

*Chapter 1*  
**Snapshot**

The following list of questions provides a snapshot of the most pertinent topics of this book. You can use this comprehensive checklist to determine whether or not you are complying with fundamental employment laws and regulations. You should know the answer to every one of these questions. Although a “No” answer does not necessarily mean you are in violation of any laws or regulations, you should understand why you answered “No.” A cross-reference to the chapter within the book that covers each corresponding topic is provided.

<b>Yes</b>	<b>No</b>	<b>Chapter reference</b>
<input type="checkbox"/>	<input type="checkbox"/> Does your employee handbook contain clear and conspicuous statements that employees’ employment is “at-will” and nothing in the handbook should be construed to create an employment contract? .....	22
<input type="checkbox"/>	<input type="checkbox"/> Does your employment application and your employee handbook contain a “disclaimer” statement of any promise of job security?.....	17
<input type="checkbox"/>	<input type="checkbox"/> Do you know what documentation you should maintain at a minimum, regardless of the policies and/or forms you choose to use or not to use?.....	18
<input type="checkbox"/>	<input type="checkbox"/> Do you describe the “essential functions” of a job in its job description?.....	18
<input type="checkbox"/>	<input type="checkbox"/> When you are hiring new employees are you careful not to misrepresent the nature and responsibilities of the job? .....	19
<input type="checkbox"/>	<input type="checkbox"/> Do you include notice of drug and alcohol testing on vacancy announcements? .....	20
<input type="checkbox"/>	<input type="checkbox"/> Have you audited the legality of your interviewing and hiring procedures since the passage of the Americans with Disabilities Act? .....	41
<input type="checkbox"/>	<input type="checkbox"/> Do you notify applicants of your non-smoking policy? .....	230

<input type="checkbox"/>	<input type="checkbox"/>	Have you recently had an attorney review your employment applications?.....	17
<input type="checkbox"/>	<input type="checkbox"/>	Do you have an objective ranking system for evaluating candidates?.....	42
<input type="checkbox"/>	<input type="checkbox"/>	If you ask employment applicants to consent to having you run a background check, do you have a consent form on the employment application?.....	48
<input type="checkbox"/>	<input type="checkbox"/>	Do you check all job and personal references before hiring, and if so, do you receive prior releases from the applicant?.....	48
<input type="checkbox"/>	<input type="checkbox"/>	Do you provide potential employers of a former employee information about the employee's work performance and reason he or she left your company?.....	64
<input type="checkbox"/>	<input type="checkbox"/>	Do you insist that former employees sign a release before you release any employment data to prospective employers?.....	227
<input type="checkbox"/>	<input type="checkbox"/>	Do you have a progressive discipline policy, and do your supervisors understand it and apply it consistently? .....	138
<input type="checkbox"/>	<input type="checkbox"/>	Do you direct deposit employee checks, and if so, have you received the signed consent of each affected employee? .....	171
<input type="checkbox"/>	<input type="checkbox"/>	Do you provide employees with written notice of the nature and extent of your telephone, electronic, email and voicemail monitoring practices?.....	206
<input type="checkbox"/>	<input type="checkbox"/>	Do you have written policies regarding the appropriate use of email and the privacy limitations of email communications?.....	206
<input type="checkbox"/>	<input type="checkbox"/>	Do you know what drug testing laws apply to your company? .....	155
<input type="checkbox"/>	<input type="checkbox"/>	Did you review applicable state law pertaining to drug testing before establishing your drug testing policy? .....	152
<input type="checkbox"/>	<input type="checkbox"/>	Do you consider an employee with AIDS/HIV as being disabled under Americans with Disabilities Act?.....	145
<input type="checkbox"/>	<input type="checkbox"/>	Do you accommodate employees with AIDS?.....	146
<input type="checkbox"/>	<input type="checkbox"/>	Do you know if your state prohibits employers from firing or discriminating against persons for using lawful	

	products away from work, such as smoking materials? .....	231
<input type="checkbox"/>	<input type="checkbox"/> Have you reviewed your sexual harassment policy and training programs in view of recent U.S. Supreme Court cases involving standards for employer liability? .....	67
<input type="checkbox"/>	<input type="checkbox"/> Does your harassment policy apply to more than just sexual harassment?.....	70
<input type="checkbox"/>	<input type="checkbox"/> Does your sexual harassment policy indicate that employees will be disciplined if they file a false claim?.....	71
<input type="checkbox"/>	<input type="checkbox"/> Does your sexual harassment policy state that there will be no retaliation against an employee filing a claim? .....	71
<input type="checkbox"/>	<input type="checkbox"/> Can you prove that all of your employees have received a copy of your sexual harassment policy?.....	71
<input type="checkbox"/>	<input type="checkbox"/> Would you investigate a sexual harassment claim made by customers, vendors and independent contractors?.....	71
<input type="checkbox"/>	<input type="checkbox"/> Is your company required to adopt an equal opportunity clause?.....	73
<input type="checkbox"/>	<input type="checkbox"/> Does your employee handbook state who employees should contact with questions concerning the rules and policies contained in the handbook?.....	15
<input type="checkbox"/>	<input type="checkbox"/> Do you notify new employees of their rate of pay at the time they are hired?.....	72
<input type="checkbox"/>	<input type="checkbox"/> Does your employee handbook contain either a union-free policy or a statement on unionism?.....	133
<input type="checkbox"/>	<input type="checkbox"/> Does your discipline policy reserve discretion to impose appropriate discipline in each situation rather than designating a particular form of discipline for a particular infraction? .....	137
<input type="checkbox"/>	<input type="checkbox"/> Is your attendance policy uniformly enforced and in writing? .....	141
<input type="checkbox"/>	<input type="checkbox"/> Do you know what federal and state occupational health and safety laws apply to your company? .....	147
<input type="checkbox"/>	<input type="checkbox"/> Do you uniformly prohibit solicitations or distributions during work time?.....	161

