and posted such notice where employees can readily view it (and included a monitoring policy in a handbook)?
80. Has the Company implemented a written policy stating that it retains the right to conduct property searches in the workplace at any time without advance notice, including searches of employee work areas, desks, lockers, file cabinets, mail, briefcases, handbags and cars (if parked in Company parking lots)?
81. Does the Company conduct property searches that are "justified at inception" (i.e., based on reasonable suspicion) and "permissible in scope" (i.e., the measures used are reasonably related to the objectives of the search and are not excessively intrusive)?
82. If the Company seeks to monitor telephone calls to and from the workplace, has the Company obtained the consent of all parties to the call (pursuant to Connecticut law) either verbally, as a result of a recorded message at the beginning of the call, or by a recorded tone warning the parties every 15 seconds that they are being recorded?

83. If the Company conducts video surveillance of employees and/or the worksite, does the Company prohibit such surveillance activities (under Connecticut law) in areas designated for health or professional comfort or for safeguarding of employee possessions, such as restrooms, locker rooms, or lounges?
84. Does the Company have a policy restricting Internet access and e-mail use for business purposes only during working time (i.e., the time an employee is engaged or should be engaged in performing his/her duties for the Company)?
85. Does the Company have a policy allowing limited personal use of Internet and e-mail access during non-working time, to the extent that such use does not interfere with the Company's business operations or others who are working, does not cause the Company to incur any additional expenses, and does not otherwise violate any Company policies or procedures or applicable laws?
86. Does the Company have a policy prohibiting employees from taking, distributing or posting pictures, videos or audio recordings while on working time (see definition above), in order to ensure employee safety and safety of Company equipment, prevent unlawful harassment, maintain individual privacy, encourage open communication, avoid unnecessary distractions and protect confidential business-related information of the Company from being improperly disclosed? Employees are prohibited from taking, distributing or posting pictures, videos or audio recordings while on working time.
87. Does the Company have a policy (for some of the same reasons identified above) requiring employees who seek to take, distribute or post pictures, videos or audio recordings of people at the Company (such as other employees, clients or others doing business with the Company) while on non-working time to notify and obtain permission from such individuals first?
88. Does the Company have a policy prohibiting employees from taking, distributing or posting pictures, videos or audio recordings of any confidential business-related information of the Company at any time?
89. Does the Company have a policy prohibiting employees from taking pictures or making recordings of work areas at any time, except if the employee were engaging in any activity protected by the National Labor Relations Act including, for example, taking pictures of health, safety and/or working condition concerns and/or other protected concerted

activities, as long as such pictures, videos or audio recordings do not disclose any confidential business-related information of the Company?

90. Does the Company have a policy prohibiting employees from attaching their personal electronic devices (such as cell phones, tablets, laptops, MP3 players, smartwatches, smartglasses, etc.) to or charging them on the Company's computers so as to minimize the risk of introducing malware/viruses onto the Company's computer systems?
91. Does the Company have a policy prohibiting employees from plugging in any storage devices, USB drives, media cards or any other personal storage device into the Company's network or Company owned hardware unless for business purposes only with approval by the Company so as to minimize the risk of employee theft of confidential business-related information?
92. Does the Company have a policy allowing employees to use their personal electronic devices (such as cell phones, tablets, laptops, MP3 players, smartwatches, smartglasses, etc.) during non-working time (and/or working time), so long as such use is not disruptive to others (including co-workers, clients, etc.), does not interfere with the Company's business operations, and does not otherwise violate any of the Company's policies (including standards of conduct; confidentiality; etc.) or applicable law?

### ***Communications & Complaint Resolution Procedure***

93. Does the Company have a system, including a procedure to maintain employee anonymity, for gathering employee feedback and obtaining employee suggestions where appropriate? Are actions taken pursuant to such suggestions properly communicated to employees?
94. Does management have a policy of holding regular small group meetings by shift, department, etc., at which employees are provided time to voice their questions or concerns?
95. Do management, supervisors, etc., have an open-door policy? Is it used and are such instances recorded?
96. Are employees permitted to bring complaints to supervisors in an informal manner?
97. Is there a formal complaint resolution procedure which is communicated to employees and allows employees to, in certain instances, bypass their immediate supervisor?

