



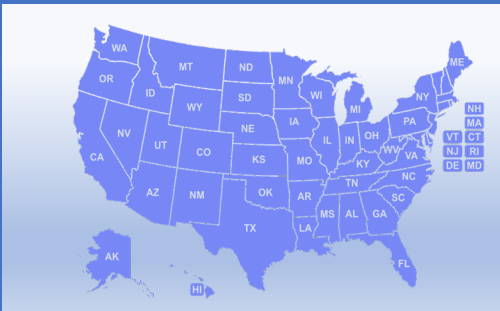
How to Hire Employees in New States in Three Steps

June 16, 2022

* Although we will be providing legal information during this webinar, we will not be providing legal advice.

AGENDA

What to do
when hiring in
a new state



How to customize
offer letters and
employment
contracts



How to update
your employee
handbook



Hiring Parameters



Limits on Inquiring about Criminal History



Limits on Requesting Credit Reports



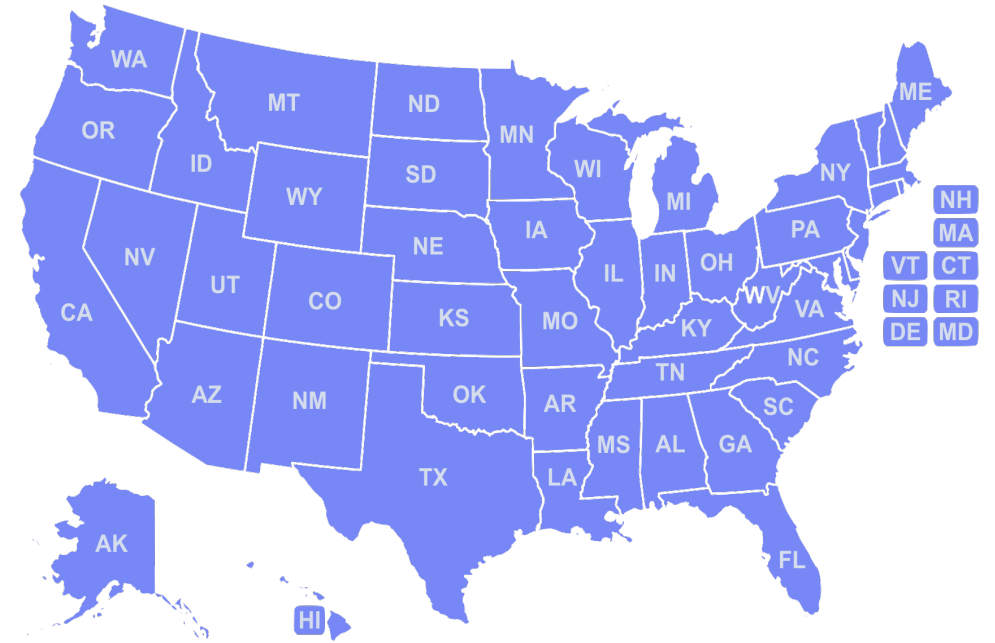
Limits on Background Checks



Limits on Drug Tests

Register to do Business

- Almost every state has a law that says a foreign entity should not conduct or transact business until that entity has obtained a certificate of authority in the state.
- Almost every state has a statute indicating certain activities that are *not* considering transacting business in the state.



Tax Registration

- Income or Payroll Tax
- Sales and Use Tax
- Other Taxes





Wage Withholding

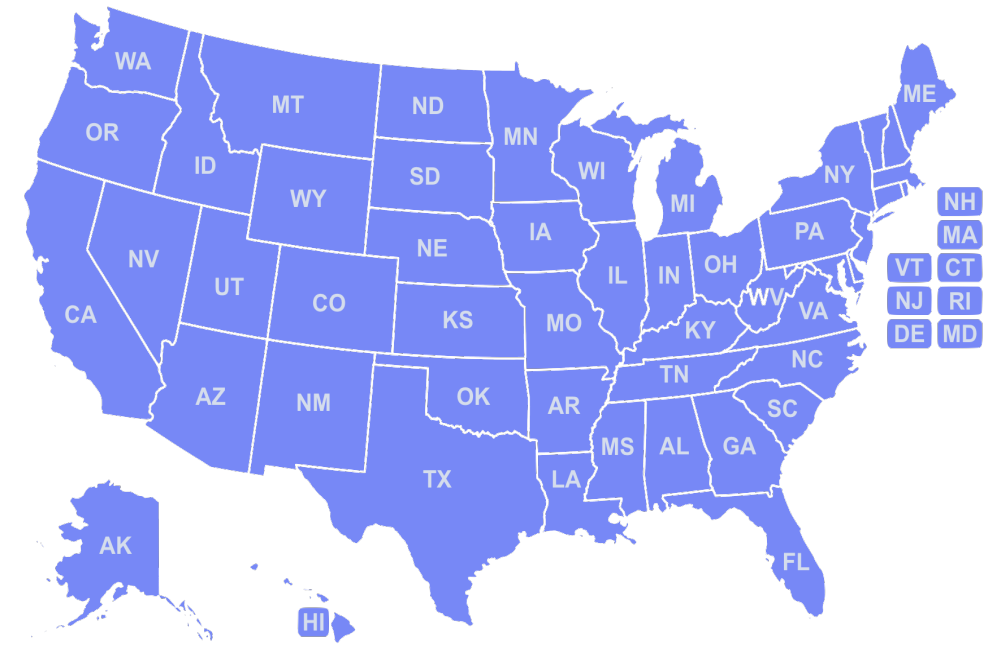
- 41 states + DC have a personal income tax withholding
 - 8 states have workday withholding thresholds for nonresident employees.
 - 6 states have wage or income withholding thresholds for nonresident employees.
 - 2 states have a combination of an income and work-day threshold
 - 22 states and the District of Columbia do not have any withholding thresholds based on workdays, wages paid, income received, or other criteria

