**5 HR Mistakes Small Businesses Make (and How to Fix Them)**

Thank you, Alexa and welcome everybody to our webinar this afternoon as was said our title, 5 Biggest HR Mistakes Small Businesses Make (and How to Fix Them) . I will jump right into things right away because we have a lot of information that I would like to cover today and this afternoon we will go over the five

biggest HR mistakes that could lead to trouble in your business, we will have some red flags for each of the mistake that we discussed so you know what to look out for and also I will provide practical tips to help you comply with the laws and regulations so that your company can -- keep your company out of hot water. And then I will provide free resources that go along with each mistake to help you better understand and address the issues that we are going to talk about today.

We will jump right into mistake number 1, this mistake is treating independence for icy as employee. Now it is extremely common for small businesses to use independent contractors and I am sure even some of you in the webinar today do. You will be able to relate and the reason why business want to over hit -- avoid the overhead costs associated with employees like payroll taxes, hiring, process, everything like that. They don't want to deal with the administrative or legal hassle of hiring employees.

These are the processes like on boarding people that my paperwork and keeping track of time, payroll, again, disciplining employees etc. However small businesses, most small businesses I should say, don't even realize that there is a difference between an independent contractor and an employee and that is really the biggest problem. A company should not be calling a worker an independent contractor if they meet the definition of an employee. On the other hand the guidelines that define an independent contractor are very complex they are confusing to understand and sometimes they can even vary by state agency. There is a lot to know and understand when it comes to determining if someone is a independent contractor and just to prove this point 30 percent of businesses miss classified IC, independent contractor and that is whether it is intentional or not so 30 percent of businesses miss classified IC. So why does it matter? Well government agencies are watching businesses to make sure that they are not miss classifying, number 1 thing and these are places like tax authorities and IRS and state agencies and state workers comp agencies and even more so employees right agencies like the Department of Labor, equal employment opportunity commission and state agencies. They especially want to make sure that workers are being treated fairly and right according to the loss of course they will look out to make sure that companies are treating or classifying their employees correctly. Or independent contractor. Agencies do tend to have a bias or -- towards in place because when it comes to independent contractor it is harder to collect employment taxes. For instance independent contractor receive 1099 miscellaneous form which means they receive the money for any work that they do upfront without taxes taken out.

They pay taxes to the government later. IC are also not covered by workers comp insurance. They do not benefit from most labor law protections. These again are all reasons that small businesses like to use them as well. These also add to the cost or hassle -- to the company, I should say and that is a reason again why they don't want to use them. However on the downside the company is cited from classifying independent contractor there are risks and these risks can actually get very costly to accompany. They start with having to pay back taxes, back wages, back premiums, and even on top of that, corporate attorney fees if there is a lawsuit and goes to trial. The other risk is that agencies share information, so if the company is investigated by one government agency, save for an example OSHA, that has nothing -- osha had nothing to do with independent contractor however if they notice there net investigation and find that the company miss classifying independent contractor during an investigation they could actually share that information with the Department of Labor or the EEOC which could then spark a citation from one of those agencies and snowball into a larger issue.

When it comes to independent contractor there are red flags that you can look out for that will indicate and make you aware that your worker may not be an IC. It could be when an individual or the work that they are doing is core to the business offerings, meaning what they do helps run your business daily and if you did not have them doing the work, the business would not run. That would be an employee not independent contractor. Another red flag is the owner or manager manage the independent contractor work very hands-on and provide task, check on their work regularly, things like that.

Another one is the independent contractor has specific hours or specific schedule they work. A true IC would actually be given a project to work on either a deadline to deliver the project and's and definitely some direction but they also have the leeway to do the work on their time and finish the project provided by the deadline provided. Example, could be if they are developing a website for your company. They could work when they want on their own terms as long as they are meeting the deadline and providing the and project that you hired them to deliver.

Another one is the IC is using the business on equipment and if a worker is using your equipment, they are an employee, not IC. And another one is open ended relationship with the independent contractor and as I mentioned before, the independent contractor should be working on a project with a deadline and if it is an open ended relationship then there is really no deadline and no set project which is an indication that they are more of an employee than independent contractor.

