

Laws That Apply to Your Organization

This table is designed to help you quickly identify which employment laws affect you. Use the following chart to determine which labor laws apply to you based on the number of employees you have.

Law/Requirement	All Employers	2 or more	4 or more	5 or more	15 or more	16 or more	20 or more	25 or more	50 or more	75 or more	100 or more
Affirmative Action									✓	✓	✓
Alcohol and Drug Rehabilitation								✓	✓	✓	✓
Americans with Disabilities Act (ADA)					✓	✓	✓	✓	✓	✓	✓
Ban the Box				✓	✓	✓	✓	✓	✓	✓	✓
Cal-COBRA (Health Insurance Continuation)*		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
California Family Rights Act (CFRA)				✓	✓	✓	✓	✓	✓	✓	✓
Child Labor	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Civil Air Patrol Leave						✓	✓	✓	✓	✓	✓
COBRA (Health Insurance Continuation)							✓	✓	✓	✓	✓
COVID-19 Workplace Exposure Notice Requirements	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Crime or Abuse Victims' Leave: Legal Proceedings/Reasonable Accommodation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Crime or Abuse Victims' Leave: Medical Treatment								✓	✓	✓	✓
Criminal Judicial Proceedings and Victims' Rights Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Disability Insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

* Cal-COBRA covers employees with 2-19 employees who offer health insurance benefits to employees. Cal-COBRA covers employers with 20 or more employees when the employee loses COBRA coverage, if the COBRA coverage was for less than 36 months.

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Discrimination and Immigrant Workers			✓	✓	✓	✓	✓	✓	✓	✓	✓
Discrimination Laws (Federal)					✓	✓	✓	✓	✓	✓	✓
Discrimination Laws (State)				✓	✓	✓	✓	✓	✓	✓	✓
Employee Safety	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Equal Employment Opportunity (EEO) Reporting**											✓
Fair Employment and Housing Act (FEHA)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Fair Pay Act (California)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Federal Family and Medical Leave (FMLA)									✓	✓	✓
Illiteracy Accommodation								✓	✓	✓	✓
Immigration Reform and Control Act (IRCA)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Independent Contractors	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Injury and Illness Prevention Program (IIPP)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Jury Duty Time Off	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Lactation Accommodation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mandatory Sexual Harassment Prevention Training				✓	✓	✓	✓	✓	✓	✓	✓
Military Service/USERRA Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

** EEO reporting also applies to employers covered by Title VII who have fewer than 100 employees if the organization is owned or affiliated with another organization or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise, and the entire enterprise employs a total of 100 or more employees.

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Military Spouse Leave								✓	✓	✓	✓
New Employee Reporting	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Organ and Bone Marrow Donor's Leave					✓	✓	✓	✓	✓	✓	✓
Paid Family Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Paid Sick Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pay Data Reporting (California)											✓
Posters and Notices	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pregnancy Disability Leave Laws				✓	✓	✓	✓	✓	✓	✓	✓
Prior Salary History Ban	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Privacy	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
School and Child Care Activities Leave***								✓	✓	✓	✓
School Appearances Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Smoking in the Workplace	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Unemployment Insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Volunteer Civil Service Leave	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Volunteer Civil Service Training Leave									✓	✓	✓
WARN Act (plant closing)										✓	✓
Workers' Compensation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

*** A covered employer must employ 25 or more employees working at the same location.

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Who Is an Employee?

Generally, employees who are actually on your payroll will be counted to determine if you are covered by a state or federal law.

The definition of who is counted as an employee may vary depending on the legal requirement at issue. For some laws, you will include temporary employees and independent contractors to determine your employee count. Any exceptions to the general rule will be noted in the discussion of the federal or state law.

When Is a Shareholder an Employee?

The United States Supreme Court said that enforcement agencies and courts could examine the relationship between a company and its shareholders to determine if they should be considered employees.

In *Clackamas Gastroenterology Associates, P.C. v. Wells*, the U.S. Supreme Court said that an individual's right to control the business determines if he/she is an employee. It relied on six factors created by the Equal Employment Opportunity Commission (EEOC) as among those to be considered:

- What is the extent to which the organization supervises his/her work?
- Does he/she report to someone higher in the organization?
- How much influence is he/she able to exert over the organization?
- What relationship is intended, as expressed in oral or written agreements?
- Does he/she share in the profits, losses and liabilities of the organization?

Though not exhaustive, the list illustrates the factors that enforcement agencies and courts can use to determine if shareholders, directors, officers or partners in a small business are to be treated as employees for enforcement purposes.¹

1. *Clackamas Gastroenterology Associates, P.C. v. Wells*, 123 S. Ct. 1673 (2003)