Employment Registration

- Report new hire
- Ensure workers compensation coverage includes new hire
- Register for unemployment insurance
- Register with paid family and medical leave authority (if applicable)

Other Considerations

- At-will employment
- Minimum wage
- Pay frequency requirements
- Required training
- Qualified retirement plans
- COVID regulations
- Insurance coverage in new states
- Labor posters
- Employment notices



County and City Laws

A few of the ways county and city law can differ

Business Registration



Obtain a business license or permit, sales tax license...

Taxes



Sales tax, income tax, franchise tax, use tax...

Leave Requirements



Paid time off, family and medical leave, parental leave, COVID leave...

Minimum Wage Laws



Minimum wage rate and overtime laws

State-Specific Offer Letters



Recent trend: states are increasingly requiring notices and disclosures prior to start of employment

Wage Transparency

- Example: Connecticut
 - If applicant doesn't request it before, employer must provide "wage range" at the time of offer, at the latest
 - Also required when offering a current employee a promotion
 - "Wage range" means "range of wages an employer anticipates relying on when setting wages for a position, and may include reference to any applicable pay scale, previously determined range of wages for the position, actual range of wages for those employees currently holding comparable positions or the employer's budgeted amount for the position"
 - **Takeaway:** If you are extending an offer to a CT-based employee, you should make it a practice to include the wage range for the position you are offering

State-Specific Offer Letters



Recent trend: states are increasingly requiring notices and disclosures prior to start of employment

Restrictive Covenants

- Non-compete agreements restrict an employee post-employment from competing with the employer for a specific amount of time in a specific geographic area
- Non-solicit agreements restrict an employee post-employment from soliciting the company's customers/clients, employees, or other third parties (i.e. vendors/suppliers)
- Trend: states are requiring employers to give employees advance notice that non-compete/non-solicit will be required
- States with notice/disclosure requirement: Illinois, Massachusetts, Maine, Minnesota, New Hampshire, Oregon, and Washington (and Colorado, starting August 2022)
- Example: Employer makes offer to OR employee on April 1 with employment to begin April 8. Employee signs employment contract with non-compete provision on April 7, begins work April 8. Result: non-compete unenforceable because employer failed to give notice in the offer letter at least 2 weeks before start of employment that non-compete was required

How to customize employment contracts for a dispersed workforce:

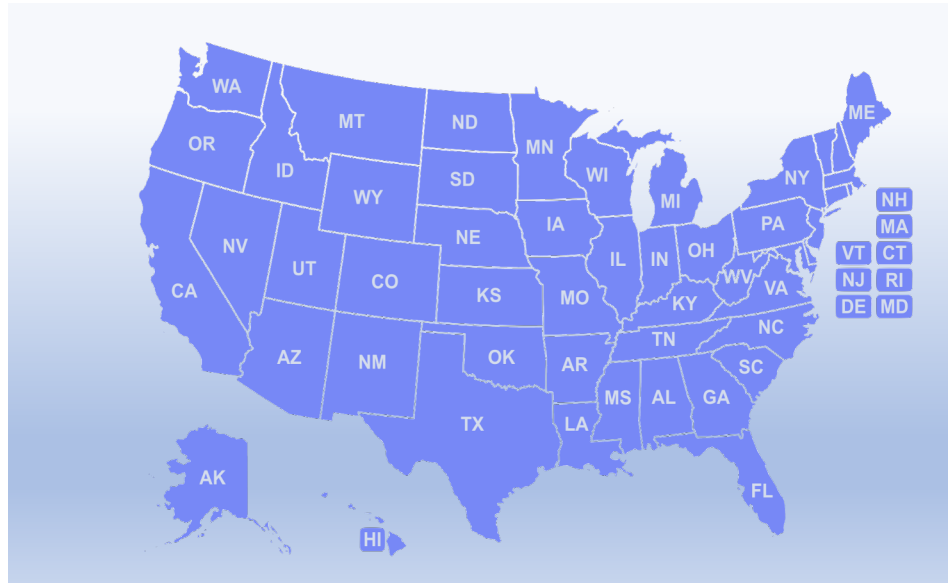
- 1. Know where your employees are located and have a written relocation policy
 - a. Require preapproval to relocate
 - b. Have a list of of preapproved states where you are willing to have employees
 - c. At minimum, require notice of relocation

