



PATTERSON | SCHUTTER | PETERS | VARY
LABOR LAW GROUP

LABOR AND EMPLOYMENT LAW AUDIT SERVICE

“An ounce of prevention is worth a pound of cure.”

Scope of Labor and Employment Law Audit Service

A labor and employment law audit provided by Masud, Patterson, Schutter, Peters & Vary, P.C., is a review of the client’s entire employment process. It begins with hiring practices and employment application, concluding with resignation and discharge procedures. Experience has shown that an audit is one of the few significant ways an employer can effectively avoid liability and reduce labor and employment costs. The old adage that, “an ounce of prevention is worth a pound of cure,” has great application in the area of labor and employment law.

During a labor and employment law audit, our attorneys come on-site to your location(s) to review your human resources materials, files, postings, policies, and practices for compliance with applicable labor and employment laws. We spend time beforehand to understand the organization’s goals and strategies so we can assist your human resources and labor relations department in partnering effectively to achieve those objectives. We also interview managers involved in and affected by your labor relations and human resources policies for further insight on where compliance issues, if any, may exist and where change may be needed to help them run their business units more successfully. Recommendations are established based on the information gleaned, and summarized in a report form to review with you.

Process

The process is multiple days in length. Our focus is to review established policies, procedures, documentation and practices, as well as to discuss with management and key members of your staff their activities that relate to human resources and labor relations. We supply a document collection worksheet for the process so you can gather the relevant data in advance. You will also decide the depth and contours of the audit in each area, and where you would especially like support.

There are typically three phases to the labor and employment audit:

1. Summary report.
2. Comprehensive report.
3. Implementation of corrective action.

The summary report typically takes place at the end of the process. We have a meeting with

your management team and any of your staff that you deem appropriate to review our general, high-level observations and recommendations concerning labor and employment law compliance. This also provides us with an opportunity to ask additional questions.

The comprehensive report is based on the knowledge gained during the audit and contains our specific recommendations and observations concerning any corrective action to address deficiencies and compliance concerns. Implementation of a corrective action plan is accomplished pursuant to a specific timetable and based on our priority recommendations, as approved by you. Typically, corrective action involves adopting and/or revising written policies and practices, along with additional training, to comply with the ever-changing legal environment concerning labor and employment law.

Fees

Estimated fees for a labor and employment law audit are determined after further consultation with you, and vary depending upon the amount of work involved once we review the actual assignment.

In order to achieve continuous improvement, great organizations recognize the importance of monitoring policies and practices to reduce their level of risk and remain compliant with the labor and employment laws. The audit process gives you an opportunity to protect your investment by examining what is working well and where improvements can be made in your organization.

Labor and Employment Law Audit Topics

I. Pre-Employment

- A. Advertisement
- B. Job Postings
- C. Recruit Procedures
- D. Selection Procedures
- E. Employment Applications
- F. Placement
- G. Resume Screening Procedures
- H. Reference/Background Checks
- I. Interviewing
- J. Testing- Personality, Job-Related, Drug/Alcohol

II. Job Descriptions

- A. Essential Job Functions
- B. Performance Standards/Objectives
- C. Exempt Employees and Supervisory Status

III. Employment

- A. Offer Procedures
- B. Medical Examinations

- C. At-Will
- D. Just Cause
- E. Orientation
- F. Evaluation Periods
- G. Authorized Workers
- H. Immigration and Naturalization Laws
- I. Child Work Permits
- J. Affirmative Action Plans
- K. Employment Contracts
- L. Wage and Hour Law Compliance

IV. HR Administration

- A. Organization Charts
- B. Handbooks
- C. Employee Policies
- D. Administrative Policies
- E. Work Procedures/SOPs
- F. Work Rules
- G. Personnel Files Procedures
- H. Record Retention

V. EEO and Discrimination

- A. Policies
- B. Complaint Procedure
- C. ADEA
- D. OWBPA
- E. Title VII
- F. Elliott-Larsen Civil Rights Act
- G. ADA
- H. PWDCRA
- I. Veteran's Re-Employment Act
- J. Pregnancy Disability Act
- K. Retaliation

VI. Employee Development

- A. Training
- B. Evaluation Procedures
- C. Promotions
- D. Transfers
- E. Testing
- F. Employee Mapping
- G. Employee Recognition Programs
 - 1. Merit Increases
 - 2. Profit/Gain-Sharing Programs
 - 3. Bonus Plans
 - 4. Service Awards

VII. Termination

- A. Exit Interviews
- B. Unemployment Compensation
- C. Severance Programs
- D. Wrongful Discharge
- E. Reductions in Force
- F. Layoff/Recall
- G. Summary Discharge
- H. Turn-Over Analysis
- O. Re-Hire

VIII. Communication

- A. Media/PR Policies
- B. Technology Use and Abuse Policy
- C. Open Door Policy
- D. Suggestion Systems
- E. FOIA Requests
- F. Employee Privacy Issues
- G. Electronic Communications Privacy
- H. Bulletin Boards
- I. Employee Notices
- J. Attitude Surveys

IX. Time Off

- A. Personal
- B. Sick Leave
- C. FMLA/Medical/Family Care
- D. Pregnancy
- E. Bereavement
- F. Military/Re-employment
- G. Union Leave
- H. PTO Programs
- I. Meals/Break Periods
- J. Jury Duty
- K. Education Leaves

