

COLORADO WORKPLACE COMPLIANCE: Key Trends & End-of-Year Checklist

How to get compliant for
the end of the year and
prepare for Colorado
employment laws in 2022

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There are a series of required activities every employer must go through before ringing in the new year. If done incorrectly or not at all, some activities could cost businesses. In fact, the average small business owner spends \$12,000 a year dealing with compliance issues.¹ Many compliance problems that take place at the end of the year are due to simple mistakes or a lack of awareness of new laws and regulations.

New labor laws are signed into effect each year and are constantly evolving. So in addition to end-of-year responsibilities, make sure you're compliant with new laws and regulations. This year, several important changes regarding the following impacted Colorado employers:

 Equal Pay for Equal Work Act	 Healthy Families & Workplaces Act	 Minimum Wage & Minimum Salary
 Public Health Emergency Whistleblower Law	 Colorado Wage Claim Act	 Colorado Secure Savings Program



2021 Colorado Laws & Regulations eGuide

A comprehensive look at new laws and regulations for 2021 and how to be compliant

[Download the Guide](#)

Larger organizations have accounting and legal departments devoted to staying compliant and reviewing end-of-year documents. Some companies will use external legal support that can become expensive and difficult to manage. But smaller businesses don't often have these kinds of resources. And in Colorado, employment laws and regulations are becoming even more complex.

Obsidian HR wants to make it easier for you to keep up with labor laws and stay compliant.

So to help round out this year – and prepare for next year – here is a checklist and some of the workplace compliance trends happening in Colorado and how you can prepare for them.

END-OF-YEAR WORKPLACE COMPLIANCE CHECKLIST

Conduct Final Payroll, Processing, & Record Keeping

Conduct an end-of-year payroll audit to ensure each of the following is correct:

- Employees' personal information
- Employee status (i.e. active, terminated, inactive, on leave, etc.)
- Employee wages and deductions
- Tax rates
- Employee time-off balances

Once each item is reviewed, schedule and confirm the final payroll. Once the final payroll is complete, you can move forward with tax forms and filing. You should also save your pay records. The Fair Labor Standards Act (FLSA) requires employers to keep payroll records on file for three years.



This is also the time to prepare your payroll with the updated social security wage base, minimum wage, benefit premium rates, 401(k) contribution limits, and mileage reimbursement rate for 2022 – if applicable.

Form W-2 and Form W-3

Form W-2 must be filed with the Social Security Administration and shared with each employee you have. Form W-3 must also be filed, summarizing your W-2s. Double-check that any taxable cash and non-cash benefits are included (i.e. company car or other taxable fringe benefits).



To avoid errors with this filing, make sure employees have reviewed their W-4s and their personal information prior to the end of the year – particularly mailing address, social security number, and withholdings.

Form 1099-NEC, Form 1099-MISC, and Form 1096

Employers must provide information returns to the IRS through Form 1099. Form 1099-NEC should be filled out for non-employee payments and Form 1099-MISC should be filled out for miscellaneous payments.



You should request a W-9 Form from all payees before you prepare either 1099 forms.

A summary of payments for Form 1099-NEC and 1099-MISC should be filed with the IRS as well, using Form 1096.

END-OF-YEAR WORKPLACE COMPLIANCE CHECKLIST

Form 941 and Form 940

Form 940 and Form 941 are used to report tax. Form 940 reports federal unemployment tax while Form 941 reports income taxes, social security taxes, and Medicare tax withholdings. Both forms must be filed with the IRS.



Remember to submit for ARPA tax credits and employee retention tax credits too. ARPA tax credits are dollar-for-dollar tax credits to refund employers for qualifying wages covering sick and family leave time paid to employees affected by COVID-19. And if your company has 50 or more employees, you also have to prepare and distribute 1095-C forms to employees as part of the Affordable Care Act. 1095-C forms will determine your eligibility for the premium tax credit.

