



Staying Compliant While Hiring: From Job Posting to Onboarding

April 23, 2026

Today's agenda

1 Job Postings and
Wage Ranges

2 Pre-Employment
Inquiries

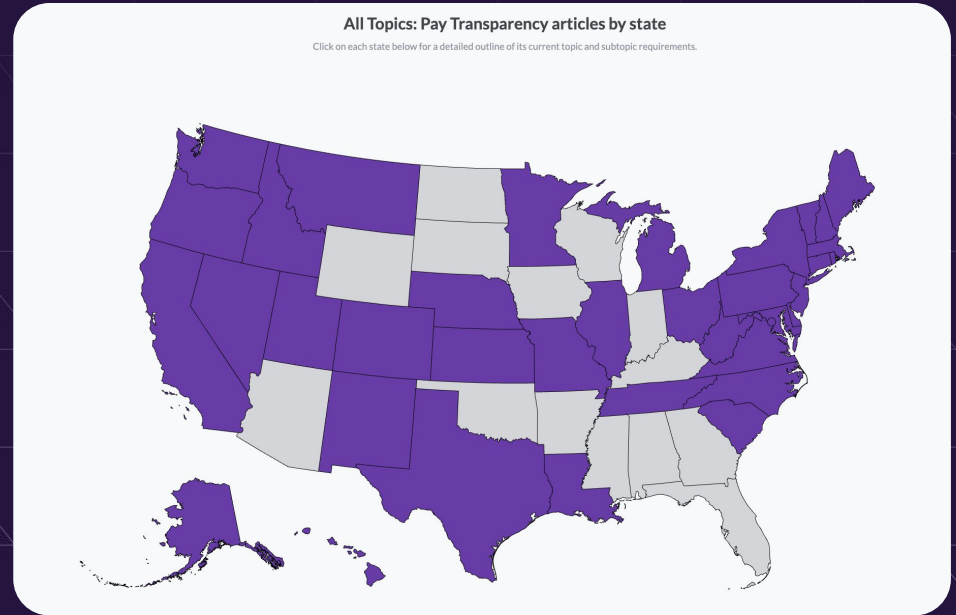
3 Employment
Agreements

4 New Hire Notices

Pay transparency

36 jurisdictions (including D.C.) have wage transparency protections

- These protections can include:
 - Rules against prohibiting workers from discussing wages
 - Rules about pay stubs
 - Rules about wage notices
 - Rules requiring the filing of pay reports
 - Rules about what appears in job postings



Types of job posting requirements

- Wage Range
- Description of benefits
- Application deadline
- Instructions for how to apply
- Drug testing information, if applicable

States with job posting requirements

	CA	CO	DC	HI	IL	MD	MA	MN	NJ	NY	VT	WA
Wage range	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Benefits		✓	✓		✓	✓		✓	✓			✓

* Delaware will join this list for wage range and benefits on September 26, 2027.

How do you calculate a wage range?

Laws generally require a “good faith estimate” of the possible wage range.

General guidance

Wages generally include only base pay or hourly rate and can not be open ended.

Wage ranges can be calculated using:

- Applicable pay scales
- Salaries of employees doing similar work
- Historical data
- Budgetary considerations

California

A California recently clarified what it requires to be included in wage ranges:

“Wages” and “wage rates” include all forms of pay, including, but not limited to, salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.”

Who is subject to job posting requirements?

Applicability rules vary from state to state.

California

Wage ranges are required in job postings by organizations with at least 15 employees, with at least one employee working in California.

Colorado

Wage ranges are required in job postings by organizations with at least 1 employee in Colorado, unless the job could not reasonably be performed in Colorado.

Illinois

Wage ranges are required in job postings by organizations with at least 15 employees for jobs that will be performed, at least in part, in Illinois or remote positions that will report to a supervisor or office in Illinois.

New York

Wage ranges are required in job postings by organizations with at least 4 employees in New York for jobs that will be performed, at least in part, in New York or remote positions that will report to a supervisor or office in New York.

Drug testing

If you require prospective employees to submit to drug testing, several states require you to:

- Adopt a written drug testing policy
- Inform applicants of drug testing requirements.

States that require notice of drug testing include: Alabama, Arkansas, Florida, Georgia, Tennessee, and Wyoming.