A couple more red flags, if the worker provided within SS and instead of DIN, the payments that you make to your independent contractor are from your payroll account and not your accounts receivable and last the worker does not keep track of their profits and loss which are risks of a business and not somebody that is working on their own.

Now how do you resolve if you find any of these risk in your business? What you want to do is you want to make sure first and foremost you're working with independent contractor that have a business name and EIN and if they try to tell you that the only work with her Social Security number than they most likely are not a true contractor. Secondly you should always use independent contractor agreement and have it signed by both parties prior to working with the contractor . You also always want to make sure that you define the scope of the work and establish the deliverables or milestones. The due dates up front.

Remember you're not going to manage the independent contractor -- their work, I should say, like an employee. You will give them the deliverable, the scope of the project, the deadline, and then let them run with it. If they have questions they can come back most definitely and you can have chicken dates but you need to give them some availability to work on their own. You should also require a independent contractor to use their own equipment and not the businesses. Unless you're going to lease that to them. If you are going to lease your equipment to them, that is different. But they should also be using their own helpers if they need any and then associated with the business.

The also -- and then associated with the visit. You want to make sure that the independent contractor is set up as a [Indiscernible] send invoices for payment and obviously you're paying them from the accounts payable and not your payroll account. At the end of the year make sure that you issue them a 1099 form and not a W-2. W-2s are specifically for employees only.

And also do not use the same independent contractor for indefinite periods. If you have multiple projects, try to stagger them throughout the year or years, it became, or use different contractors for different projects. Again using the same contractor for indefinite periods really puts them in more of the employee aspect.

Category, I should say.

Last, make sure that you hire employees when it comes to performing core business that. Like payroll, marketing or any task that need to be fulfilled daily in order for your business to run. Do not depend on a contractor to do something like that. That would be considered an employee position.

You want to do most if not all the things I just listed because the more you do, the better you will have case for your classifications of your independent contractor. Some of these bullets are more clear and obvious than others so you can actually be already doing them or it is an easy fix for you to do.

However, one last point I want to make before we move on, when in doubt, if you are not sure if your worker should be classified as independent contractor or not, treat them as employee until you are sure. And you can never go wrong in this scenario.

Now free resources we have on treating independent contractor like employees, we have tip sheets, he guide as well as a webinar and all of the resources on the slide are linked directly to where these resources are located. All attendees will be receiving today's presentation and a copy of the slides so you will be able to easily access these resources by simply clicking the link so you don't have to worry about rushing to write down these titles of the resources that we have.

Moving onto mistake number 2. Practicing accidental discrimination when hiring. The real problem here is what the accidental discrimination occurs it is just that, it is usually an accident and not always intentional however it can definitely a business in hot water and even cost you.

Businesses have to understand that hiring require subjective decision-making. Meaning it is easy for discrimination or appearance of discrimination to creep in and the business does not realize that it is happening or that they even did it.

There are some questions that employers need to answer when it comes to hiring that could lead to accidental discrimination. Language fluency for example. This could be a question that you ask or look to see if the candidate has good, strong communication skills. However, you have to make sure that communication is a requirement of the job that the applicant is applying for. Take for an example skilled labor that works in the warehouse would never deal with the customer or client or need to have good strong communication. You decide not to hire them because their accent is to pick. That would be a case of accidental discrimination. Another one is a candidate meet the physical demands of the job? An example of that is there was a restaurant in South Florida area that only hired mail servers because they said that females could not handle the wait of the trade they had to carry. Now in the job description it require that the individual be able to lift at least 50 pounds so anybody coming in would have to be able to lift at least 50 pounds which was what they said the trays weighed. This termination case was brought against the restaurant because they did not hire a female as a server through investigation it actually came out that the actual wait of the tray was measured and it only averaged about 20 pounds so the case was determined as discrimination because they were considering that it was 50 pounds and not hiring people that could not lift anything less than 50, but the actual wait of the tray was 20.

Were a lot of people that could've done that, females included, that they should have hired for the position. Another example is questioning the candidate is a good cultural fit for your company. You want to be very careful there. You also have to make sure not to let your subconscience or bias affect your decision. You want to make sure your decision that you are making is sound and really based on the job description and the requirements. Meaning does your candidate meet the requirements of the job? Not do they meet the specifications of what you are looking for in an employee and somebody to work in your company, necessarily.