Submit License Renewals

Paid solicitors, sales tax, liquor licenses, and other professional licenses expire annually and must be renewed through a renewal application in each state you do business.



License renewals will vary by business and might expire on a less frequent basis, but the end of the year is always a good time to review licenses.

Report Any Changes to Your Business

If your business has changed in name, location, structure, ownership, or size, there may be other activities to complete or changes you have to report through and “Articles of Amendment” or other documents within the states you do business.

Update HR Policies & Procedures

Review policies to ensure your PTO, vacation, sick time, and leaves of absence are compliant with changing laws and regulations around leave and wages.



This is also a good time to review your employee handbook and make any necessary changes — especially as things continue to be impacted by COVID-19. Update your COVID-19 protocols to ensure compliance with OSHA, CDC, and local guidance.

End-of-year compliance tasks can take up time, but keeping up with workplace compliance trends throughout the year is a full-time job. Every business is responsible for ensuring their workplace is compliant with new laws and regulations in addition to the usual annual responsibilities.

While this checklist provides guidance to start your end-of-year compliance tasks, be sure to check for filing requirements and deadlines for your state, as they can vary. Once your end-of-year tasks are done, it's time to prepare for 2022! While the following are only trends, some could result in new laws and regulations for next year. Being aware of them now will make it easier to get compliant should they evolve into something more.



5 WORKPLACE TRENDS TO WATCH FOR 2022

1 Wage and hour laws have changing definitions

Wage and hour laws can involve the minimum wage, vacation and sick time, overtime, child labor, and record-keeping laws.

The Colorado Supreme Court ruled on a case under the Colorado Wage Claim Act (CWCA) in June of 2021, that clarifies Colorado businesses will have to pay out vacation pay when an employee leaves. The ruling ultimately proves that vacation pay, like other wages, cannot be forfeited once earned. So if your current employment agreement or vacation policy has a use-it-or-lose-it approach, it's now void.

Colorado employers aren't required to offer paid vacation, but if paid time off is earned, it becomes wages under Colorado law. The conversation around vacation pay and the Colorado Wage Claim Act will continue to develop. Likely there will be updates around the terminology of "vacation pay," how it is "earned," and what this means for unlimited PTO policies.

No matter what state you do business in, you should be clear in your vacation policies and have a means for time and attendance tracking to make future guidelines in this space easier to follow.

2

Pre-employment screening legislation is combatting discrimination

Pre-employment screening includes everything from background checks to drug screening to reference checks and education and employment verification. Essentially any step that a job candidate takes before being hired is a part of pre-employment screening. But this process is undergoing more scrutiny than ever before.

In 2019, Colorado enacted the “ban the box” legislation that prohibits employers from asking about a candidate’s criminal history in a job application. Similarly, New York has proposed the Clean Slate Bill that follows suit but takes it a step further. New York’s legislation would clear conviction records as candidates become eligible.

Other laws shaping this trend include the Equal Pay for Equal Work Act, signed into law in Colorado this year. As part of this law, employers can no longer ask previous salary history of job applicants and must provide salary ranges in their job postings.

Changes are taking place at the federal level too. The Marijuana Opportunity Reinvestment and Expungement Act or MORE Act is new legislation proposing the descheduling of marijuana and the removal of criminal sanctions regarding its manufacturing, distribution, and possession. In other words, it wipes certain marijuana-related offenses from an individual’s criminal records. This law is born out of the increasing legalization of marijuana – such as in states like Colorado.

Learn more about employer drug testing in Colorado and how it factors into your drug screening policies

Read more



The Equal Pay for Equal Work Act requires a lot from Colorado employers – learn more about it and how to be compliant

Read more



Pre-employment screening and discrimination are evolving in other states as well. Recently, Connecticut banned inquiries into job applicants’ age. Employers in that state can no longer ask anything that gets at an applicant’s age, date of birth, or even attendance or graduation from an educational institution. This new law went into effect in Connecticut in October of 2021. More states will likely follow suit.