Creating a “universal” job posting

If you want to create a job posting that complies with the laws in all 50 states and DC, it should include:

- ❑ Job description
- ❑ Salary range
- ❑ Description of benefits
- ❑ Instructions for applying
- ❑ Application deadline / statement of rolling acceptance
- ❑ Notice of drug test requirement (if applicable)



Pre-hire questions & best practices

While employers may want to know about:

- Medical information
- Criminal history
- Financial history
- Age/family
- I-9 verification

...you need to approach any questions that approach these topics with caution and **a focus on compliance first.**

Consider these questions before interviewing for a role:

- Be consistent
- Only ask questions about legitimate interests
- Be mindful of the timing

Medical information: ADA requirements

Before a job Offer

You can't:

- Ask about disabilities
- Ask about medical history
- Require medical tests

You *can* ask if the candidate can perform the job, and how.

After a job offer

Employers may ask for medical exams, but only if they ask all candidates, not just those with disabilities.

Employers must keep medical information in separate, confidential files.

State and local laws

Most states have laws that match the federal standard, but they extend to most or all employers.

Some localities ban questions about height or weight.

Criminal history

“Ban the box”

- Generally can't ask about criminal history in initial applications and postings
- Criminal history is usually allowed to be run & used after a conditional offer of employment

Adverse action

While not prohibited, employers run the risk of civil rights violations.

Pre-adverse action: 3 “green” factors

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense, conduct, and/or completion of the sentence;
- and The nature of the job held or sought.

Initial notice: Include FCRA “Summary of Rights” form

Adverse action

- 7 “individualized” factors
- Final notice

Some state have their own factors, but employers always need to follow federal as well.

The 7 individualized factors

1. The individual's showing that he/she was not correctly identified in the criminal record, or that the record is otherwise inaccurate
2. The facts or circumstances surrounding the offense or conduct
3. The number of offenses for which the individual was convicted
4. Older age at the time of conviction, or release from prison
5. Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct
6. The length and consistency of employment history before and after the offense or conduct
7. Rehabilitation efforts

Financial history

Wage and salary

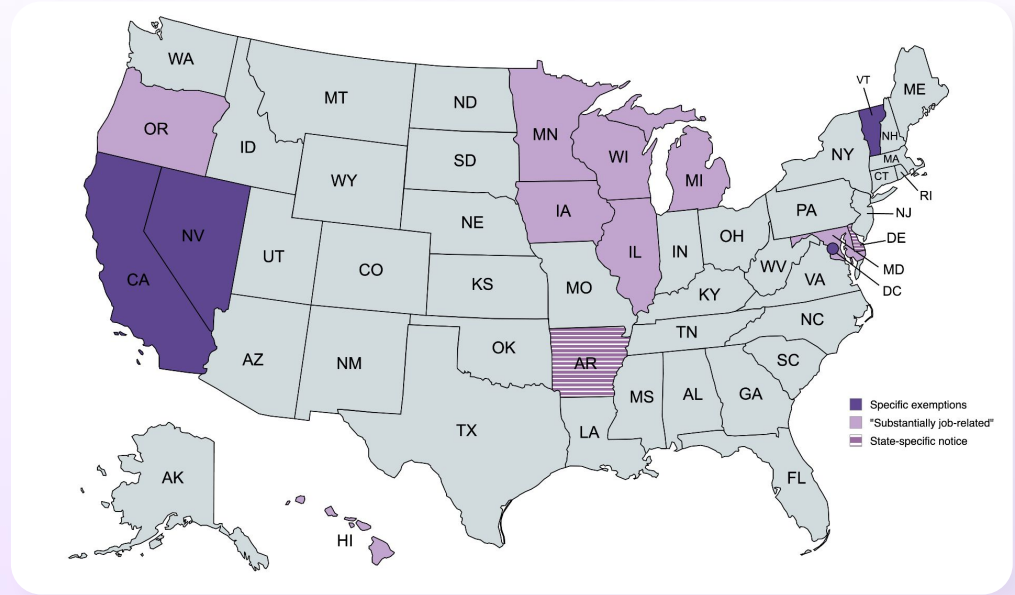
Many states prohibit questions about wage history.

When wage history is shared “voluntarily and without prompting,” some states allow employers to use that information—while other states ban it.