We also want to make sure when you are interviewing candidates especially, you minimize and -- i really mean minimize at this point almost to the effect of don't do it -- you minimize the small talk. What Smalltalk can do is it can lead you to ask legal questions we could then get you in hot water. I'm sure we have all been in a situation where we are interviewing an applicant, we have that spark where we are excited about them, and maybe have some common interest in things like that and all of a sudden that sparks a question that we probably should not have asked because we were just getting along in good conversation. You want to be care -- you want to be very careful of that.

The risk of that mistake is that you could receive a claim on the EEOC from a candidate that you refuse to hire because they felt that they were discriminated against. As I mentioned earlier, that could in the long run end up costing you money. Some red flags to look for, if you could possibly be practicing accidental dissemination, if you're making hiring decisions based primarily on your got. These types of -- got. These types of decisions don't hold up in court especially if there's potential for discrimination and no validated reason for not hiring that individual. Another one is your job descriptions or ads for the position that you are hiring do not clearly define the requirements. Like the training or the education, any certifications or skills that are required. As well as validated physical requirements like I used in the example before.

10 years of experience, make sure to have all of that information. Another one here, asking and consistent interview questions for the same position. When you are interviewing multiple candidates for the same position, you should always ask each candidate the same question. You want to keep them on the same level playing field . For when this is going to help you compare the candidates better, but even more so if you do not, and the candidate somehow find out, it could possibly lead to discrimination.

This also goes the same for employment testing. All candidates that are playing for the same position should receive the same preemployment test to take. Another red flag, lookout for using small talk like a mention or asking personal questions during interviews.

Both of these could definitely happen very easily especially if you're having a great conversation with the applicant. But you need to make sure you are sticking to the interview questions and only asking questions that are related to the job but the candidate -- that the candidate is applying for, nothing personal.

And if you take notes during the interview you want to make sure you write them on the candidates resume or even their application, and you want to make sure to be careful about the note that you are taking. You do not want to write things like that reminds you about the candidate, for instance, that characterizes them in any sort of way.

I always suggest using separate no paper that you can throw away later. Because if you were to write something to recognize or help you remember that candidate like he had an accident or cannot work Saturdays due to religion, that could hurt you later on. And lastly, if you make notes or even comments that are what we call positive stereotyping, such as men are more flexible with traveling, so you want to be careful to not lead into that, when you're having a conversation with the individual and making notes on their application or using a paper or anything like that you want to also try to stay away from making any positives aerial typing

How would you resolve some of these reflects if you see that your company is doing that? Verse you want to make sure that you are asking the same question -- first you want to make sure you're asking the same question of the candidates applying for the same position. Create predetermined candidates but use the same questions for the candidates for buying the same position. Also you want to give them the scene -- the same preemployment test if they apply for the same position. Make sure you have complete their inaccurate opposition postings and job descriptions.

Make sure you have all of the details of what is required to fill that position. Make sure that you are using a compliant job application that the applicant's fill out verbally they should be a state specific application so it meets both federal and state laws.

Even down to the nitty-gritty, local laws now as we see those are changing as well. And then make sure you understand what questions are illegal to ask in an interview. You want to make sure you avoid any questions that reveal any information that would define the candidate as a part of a protected class.

You have to be careful how you ask it too. Age is something that you do not want to get to know when you are going through an interview process. And any types of questions that would reveal race, age, or any type of question that would put them in a protected class, so definitely be accidental discrimination or lead to a discriminate QSO you have to be careful there.

And then like I mentioned earlier when taking notes, do not write them on the resume or application. Is a different sheet of paper because that paper can then be discarded at the resume and application cannot for at least one year anyway. For record keeping purposes.

Lastly make sure you train all of your managers and supervisors that will be hiring on the process. In your process. You want to make sure that they understand that they understand your process but they also know the rules and regulations. Denote the questions not to ask.

And never let an inexperienced manager or supervisor do an interview alone because that is almost -- basically asking for trouble. Make sure that they sit in on a few interviews with you prior to going in on their own and let them lead the interview. That way you can provide guidance afterwards and once you feel ready you can let them go.

Now if you -- a few resources that we have, practicing accidental discrimination when hiring to get more info we have a tip sheet as well as a webinar.