- 2. For new hires, ensure provisions of contract comply with law of the state where employee is located
 - a. Non-compete/Non-solicitation
 - b. Non-disclosure/Confidentiality
 - c. Arbitration

- 3. For relocating employees, determine if current contract complies with law of new state and, if not, execute new or modified contract

Penalties for non-compliance can be steep.

State-Specific Employment Contracts



Employee Handbooks



- With more remote and dispersed workforces, employee handbooks can be both:
 - More important and
 - More difficult to keep up to date
- Employer should ensure that their employee handbooks:
 - Meet the requirements for each state where they employees and
 - Stays current when the law changes in states where they have employees.

Different States = Different Requirements

Utah

Required State Policies

- Immigration Law Compliance (15 Employees)
- Outside Employment Policy
- Meal and Rest Breaks
- Military Service Leave (state-specific)
- Jury Duty Leave (state-specific)
- Voting Leave
- Witness Duty Leave

Nevada

Required State Policies

- Meal and Rest Breaks
- Paid Time Off
- Paid Sick Leave (50 Employees)
- Domestic Violence Leave
- Jury Duty Leave (state-specific)
- Voting Leave
- Witness Duty Leave
- Emergency Worker Leave (10 Employees)
- School Visitation Leave (50 Employees)

California

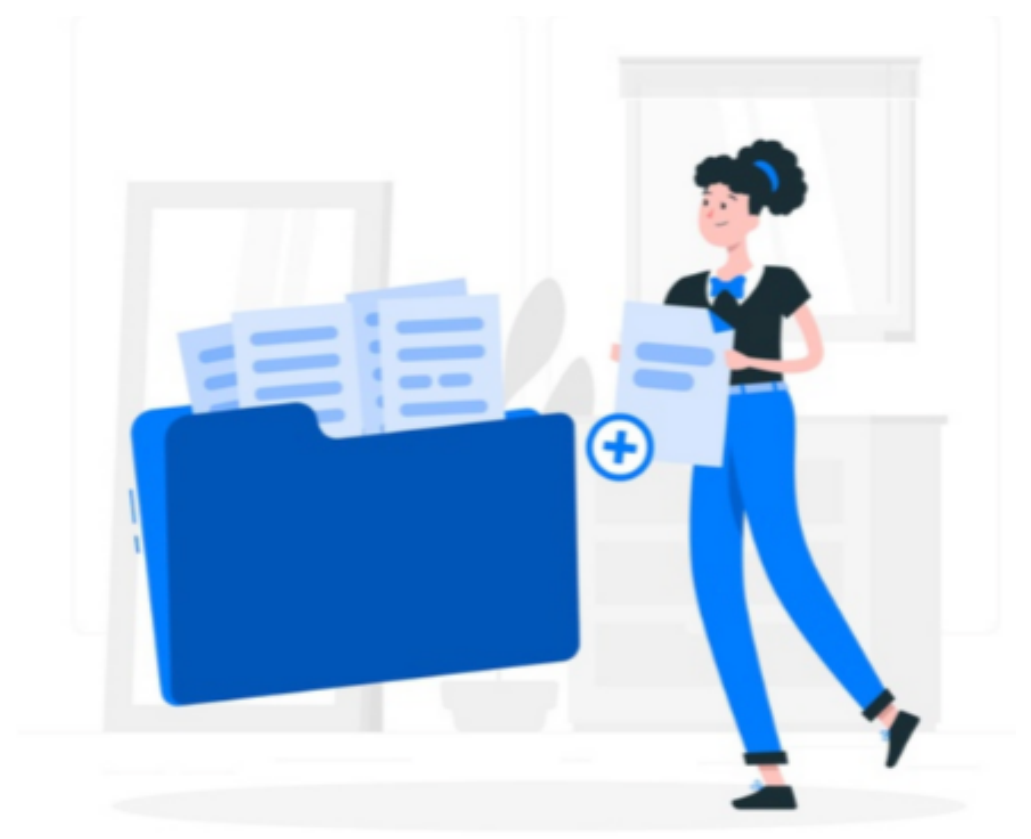
Required State Policies

- FMLA (state-specific) (5 Employees)
- Meal and Rest Breaks
- Health and Safety Policy
- Lactation Accommodation
- Outside Employment Policy
- Paid Time Off
- Paid Sick Leave (including separate policies for Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, and Santa Monica)
- Pregnancy Leave (5 Employees)
- Organ, Bone Marrow, and Blood Donor Leave (15 Employees)
- Domestic Violence Leave (25 Employees)
- Crime Victim Leave
- Military Service Leave (state-specific)
- Jury Duty Leave (state-specific)
- Voting Leave
- Witness Duty Leave
- Civil Service and Air Patrol Leave (15 Employees, 50 Employees)
- School Activity Leave (50 Employees)
- School Appearance Leave

Handbook Updates – Part 1

Keeping employee handbooks current can be challenging.