Credit checks

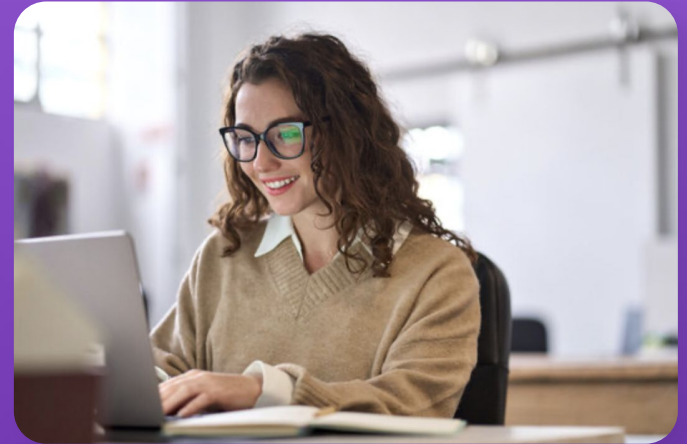
There are 3 types of credit check requirements:

- Bans with specific exemptions for certain industries
- Bans with an exemption if the check is “substantially job-related”
- Allowed, but notice required



Age and family questions

1. California, Colorado, Connecticut, Minnesota, and Pennsylvania restrict age-related questions and information
2. Colorado & Oregon employers are prohibited from inquiring into applicants' ages, birth dates, or dates of attendance at educational institutions on an initial employment application.
3. Questions about marital status or number of children are not strictly prohibited federally, but they can be used as evidence of an intent to discriminate
4. Only asking women certain questions but not men (or vice versa) is “clearly discriminatory”



Financial history

Employers *must* submit Form I-9.

Some states use the e-Verify

Most employers should *not ask* whether or not a job applicant is a U.S. citizen before making an offer of employment.



Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No.1615-0047
Expires 05/31/2027

START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [Instructions](#).

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

Section 1. Employee Information and Attestation: Employees must complete and sign Section 1 of Form I-9 no later than the **first day of employment**, but not before accepting a job offer.

“Which state’s laws govern my employment relationships?”

Lawyer answer: It depends.

General rule: The law of the state where the employee works

Bottom line: One-size-fits-all agreements are risky because state laws vary, especially around non-competes.

Are employment contracts necessary?

No, but they can be helpful tools to establish expectations for employees and protect your organization in the long run

- Where handbooks establish general workplace policies, contracts bind individual employees

Benefits include:

- More remedies for violations;
- Limit restrictions so they only apply to certain employees;
- Can be kept confidential (to an extent); and
- Can bind employees after separation



Common “protective clauses”

Non-Competition

Prevents employees from working for competitors after separation

Provides the most protection for employers

But are increasingly disfavored in state law

Risk of penalties if not carefully constructed

Non-Solicitation

Prevents employees from soliciting customers or other employees after separation

Different kind of protection than non-competes

Still somewhat disfavored in state law

Highly dependent on circumstances to be useful

Non-Disclosure

Prevents employees from disclosing confidential information after separation

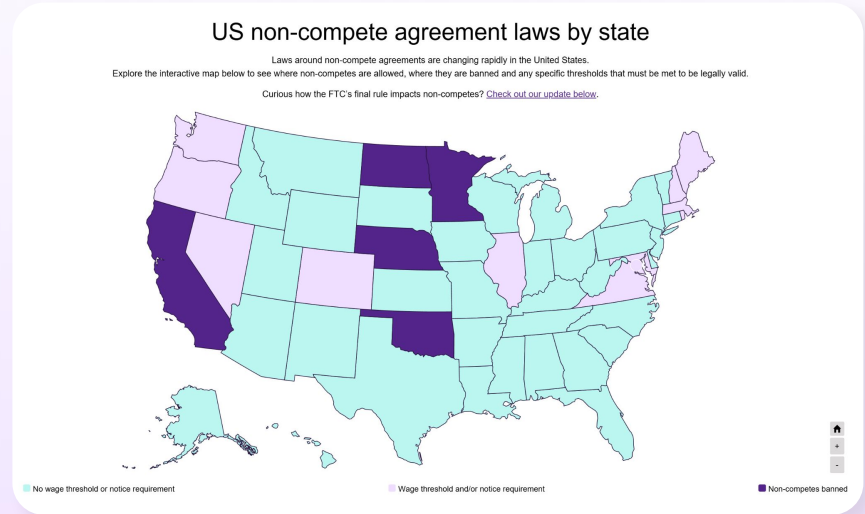
Provides narrow protection for employers

Less disfavored than other types

Can be highly effective when well-tailored

Non-competes: A patchwork of state law

- No federal regulation, except in limited circumstances
- All states that allow non-competes require them to be reasonable in their limitations.
- Notice requirements in 8 states and D.C.
- Income thresholds in 11 states and D.C.
- Banned in 5 states:
 - Statutory ban in CA, OK, ND, and MN
 - NE has a functional, common law ban



Visit our free, interactive [non-compete map](#)

What makes a non-compete “reasonable”?