Now moving onto mistake number 3 which is not properly verifying work eligibility and this has to do with form I-9 and the problem here is that the I-9 form is required for every employee. However it is extremely common for the employer to fill out the warming correctly. Making errors on the form and this could be like missing the employee's address on the form and each form is or missing address is actually a separate violation. Or businesses that they it is only my friends and family that work for me and I don't need to have them fill out I-9 form. That is absolute no no. The one rule that I always tell businesses is that even if you are in the room when that individual was born, a nephew or cousin or anything like that, they still must fill out I-9 form.

The form I-9 is also very confusing to complete not only for employees but also for the employee. The instructions are 15 pages and the employer handbook is 65 pages. That is enough said right there, right?

When it comes to violations, they can be costly for a business. Ranging from $215 to $2156 per violation. Like I mentioned earlier, if you had five forms that were missing your employees address, on the form that would be a separate violation for each form and that could be thousands of dollars.

That could definitely add up quickly. Now you might think that these types of violations only affect large businesses, but even small businesses can be targeted, especially if a complaint is made or tip is given to an agency. Because that would then spring off an investigation with your company.

I am sure everybody has heard, something that has been ongoing since last year, enforcement is being increased and over 10,000 new ice agents which is immigration and customs enforcement, they have actually hired 10,000 new ice agents in 2017 to start enforcing these laws. So there are lots of businesses that have been audited and looked at since 2017.

Let us move on now to talk about some reps like that you should look out for in your -- in your company to see if this is occurring or something to fix.

You want to make sure that all of your I-9 forms are not kept in the centralized area. Or like I should say if all of your I-9 forms are not kept in the centralized area. It is really a best practice so you can keep documents up to date like reverification, if they are needed and they -- all your I-9's if they are in one area they can be access easily and quickly and even turned over to ICE if you are investigated. Another red flag is you actually have missing or incomplete I-9's in your files. Like example I mentioned above, if you do not have your business address on the form. That is a violation and that would be an incomplete form if you were to get investigated.

We also have I-9 forms past the retention date. This could cause your company to receive a penalty even if the employee no longer works for you. It is important to understand the record-keeping retention when it comes to I-9 forms. As soon as you are able to get rid of them and discard them, legally you should go ahead and do that because that is going to lessen any types of violations that you could possibly incur or have if you have any extra information that is not needed in your company.

Another one is that your document verification process is careless, meaning you do not understand how to verify or even update the documents. Or you have someone that handles your I-9 process in your company that is not properly trained. That does not have the background.

Another red flag is you may not even have a process for updating expired documents in your company. Doing reverification. And a red flag that you cannot really avoid so you want to make sure you're following compliance, is that your company being in an industry that depends heavily on immigrant labor like restaurants, hospitality, agriculture, or construction. If your company is in any of those industries, you want to make sure that you have all of your eyes dotted and your T's crossed. Make sure that you are staying compliant it -- compliant with keeping all of your employees work eligibility intact.

You want to make sure that your company is taking off some of those red flags and things are happening in your company, some ways that you can resolve and clear of those issues are make sure that you are conducting internal audit of your I-9 forms and make sure that you have one for every employee and purge those that have met the retention date.

Make sure that everything is complete. Make any corrections that are needed and follow the IRS instructions when you are making corrections as well. You want to make sure one thing I'll tell you, never use white out. Make sure that you also read verify any employee whose document have expired and make sure that with you have a system where you are putting those notices on your calendar, to give you notifications of when those documents need to be re-verified.

What happens is you have somebody that is working for you that has a document and they do not get their document updated and a new expiration date, you may have to let the employee go however if you did not read verify that their expiration date was met and not renewed then you may be employing somebody that is not able to work in the US so very important to read verify.

We also want to not keep any documents that are not required. Make sure you discard them and on the I-9 employees are supposed to bring in document from column a and column B and I will not get into the details of the form but make sure that you are only keeping what is required of the employee to provide to you. If they provide more than what you need, do not keep more than what is required. That could get you in hot water.

Also immediately terminate any employees who are not legally eligible to work in the US. Again that could be somebody that cannot provide the correct documents they one of higher or somebody you have to required documents for. Last tighten up your verification process and you record-keeping practices. Sure that the process that the person who is handling your process, I should say, is properly trained to do so. That they understand the requirements of the I-9, the instructions, and so forth.