98. Are supervisors instructed as to their role in the complaint resolution procedure in order to encourage its use and ensure that complaints are addressed in a timely manner?
99. Is appropriate documentation maintained regarding the nature of complaints and action taken?

### ***Evaluation***

100. Are written performance evaluations completed at the end of an employee's introductory period and on an annual basis?
101. Does the person performing the evaluation have actual knowledge of the employee's performance, acquired over a reasonable period of time?
102. Do the standard evaluation forms contain appropriate and objectively measurable criteria?
103. Does the supervisor have similar expectations for employees who hold the same position with similar levels of experience?
104. Does the evaluation accurately and specifically describe how the employee performed with respect to each expectation?
105. Is the evaluation as specific and objective as possible? Are specific examples given of how and when problem(s) occurred and what the consequences were for the employee's coworkers, the Company's customers and the organization's ability to achieve its objectives?
106. If an employee's performance requires dramatic improvement, is the Company's evaluation candid about the consequences if the employee fails to meet those expectations within an expressed time frame? Are written performance improvement plans implemented with deadlines and consequences?
107. Is an evaluation conference held to review the evaluation and obtain the comments and signature of the employee?
108. Are employees advised in writing in any performance evaluation document that they may submit a written statement explaining their position if they disagree with any information provided in the evaluation?

### ***Discipline***

- 109. Are current disciplinary rules effectively communicated to employees and supervisors?
- 110. Do supervisors in all departments receive instruction on how to enforce the disciplinary rules fairly and consistently?
- 111. Is enforcement of the disciplinary rules monitored to ensure consistent enforcement in all departments?
- 112. Does the non-unionized employer utilize a system of progressive discipline which provides for a thorough investigation, including an opportunity for the employee to give an explanation, prior to the imposition of discipline?
- 113. Is appropriate documentation maintained, including oral warnings (documented), written warnings, and memoranda related to informal reprimands? Do employees sign warning forms?
- 114. Are employees advised in writing in any disciplinary document that they may submit a written statement explaining their position if they disagree with any information provided in the document?
- 115. Does the Company have a witness present during counseling and disciplinary meetings (and during terminations)?

### ***Termination***

- 116. Does the Company have a procedure for reviewing prospective terminations prior to actual termination, including identifying and evaluating recent protected activity and positive performance reviews or bonuses to avoid bad timing?
- 117. Does the Company document poor performance and misconduct prior to termination and avoid “summary” terminations when appropriate?
- 118. Does the Company issue a notice of proposed disciplinary action before termination, if appropriate?
- 119. Does the Company prepare a well-written termination letter, stating the real reason(s) for termination (i.e., not disguising a performance-based discharge as a layoff)?

- 120. Are employees advised in writing in any termination document presented to them that they may submit a written statement explaining their position if they disagree with any information provided in the document?
- 121. Does the Company not humiliate the terminated employee (i.e., handle firing privately with minimal embarrassment to the employee)?
- 122. Does the Company ensure that all property and equipment is retrieved from the employee at the time of termination?
- 123. If an employee resigns in person, is a resignation letter obtained prior to allowing the employee to leave employment?
- 124. If a Company is notified of an employee's resignation via phone, does the Company send a letter to the employee confirming and accepting the resignation?
- 125. If the Company is closing and/or implementing mass layoff, has the Company complied with any WARN Act obligations (as applicable) to provide notice to employees or their unions, and to local and state authorities?

#### **IV. POST-EMPLOYMENT GUIDELINES**

##### ***Wages and Benefits***

- 126. Has the Company properly paid fringe benefits upon termination of employment (e.g., for accrued but unused vacation or sick time) based on the Company's individual policies or practices?
- 127. Has the Company properly and timely paid all unpaid wages/bonuses upon termination?
- 128. Has the Company made only proper deductions from the final paycheck (and recouped any wage/vacation advances properly)?
- 129. Does the Company properly issue COBRA notices to employees at time of qualifying events (such as job termination, death of employee)?
- 130. Does the Company ensure that the unemployment compensation paperwork coincides with the termination reasons given to employee?



## ***References***

131. Does the Company only disclose dates of employment, job title, and salary in response to a request for a reference regarding an employee, unless the employee has provided a written authorization to disclose other personnel-related information?
132. If authorized to disclose other personnel-related information and the Company chooses to do so, does the Company only provide truthful information and information in writing?

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