

# People Ops Pulse

Bringing you the most up-to-date and helpful People Operations (HR) information for small business owners, entrepreneurs and partners

## Meme & Quote of the Month:



## New Year – New Opportunity!

*Happy New Year, everyone – welcome to 2024! As the books for 2023 are wrapped up, financial reports are published, performance reviews are taking place, and strategies for 2024 are being set, now is the time to do a pulse check on a part of business that is often overlooked – HR compliance! If you are operating with employees and/or 1099 contractors, or if you are looking to hire employees – in the ever-changing legal landscape surrounding People Operations, it's critical to the health of your business that you remain in-step with current regulatory requirements, including for small businesses. In this newsletter, I'm going to dig in to a few FAQ topics that are sent my way to help navigate these waters – so let's jump on in and I'll help you paddle through it!*



## IN THIS ISSUE

### Employee or a Contractor – Which Door to Choose?

When it comes to W-2 employees versus 1099 contractors on your payroll, learn the very specific differences and requirements between the two to make sure you choose the right option.

### Employer's Rights – No, They "Can't Just Do What They Want"

Many protections for employees have been put into place to protect their rights and best interests – however, protections for employers are in place as well. We'll discuss what guidelines are in place for you to be able to effectively manage through employee situations.

### HR Compliance 2024 Kickoff Checklist

When is the last time you took a look at your processes, procedures and data storage to make sure that requirements for HR information are being followed? Let's review the "must haves" for compliance audits to make sure you are set up for success.

## Employee or a Contractor – Which Door to Choose?

“Bonnie, having everyone be a contractor may just be ‘so much easier’ – can I do that?” When considering 1099 contractors vs. W-2 employees, there are both business and legal implications for each that business owners need to make sure they are aware of, as employee misclassification can have serious financial implications.

Under the Department of Labor, an updated final rule on independent contractor classification is scheduled to be published on March 11, 2024. This rule restores a previous standard which requires a wide review of various economic factors to determine if an employee can (and should) be classified as a contractor or employee. According to the DOL, the final rule rescinds a 2021 rule in which two core factors—control over the work and opportunity for profit or loss—carried greater weight. Under the new rule, employers would use a totality-of-the-circumstances analysis, in which none of the factors carry greater weight than the other. Also, critical to this update is that this not only applies to newly hired 1099 contractors, but to *existing* 1099 contractors as well. Understandably, this is going to require more time and resources to review compliance, as well as for potential re-classification. However, investing the time and resources now may save hefty penalties in the long run.

### The Independent Contractor “Six Factor” Test:

- The degree to which the employer controls how the work is done.
- The worker’s opportunity for profit or loss.
- The amount of skill and initiative required for the work.
- The degree of permanence of the working relationship.
- The worker’s investment in equipment or materials required for the task.
- The extent to which the service rendered is an integral part of the employer’s business.

Need HR expertise to review? Let’s connect!

## HR Compliance 2024 Kickoff Checklist

- **I-9 Forms:** one of the most common forms where errors are found are on the Form I-9. In addition to the requirement to be completed no later than 3 days from their start date, you must ensure that correct documentation is provided for the purposes of the form. You can find resources to assist you as an employer on the USCIS I-9 website: <https://www.uscis.gov/i-9>
- **Record Retention:** Different retention times, at the local/state/federal level, apply to different types of employment records. As a starting guide, you can find more information on the EEOC website: <https://www.eeoc.gov/employers/recordkeeping-requirements>
- **Labor Law Posters:** federal and state labor law posters are required to be posted and visible, including access for remote employees. You can find federal guidance on the DOL website: <https://www.dol.gov/general/topics/posters>. You can also find state guidance and required posters on your state’s Department of Labor website.

Compliance questions? I can help!

## Employer’s Rights – No, They “Can’t Just Do What They Want”

“Bonnie – so what you’re saying is they can ‘get away’ with that?”. Employee-centric employment laws do *not* mean that you have no protections in your business for ensuring that your employees are effectively working within the team running it, not against it. There are two crucial keys when it comes to employer’s rights. Key number one is **compliance** – when it comes to ADA accommodations, privacy laws, and employment/hiring practices, knowledge of these regulations at the outset can ensure you are in a place of strength from the get-go in managing your business. Key number 2 is **documentation** – with any employment-related actions, complete and consistent documentation of what you are doing (and why) can help ensure your position is heard should any questions ever be raised. Need help addressing a situation or want to proactively make sure you’re in the best position possible? Let’s chat!



From recruiting to onboarding, to training and ongoing management, and everything in-between: let Wolf-Rose People Solutions help put strategies into place to support the success of your employees – and in turn support the success of your small business.

COMPLIANT



CONSULTING



CONNECTIONS



COST-EFFECTIVE



In-person and virtual consultations are available – providing services nationwide

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