Now if -- resources that we have one probably identifying work eligibility, tip she, essential tips to complete the form, and another tip and doing internal audits on I-9's and then a webinar that goes into more detail.

All right. Moving onto mistake number 4. This is putting employees who do not qualify on salary. This has to do with fair labor standards act. Now the problem here is that according to the FLSA fair labor standards act, certain employees must be hourly and paid over time. These standards really pan on the job duties as well as the pay rate so it is not just the employee make so much money a year, they could be a salaried employee and also has to do with her job duties. The pay rate is easy to determine the current threshold with the FLSA is $23,660 a year or minimum $455 a week. But the complexity to this law is that the job duties tests are very complex and confusing and very hard for just a small business owner to understand and when it comes to putting an employee on salary it is not something that the employee can agree to. They yes, no worries I don't need to be paid overtime. They cannot waive it, even with a signed agreement if they say they do not want to be paid overtime, if they do not meet the job duties and the salary -- the pay rate requirement, I should say, then you need to treat them as an hourly employee, pain them hourly with overtime.

Why do employees do that? Well what they do and why they put employees on salary versus hourly is a want to reduce or eliminate the need to pay overtime and it also makes it easier on the employer because there is no time tracking for the hourly or the overtime pay.

There is less administrative work and when you are a small business, that is a lot of work to do for a small number of employees but it takes a lot of time. And it is estimated that 70-90 percent of all employers do not classify their employees correctly. 70-90 percent, pretty much almost every business, not classify at least some of their employees correctly. Some of the businesses actually do not realize that they are doing that until it is too late, meaning that is after a complete tip has been made to an agency, they have been investigated and now it cost them money. The risks of not classifying employees correctly can include having to pay back wages, and those are back wages times two, so not just what you did not pay them but times that by two.

Lawsuits and attorneys fees, and all of these I was we can add up very quickly especially for a small business.

That is look at some red flags. How to resolve. Some red flags that you want to look at to see if you are not classifying your employees correctly, if you have all of your employees on salary. Even your administrative and your entry-level positions. Everybody across the board whoever is hired and your company automatically goes on Sally, that is a red like. Another red flag is that you classify your employees based on their job title and not their specific job duty. There are actually high paying jobs that do not necessarily meet salary requirements.

So again it all has to do with the pay rate and the job duty test. Another one is you have employees with similar positions pay differently. They do the same job, summer salaried and summer hourly. We also have salaried employees that are frequently required to work overtime. Another one is your salaried employees are micromanaged, they have less leeway in the position to make decisions and if that is the case, then most of the time somebody that is micromanaged but does not have the decision making capabilities in the position with typically be classified as an hourly employee.

Now ways to resolve these issues if you have and make sure that you are classifying your employees correctly, make sure you have a thorough job description for each employee and each distinct role that you have in your company. If they have the same title but they do different things, make sure that that is the.

-- distinctive. Reclassify all of your employees based on the roles, assigned job duties and their pay. Have that combination there. Make sure they meet the standards of salary if you classify them that way. If you have any doubts, always just pay them hourly and overtime until maybe you need to consult an attorney to help you classify. It could be purchasing software that can help you determine that as well. But just if you have any doubts, classify your employees as hourly and pay them overtime until you are 100 percent sure that you could move them over to a salaried employee.

If you do need to move your employees over to hourly and sour -- and salary, and pay them hourly and overtime, I'm sorry, if you need to do that what you can do is implement policies to control your overtime expenses. Because I know that is definitely probably a big scare when you hear somebody say I have to move my employees over to hourly but I have to pay them overtime too. Because you think now I'm going to incur all these overtime charges. Well in order to manage that, just implement a policy so that your employees know that they are not allowed to work overtime unless it is approved by a manager and then you just make sure that you stick to that consistently across the board and use any disciplining measures that you need.

Some free resources that we have for putting employees who do not qualify on salary our a tip sheet counting hours 10 most common misconceptions for time and pay and then webinar that on seven lies that employees tell you about time and pay.

Moving into our last mistake here. We have not displayed required employee postings. The problem here is that most employers actually know that certain workplace posters are required but are not compliant.