These are the factors courts often consider when determining reasonability:

Duration

**Geographic
Scope**

**Scope of
Activity**

**Protectable
Interests**

**Public
Interest**

Non-disclosure agreements

Good, less restrictive way to protect your business' confidential information

- Preferred by courts because they don't restrict employees' ability to work

Still must be carefully crafted to ensure compliance

- Federal law prohibits NDAs from being used to prevent employees from disclosing information about working conditions, sexual harassment, or sexual assault
- Some states also prohibit NDAs from being used to prevent employees from disclosing information about any type of discrimination or unlawful activity.

What about waiver?

Having employees sign waivers releasing potential claims can be an effective tool to protect your business.

- BUT waivers should never be included in agreements signed as part of the hiring process

This is because employees can only legally waive claims based on events that have already happened at the time of the waiver

- Prospective (i.e., forward looking) waivers are invalid

Waivers should instead be included in separation agreements supported by consideration

Arbitration agreements

They require employees (and usually your organization) to resolve disputes through arbitration instead of via a lawsuit in court.

- Disputes are instead heard by a neutral third party in a non-court setting

Quicker, cheaper, and (typically) more straightforward than traditional lawsuits

Generally disfavored by states, but preferred by feds

- Federal Arbitration Act preempts most state limits, but not all

A good clause should (1) cover all potential claims and remedies, (2) designate a source of rules for the arbitration, and (3) be written clearly so it can be easily understood.



Key new hire notices

Pay transparency and wage

Many states require written notice of pay details at hire:

- Pay rate (hourly/salary)
- Pay frequency
- Overtime eligibility
- Allowances (tips, meals, lodging)

High-regulation states include:

New York, California, New Jersey, and Illinois

Leave and benefits

States increasingly require notice of:

- Paid sick leave
- Paid family & medical leave (PFML)
- Disability insurance (in some states)

Examples:

California: Paid Sick Leave + Paid Family Leave

New York: Paid Family Leave notice

Washington: Paid Sick Leave + PFML

Workplace rights

Common required disclosures include:

- Anti-discrimination and harassment protections
- Workers' compensation rights
- Unemployment insurance information

Policy acknowledgments

While not always legally required, strongly recommended:

- Employee handbook acknowledgment
- Arbitration agreements
- Confidentiality agreements
- Code of conduct

Additional new hire notices to consider

These are some common but often overlooked requirements:

- **Drug Testing Policies & Notices**

- Employers conducting pre-employment or ongoing drug testing may need to provide written notice outlining testing procedures, employee rights, and consequences. Requirements vary significantly by state.

- **Reasonable Accommodation Notices**

- Some states require employers to notify employees of their rights to request accommodations for:
 - i. Disabilities
 - ii. Pregnancy, childbirth, or related conditions
 - iii. Religious practices

- **Background Check Disclosures**

- Federal law (FCRA) and some state laws require standalone disclosures and authorizations before conducting background checks.

- **Industry-Specific Notices**

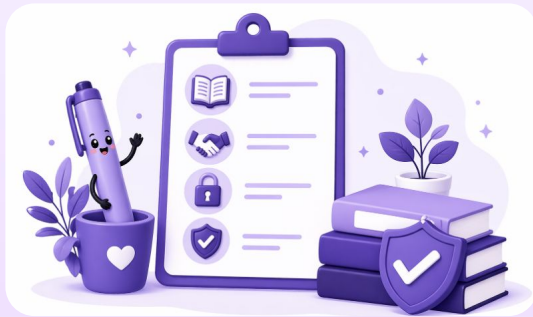
- Certain industries (e.g., healthcare, construction, transportation) may require additional onboarding disclosures or safety-related notices.

Timing requirements

Timing varies widely across states:

- **At time of hire** (most common)
- **Before first day of work**
- **Within a set timeframe** (e.g., 7–30 days)
- **Annually** (in some cases)

Failure to meet timing = potential penalties



Delivery requirements

States differ on how notices must be delivered:

- Written (hard copy)
- Electronic (if certain conditions are met)
- Language requirements (e.g., Spanish, Chinese)
 - Some states require notices in multiple languages:
 - Examples: California, New York, and Illinois

Trend: Increasing acceptance of electronic delivery

Recordkeeping & audit readiness

Employers should retain:

- Copies of notices provided
- Proof of delivery
- Employee acknowledgments

Retention periods vary by state

Critical for:

- Wage disputes
- Agency audits
- Litigation defense



Q&A time!

What questions do you have?



Schedule a personalized
tour of SixFifty's
HR employment compliance platform