<input type="checkbox"/>	<input type="checkbox"/>	Does your sexual harassment policy address consensual romantic relationships between supervisors and their subordinates?.....	163
<input type="checkbox"/>	<input type="checkbox"/>	Do you have an internal grievance procedure to satisfy employee complaints that contains a no recrimination statement? .....	219
<input type="checkbox"/>	<input type="checkbox"/>	Do you conspicuously take employee suggestions seriously?.....	223
<input type="checkbox"/>	<input type="checkbox"/>	Do you know whether or not your company has a legal obligation to permit an employee to examine his or her employment records? .....	225
<input type="checkbox"/>	<input type="checkbox"/>	Have you restricted employees' expectations of privacy so that certain searches of employees' lockers, desks, computers, purses, etc. can be conducted legally? .....	163
<input type="checkbox"/>	<input type="checkbox"/>	Do you train your managers and supervisors on the proper way to conduct and document fair and accurate performance reviews? .....	175
<input type="checkbox"/>	<input type="checkbox"/>	Do you provide paid vacation or PTO and, if so, does that policy comply with state law governing payment of all earned but unused time at the time of termination? .....	85
<input type="checkbox"/>	<input type="checkbox"/>	Do you provide your employees with paid holiday leave and, if so, have you designated in advance who will get paid holidays, which holidays will be recognized, any conditions for receipt of such pay and the rate of such pay? .....	87
<input type="checkbox"/>	<input type="checkbox"/>	Does your company have 100 or more employees and, if so, are you in compliance with Tennessee's pregnancy and childbirth leave law? .....	102
<input type="checkbox"/>	<input type="checkbox"/>	Do you provide your employees who have recently given birth appropriate space and time to express breast milk as required by Tennessee law?.....	104
<input type="checkbox"/>	<input type="checkbox"/>	Does your company's policy permit employees who are members of Tennessee's National Guard to be absent from work for prescribed drills and field training without penalty? .....	114
<input type="checkbox"/>	<input type="checkbox"/>	Do you know if your company complies with Tennessee's	

	jury leave law?.....	115
<input type="checkbox"/>	<input type="checkbox"/> Do you know if your company complies with the Tennessee voting leave law? .....	116
<input type="checkbox"/>	<input type="checkbox"/> Is your company required to comply with Tennessee law governing continuation and conversion of group health insurance coverage?.....	120
<input type="checkbox"/>	<input type="checkbox"/> Do you provide a continuing education program to your employees and, if so, do you have a written policy that sets forth the terms for receiving reimbursement? .....	129
<input type="checkbox"/>	<input type="checkbox"/> Does your policy set forth the contents and frequency of performance reviews so that your employees know what is expected of them and how often they will be reviewed? .....	175
<input type="checkbox"/>	<input type="checkbox"/> Is your company covered by Tennessee workers' compensation laws and, if so, are you in compliance with those laws? .....	105
<input type="checkbox"/>	<input type="checkbox"/> Does your promotion policy allow your company the flexibility to select from both outside and internal candidates?.....	129
<input type="checkbox"/>	<input type="checkbox"/> Do you provide payroll advances and, if so, do you have a written policy explaining the conditions and requirements for receiving such advances? .....	192
<input type="checkbox"/>	<input type="checkbox"/> Do you have enough employees to be covered by the WARN Act and, if so, do you realize that a "plant closing" could cover the shut down of just a single "operating" unit within a plant if it involves 50 or more full-time employees? .....	197
<input type="checkbox"/>	<input type="checkbox"/> Do you have enough employees to be covered by Tennessee's plant closing and reduction in operations law and, if so, are you familiar with the law's requirements? .....	198
<input type="checkbox"/>	<input type="checkbox"/> Do you require employees to specifically mention the Family and Medical Leave Act when requesting leave before you place them on leave covered by the FMLA? .....	89
<input type="checkbox"/>	<input type="checkbox"/> Do you require an employee on FMLA leave to exhaust vacation and sick pay benefits first? .....	89
<input type="checkbox"/>	<input type="checkbox"/> Do you require employees seeking FMLA leave to obtain a second opinion whenever there is a question about their "serious health condition?" .....	89

<input type="checkbox"/>	<input type="checkbox"/>	Do you understand how the interrelationship between FMLA, state workers' compensation laws, and the ADA impacts how management and human resources personnel manage employee absences due to illness or injury?.....	104
<input type="checkbox"/>	<input type="checkbox"/>	Do you know the procedure for reinstating a veteran from military leave? .....	114
<input type="checkbox"/>	<input type="checkbox"/>	Do you have a system for sending out COBRA notices within the required time limits?.....	120
<input type="checkbox"/>	<input type="checkbox"/>	Are any of your employees exposed to confidential information and, if so, have those employees signed enforceable confidentiality agreements? .....	201
<input type="checkbox"/>	<input type="checkbox"/>	Do you require upper level management and higher level sales personnel to sign non-competition agreements and, if so, are these agreements enforceable under state law? .....	201
<input type="checkbox"/>	<input type="checkbox"/>	Does your termination policy provide for an exit inter view process that allows dissatisfied employees to discuss their reasons for terminating their employment? .....	235
<input type="checkbox"/>	<input type="checkbox"/>	Does your termination policy require that employees provide reasonable notice of their intent to leave their employment? .....	235
<input type="checkbox"/>	<input type="checkbox"/>	Do you require newly hired employees to sign an acknowledgment that they have read the employee policy manual? .....	247