They either have outdated or incomplete posters and also the issue of the employer being unaware of new posting laws, that trickle down to not only fed and state but also city and County. Now keeping up with posting laws is a huge burden and most definitely and especially if you are a small business. Large companies may have a department that does it for them but small businesses most likely do not have the capacity, nor the experience to do something like this.

The individual keeping track need to know what to look to find information and posting laws are issued by multiple federal state and local agencies. There is no one-stop shop where they can look for the information. They have to know where to look. And not only that but postings can also change frequently and there is no notification that is sent out from the agency regarding the posting which means someone has to constantly be watching that. They are not going to get a notification saying this posting change, go check your to see what it is.

They have to be constantly watching that. It is a full-time job. And if you do not and if you don't make sure you're displaying the required posters, you could risk lines an employee lawsuits.

Some red flags to look for. If your company could be at risk for not display the required employee postings are, you look in your company and you do not even have any posted that your -- after company, non-hung up in the common areas were employees can view them.

You also have -- or you have obviously outdated or old postings. If they still show -- if you have any posters in your company and they still show the federal wage from 2007, that yes, those are old and outdated so you are not in compliance.

Another one is you actually have fewer than eight postings or no state postings at all. The average number of posters that -- at a business should have is six federal posters and at least two postings to equal eight and if you have less than that you're most likely not in compliance. The last one is that you have not updated your posted in over year. A lot of posters change frequently. If not at least yearly so if it has been more than a year they updating your posters then they are probably outdated which again makes you noncompliant. You can definitely resolve some of these issues by updating your posters immediately.

Hang them in your common area where the employees can view them. When you are doing this, you should also consider a poster service and one that also does automatic replacement so that you will remain in compliance. What this is going to do is it is going to remove the burden from having anybody in your company have to watch for those changes, ordering posters and putting them up, where that poster service will take care of everything for you. Tell them the state that you are in and the industry you are in and they will send you all of your required posters and then automatically update them for you anytime there is a change that happens with any of the posters you are required to post.

But you want to make sure if you are using a poster service, that you use a service that offers guaranteed compliance. That is with federal, state and local posting laws. So that you know they are keeping up with the posting law changes. Because you know obviously that is going to remove a major time consumption of somebody doing it in your company, but also you are going to be able to trust the company that does it because they have the experience of doing it.

Now if -- a few resources we have available for more information on not displaying require law postings we have a E guide on 10 common myths about labor law posting relation. And then webinar that goes into more detail about posting requirements.

That concludes my presentation for this afternoon. Do not forget all of these slides will be emailed to you know any of the links for the free resources that I mentioned, they are clickable right in the slide so once you receive them you can go ahead and click them and access the free resources.

I want to thank you for your attention this afternoon and I am going to hand it back over to Alexa for our Q&A session.

Thank you, Jaime, thank you so much. We will start the Q&A portion of our webinar and I will be reading the chat questions that dispense have been sending in over the course of the presentation. Please continue to submit your chat questions.

In the time remaining we will address just as many questions as we can. With that we will go ahead and jump right in. Jamie, first question, from Carolyn, Carolyn asks if an independent contractor is required to carry their own Workmen's Comp.? Is that available?

Yes, Carolyn great question. I would refer to an attorney. I think that is definitely -- i would say for most businesses you would want the independent contractor to carry their own Workmen's Comp. so that they are covered. However I would definitely prefer to an attorney depending on your company and your situation because there can be specifics where the attorney would be able to help you. But I would say for sure because it would protect them and also you.

Okay, next question, from Sherry. She asked if the company can allow an independent contractor to use the company's email account?

I would say no, to that. The reason why, that directs them as an employee. Your employees have email addresses, for your company, because they are employed by your company. A independent contractor can be employed by your company but they are hired for certain amount of time. They are not an employee so you should not be giving them the types of things that your employees get. You are not allowing them to use your company property, any of your supplies, and you would make sure they get their own, so I would refrain from providing them an email address from your company.