X. Insurance

- A. Medical
- B. Dental
- C. Vision
- D. FSAs
- E. HSAs
- F. Cafeteria Plans
- G. Summary Plan Descriptions
- H. HIPAA Compliance
- I. COBRA
- J. Life
- K. Short-Term/Long-Term
- L. EAPS
- M. EPLI

- N. D & O
- O. E & O
- P. Survivor Benefits
- Q. Self-funded Plans
- R. Fully Insured Plans

XI. Other Benefits

- A. Holidays
- B. Vacations
- C. Compensatory Time
- D. Flex-Time
- E. Education Reimbursement

XII. Discipline & Work Rules

- A. Progressive Discipline
- B. Documentation
- C. Demotions
- D. Suspensions
- E. Termination Procedures
- F. Workplace Violence
- G. Searches
- H. Last Chance Agreements
- I. Performance Issues
- J. Individual Improvement Plans
- K. Attendance/Tardiness Policies
- L. Weingarten Rights

XIII. Compensation

- A. Minimum Wage and Overtime Pay
- B. Wage Garnishment
- C. Migrant and Seasonal Agricultural Worker Protection
- D. Child Labor
- E. Volunteers
- F. Davis-Bacon Act/ Michigan Prevailing Wage Laws
- G. FLSA
 - 1. Employee Classifications
 - 2. Job Classifications
 - 3. Time-Keeping and Reporting Requirements
 - 4. Paid Time
 - 5. Bonuses
 - 6. Overtime
 - 7. Michigan's Minimum Wage Law of 1964
 - 8. Equal Pay Act
 - 9. Portal to Portal Act
 - 10. Special Pay
 - 11. Executive Compensation and Agreements
 - 12. Incentive Plans
 - 13. Commissioned Sales Act
 - 14. Loans/Advances

15. Saturday/Sunday/Holiday Pay

XIV. Safety and Health

- A. MIOSHA/OSHA Regulations
- B. Inspection Procedures
- C. Mine Safety and Health
- D. Safety Policy
- E. Injury Reporting
- F. MSDS
- G. Drug and Alcohol Testing
 - 1. Drug Free Workplace Act of 1988
 - 2. Dot Testing
- H. Migrant and Seasonal Agricultural Worker Protection
- I. Child Labor
- J. Blood Borne Pathogens
- K. Emergency Procedures
- L. Serious Accident Protocol
- M. Employee Security
- N. Confined Space Entry
- O. SCBA Programs
- P. Fire Prevention

XV. Workers' Compensation

- A. Light Duty
- B. Medical Evaluations
- C. Documentation
- D. Injury Reports

XVI. Accident Investigations

- A. Investigation Procedures
- B. Investigation Reporting
- C. Subsequent Remedial Measures

XVII. Bargaining/Negotiations

- A. Collective Bargaining Agreements
- B. Grievance Procedure
- C. ULPS
- D. MERC
- E. NLRB

XVIII. Other Union Matters

- A. Elections
- B. NLRA Compliance
- C. PERA Compliance
- D. Solicitation/Distribution Policies
- E. Strikes
- F. Seniority
- G. Joint/Successor Employer Liability

XIX. Litigation

- A. Documentation
- B. Litigation History
- C. Witness Statements
- D. Depositions
- E. Claim Response
- F. Attorney-Client Communications
- G. Subpoenas

XX. Forms

- A. Application for Employment
- B. Applicant Background Questionnaire (Voluntary)
- C. Acknowledgment, Certification, Waiver and Release for Background Check
- D. Authorization for Use and Disclosure of Protected Health Information (HIPAA)
- E. Employee Drug Testing Consent Agreement
- F. Disclosure and Authority to Release Information Regarding Fair Credit Reporting Act (“FCRA”)
- G. FCRA Pre-Adverse Action Notice to Applicant
- H. FCRA Adverse Action Notice to Applicant
- I. Application for Alien Employment Certification
- J. Certificate of Group Health Coverage
- K. Authorization for Release of Medical Information (Non-HIPAA)
- L. Accommodation Request
- M. Discipline
- N. Handbook Acknowledgement
- O. FMLA
- P. COBRA Notices
- Q. Grievance
- R. Authorization for Payroll Deductions
- S. Tuition Reimbursement
- T. Injury/Incident Report
- U. I-9
- V. Michigan New Hire
- W. W-4
- X. W-2
- Y. 1099
- Z. Direct Deposit
- AA. Discrimination Complaint
- BB. HIPAA Privacy Rule Complaint
- CC. HIPAA Individual Rights
- DD. Employee Acknowledgement of Receipt of Personnel Policies
- EE. Exit Interview-Voluntary
- FF. Exit Interview-Involuntary

XXI. Agreements

- A. Arbitration
- B. Confidentiality
- C. Non-Compete/Non-Solicitation

- D. Conflict Of Interest
- E. Bribes/Kick-Backs/Gifts
- F. Proprietary Materials/"Work For Hire"
- G. Severance/Separation
- H. Settlements/Release of Liability
- I. Independent Contractor
- J. Tuition Reimbursement

XXII. Required Postings and Notices

- A. State of Michigan
- B. Federal

XXIII. Miscellaneous

- A. Lie Detector Tests
- B. Whistleblower Protection
- C. Plant Closings and Mass Layoffs
- D. Uniformed Services Members
- E. Federal Contractors
- F. Affirmative Action Plans
- G. Industry Specific Issues
- H. Public Sector Issues
- I. Private Sector Issues
- J. Conducting Workplace Investigations
- K. Employee Committees