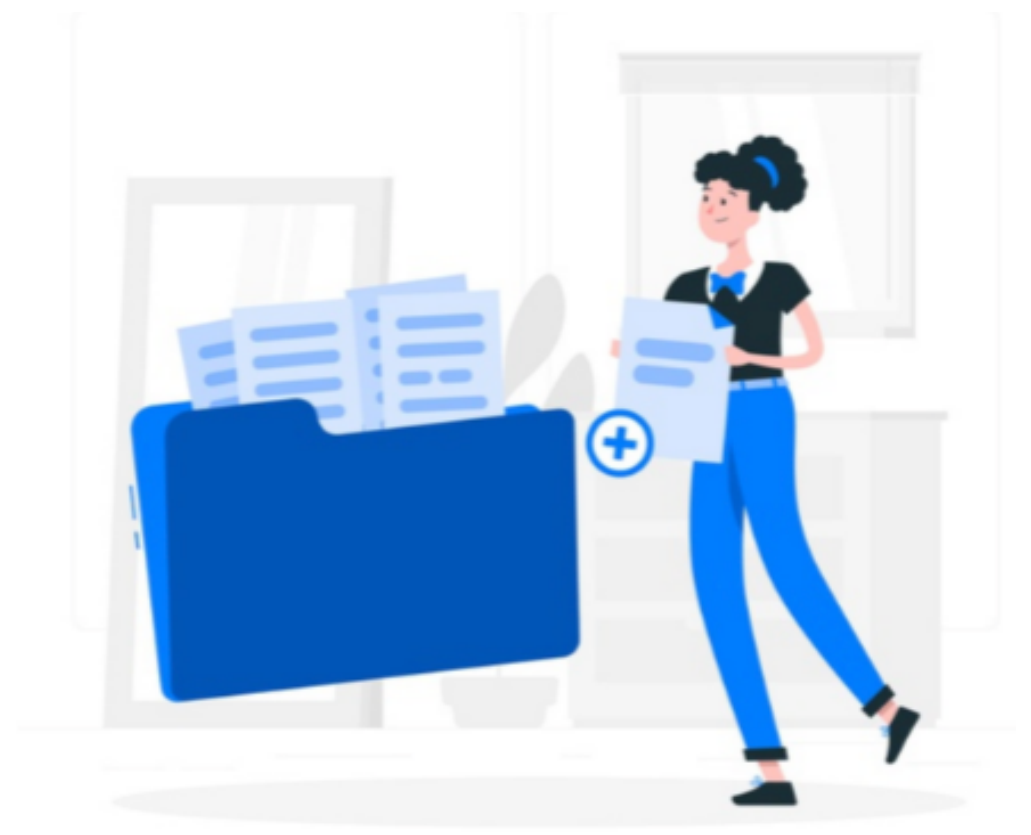
- We are seeing more changes to state employment laws
- And employers are having to monitor the law in more states



Handbook Updates – Part 2

Example:

- New Mexico's new Paid Sick Leave law goes into effect July 1, 2022.
- Employers with one or more New Mexico employees must provide one hour of paid leave for every 30 hours worked up to a total of 64 hours per year.
- The new law also has worksite posting requirements.



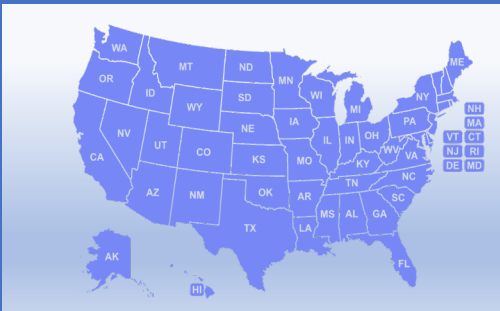
Employee Handbook Formats



- Universal: One handbook with all employees governed by one set of policies
- State-specific: One handbook with employees governed by separate state-specific policies included in the body of the handbook
- Addenda: One handbook with policies from one or two main states and addenda for other states
- Multiple: Separate handbooks for each state

SixFifty Solutions

50 State Hiring
Kit



50 State
Employment
Agreements



50 State
Employee
Handbook



Questions and Answers

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