Okay, next question, from Don. Should we avoid pain and independent contractor through a payroll company like ADP? Even though they have the programming to pay a 1099 and prepare a year and tech statement along with pay stubs -- year end tax statement along with pay stubs? Good question and I think you would be fine paying them through ADP because it really does not matter how the check is cut. It matters where the check is coming from in your company. If you have a service that cuts all of your checks, each week are biweekly, however you're playing your contractors and employees, as long as you find that you are paying the contractor are pulled from your accounts payable and not your payroll account, and ADP can keep that separate and you have documentation to show that your bender contractors, independent contractor were paid from your accounts payable, you should be fine .

Okay, next question comes from Cindy. Can you record interviews?

That is a great question. I would refer to illegal attorney for that. It could depend -- to a legal attorney for that. Pens on the position, and obviously the individual would have to know prior but before you were ever to do that, I personally in any business would refrain from that, but I would consult and employment attorney prior to doing that to make sure that there are no repercussions if I were to do that or if there was anything that I needed to do prior to doing that.

Next question, we actually had several come in around this, is it legal to request the date that someone completed high school or college on the applications? There was in addition, it appears to be an avenue for employers to guess and applicant age.

I would say the same thing, Linda, anytime that you are putting somewhat of a date in aspect to when somebody completed a certificate or graduation, it does allow for the avenue of guessing and applicant's age, would you do not want to do. Applicants when they provide resumes, they will provide their graduation date from college and things like that.

So I would refrain from keeping it on an application because if they do provide the resume, it will be there. But I think most -- some applications do have it. But that think -- you know with college sometimes it is not as against, and has almost definitely definitely you be able to guess their agent when you have all of those together then obviously easier to determine an employee or somebody's age if you have high school, college, and all that will be poured. That is your.

A lot of the times applications do include -- they actually ask completed versus the date of completion. I think if you want to figure out if they completed something, did they complete a degree, yes, or no, and what degree that they complete, I think that would be efficient enough versus asking the year.

Jamie, next question, from Lisa. How do you make sure the person is legal to work?

First thing, Lisa, make sure that the individual fills out I-9 form. With the I-9 form, they are going to have to provide proof of citizenship, like their Social Security, drivers license, or if they are an immigrant that has been approved to work in the United States, then they will have a work verification card. Employment verification card, I should say.

They should be able to provide that to you. On the I-9 form, there are three columns of documents that an individual can provide. Column A, workfare that work employment verification card and that would be for someone that has moved over to the United States and working on a visa, or could be a student that is working on a visa as well but only has a certain amount of time that they are allowed to work in the United states. They should have an employment verification card that they would provide to you and you would be able to see the date that they are available to work. That gives them verification.

Column B, asks for a drivers license, Social Security card, you could also do US passport. You need to have a combination of B and C, C is also birth certificate, things like that, which shows -- which verifies that the individual was born in the US, and verifies that they are a US citizen and able to work in the United dates.

If they have any of those documents and you verify those documents, then you are good to go. Like I said there is a 65 page employee handbook and if you have any questions on how to verify, I would check out that handbook. Look at the instructions. And if you still have questions, always best to consult an attorney when in doubt.

Next question, from Peter, is I-9 form also required for independent contractor ? But --

That is a good question. I would say when in doubt, fill it out. Most definitely it is for employees, but that is not an employee that is working for your company. And I would definitely check with an employment attorney to make sure 100 percent that you would need to have one. Again you do not want to make a contractor fill out a form that you do not necessarily need, but contractors are different from employees. Remember, so when in doubt you could have them fill out to be safe but I would also double check with an employee in attorney to make sure.

Next question from Eileen, we had several folks send a question around this as well. How long is I-9 kept on file?

The record-keeping retention for I-9 is actually somewhat difficult. I will try to explain it as best I can. The record retention is three years from the higher date. Or when you're after termination. It is going to get a little confusing when I say that because it is not necessarily three years from the hiring date when your from determination but that retention sets and only after the employee leaves the company. So as long as somebody is employed at your company you must have I-9 on file for them. As long as they are working at your company, you must have I-9 on file for them however say John was hired in 2017 November 14, 2017, and he only works until Orsay about -- let me go back a couple years. Say November 14 of 2011. And he only worked in your company -- he got fired on November 11 of 2017.

You would take his start date November 11, November 14 of 2011, and add three years. That equals November 11 of 2014, right? Well we have already passed that. But his termination date which was November 11 of 2017, plus one year, is actually November 11 of 2018. And you need to keep that form on file for the later date, the later date.