Employers should look closely at their job application requirements and pre-employment screening to ensure they're removing bias and being fair to the applicant when it comes to their criminal history, pay, and age. And with remote work becoming more common, if you're an employer accepting applications from other states, you'll need to make sure you're up to date on regulations for pre-screening in those locations as well.

3 The minimum wage is increasing

President Biden wants to double the federal minimum wage to fifteen dollars an hour. This year he signed an executive order for federal employees to be paid this amount, but the original legislation wasn't passed.



In a recent survey by the NFIB research center, 74% of small businesses feel they'd be negatively impacted by a federally mandated minimum wage of fifteen dollars.

In total, twenty-four states increased their minimum wage in 2021 – but not by much. Colorado's minimum wage currently stands at \$12.32 per hour. The Colorado Department of Labor and Employment is likely increasing the minimum wage in Colorado to \$12.56 per hour. Any increase can significantly impact small businesses.

In case legislation to raise the minimum wage passes, you should prepare your business for increased labor costs. Evaluate what costs you can reduce or how to offset the increase in wages in other ways (i.e. raise prices, reduce the number of employees or hours, etc.).



4

Companies will have to focus on harassment protections

Currently, there are no specific requirements for sexual harassment training at the federal or state level for Colorado — though it's strongly recommended.

Harassment training could be a requirement in the future. Just this year Colorado proposed a hostile work environment bill that would have defined a hostile work environment as anything that undermines a person's sense of well-being. Though the bill didn't pass, it's clear that employees are looking for more protection.

As an employer, you should take steps to prevent discrimination and harassment from occurring in the workplace. Providing access to resources where your employees can get ongoing training is the first step to protecting your business and employees from harassment cases.

5

Employee leave programs are expanding

Labor laws around leave refer to any short or long-term paid or unpaid leave of absence that can occur in a workplace. With COVID sticking around and mental health becoming more important, employee leave law will be a big trend next year.

The Family Medical Leave Act (FMLA), signed into law in 1993, was the starting point for much of the evolution in this space.

Specifically, at the state level, California just made multiple revisions to their California Family Rights Act (CFRA), including:



Expanding the coverage from 50 or more employees to small employers with only 5 or more employees



Expanding the definition of "family member" to include siblings, grandparents, grandchildren, domestic partners, and adult children

Employers in states dealing with updated leave laws should look at their policies and procedures around leave, educate their management, and inform their employees of any changes — especially where COVID-19 leave applies.

HOW OBSIDIAN HR CAN HELP

We'll keep you updated on new laws and regulations

Keeping up with workplace compliance trends and getting compliant is an uphill battle for many small to medium-sized businesses in Colorado. Specifically, you must continually evaluate and redesign your policies, procedures, and programs to avoid risk or penalties. Without a legal team of experts, it can feel overwhelming. Obsidian HR will keep you updated on Colorado laws and regulations, how they impact your business, and how you can be compliant.

We'll get you compliant and complete end-of-year tasks for you

Obsidian HR can relieve the administrative burden that the end of the year brings by managing your payroll and filing tax forms on your behalf.

- We record, file, and share your forms with you (Form W-3, W-2 1099s, 941, 940, 1096, and SUTA and state withholding quarterly and annually)
- Paystubs and W-2 forms are available electronically for you and your employees for ease and convenience through our payroll platform
- Our platform also tracks time off, attendance, and can create customized reports to make it easier to conduct payroll audits and update employee records

Spend less time dealing with administrative tasks and look forward to celebrating the new year. If you're ready to learn more, reach out to us today. We'd be happy to answer any questions you may have about Colorado's new laws and regulations and how to get compliant.

Learn More



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Follow us for more! We're constantly sharing information on how to be compliant with changing laws and regulations, hiring and retaining employees, and developing your HR policies and procedures.