It is either three years from the higher date, or one year from the termination date whichever is later. In this case since the one year -- one year from the termination date is later than three years from his hire date then you would have to keep John's form on fire until November 11 2014 even though he is no longer with the company. I hope I explained that as clearly as possible.

Because it is confusing. But the thing I want everybody to remember the most is as long as an employee is employed at your company and they work for you, you must have an I-9 form on file. You cannot discard it three years after their hire date, that record only sets and after they have left your company. Then it is a determination whether the three years from their hire date or when you're after the determination that's in. It is the later date there. -- determination date set them.

It is the later date. Janice says her husband and her own their company and one full-time employee. Does she need I-9 form on herself, her husband in addition to their employee?

This is a great question. You definitely need one for your employee, most definitely. You do not need one necessarily for the owner of the company. It cannot hurt. But whoever owns the company and whoever name is on the business, as owning the company, so for Shannon, if it is both you and your husband name on the paperwork for the business, then I would say no, but if it is only your husband's name and your name is not on it, I would go ahead and fill out the I-9 form for you as well to make sure that you have it on record.

Because like I said before, you could know the person for your entire life, you were in the operating room, the room when the individual was born, but you still need if they are employee of your company or work for company, you need to have I-9 on file for them.

Next question, from Avery. Several people asked the question around this too. How is it determine if the employee should be on salary or hourly based?

Avery, great question. The determination for hourly or salaried employees is if you want to put an individual on salary, you would determine them by the pay that they make and according to the FLSA right now it is $23,660 a year or minimum of at least $455 per week. In addition to the job duties of their position.

There is a test -- there are test that you can find. I believe you can actually go to the FLSA that -- site, the Fair Labor Standards Act site, and if you look up FLSA these questions are very confusing for business owners to understand and that is why again 70-90 percent of all business owners misclassified their employees. You need to be able to go through the job duty test dates on the position and answer those questions in order along with pay to determine that they are salaried. If they do not meet the job duties, test, but they do meet the salary -- the pay requirements, then you still can classify them as salary because they have to meet both. It is not either or, is both of those requirements.

If they don't meet both, then you would classify them as hourly.

Jamie time for a couple more questions here. Next question from Quinton. If overtime pay is always time and a half?

That is a good question, Quinton. They can depend on aspects of holidays, business, so I would definitely consult an employee attorney in that case to make sure for any types of holidays or hours that a work within your company that you are meeting the demand. But the basic overtime rate is time and a half. After 40 hours.

One more question, from several people. Regarding the employee postings, how do you handle that when you have employees that work at home?

There are actually what we call remote worker binders, or you could actually use email to make sure that you are able to provide the posters that if you were a brick-and-mortar company, they would be able to see in the common areas when they worked in your building, as long as there is a way that you get those posters and that information that is on those posters to the employees that work remotely, and it may be have -- that may have them acknowledge that they received the posters and view them, there are several ways that that can happen. One way is a remote worker binders that you keep at your location that remote workers are able to see or that you sent to remote workers so that they have a copy of that binder, they keep it at their house or wherever remote location they work on. It could be that you have a website that they act as the posters overtime in your poster comes up, they are able to look at that site to check the new posters and so on and so forth.

There are several ways of getting that information to those employees but you want to make sure that they acknowledge that they are able to see it as well because in the case of -- obviously email trail that you sent it to them, that would help with things like that but in the case of -- you know a lawsuit or something from an employee, you want to make sure that you are still making good effort to make that -- to get them the information they need that shows their employee right.

Those are all the questions that we have time for today. We did not have a chance to address your question during the segment, but we encourage you to connect with the SCORE mentor after the session today. Mentors are available online or at a chapter near you and help you apply the strategies that have been presented on today.

Reminder, a link to the recording of this session and the presentation slide deck is going to be sent in a postevent email and we will send that out and just a little bit so be on the lookout for that.

On behalf of SCORE and ComplyRight thank you for taking time out of your day today for attending our session and thank you to Jaime Lizotte for presenting with us today and Jaime, thank you so very much for presenting today .

Thank you, Alexa, it was a pleasure.

Thank you again, everyone and take care. [ Event Concluded ]