

7 Questions Employers Should Ask Themselves Every Year

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CurrentsLetterYThis week Y is for year – a good guideline for the longest employers should go without asking themselves these questions to make sure they are taking advantage of opportunities to minimize employee-related liability:

1. Do you have [accurate job descriptions](#), regularly signed off on by the employees, that will help you manage and defend ADA, wage and hour, and other employment issues and claims?
2. Have you reviewed each employee classified as exempt to ensure proper classification under the Fair Labor Standards Act, including considering any change in duties? If that is too much to swallow, have you at least reviewed the status of each employee making less than \$75,000? (NOT a statutory threshold certainly, but risk of misclassification is lower at higher salary levels.)
3. Have you reviewed each worker treated as an independent contractor to ensure he/she should not be [treated as an employee](#)? If that is too much to swallow, have you at least reviewed the status of each worker added an independent contractor in the previous year – especially any reclassified from employee to contractor (not necessarily wrong, but certainly a change to undertake very carefully)?
4. If you are using electronic signatures, have you considered each use of them – especially new ones – and ensured that you can PROVE that signatures obtained in the last year (or longer if you haven't looked) can be [proven in court](#)?
5. Have you audited your noncompete agreements to confirm that you HAVE signed copies of any that you might care to enforce someday?
6. If you have confidential information (and certainly you do), have you taken steps to reaffirm confidentiality with employees to maximize your ability to protect that information (e.g. an annual affirmation) and that access to such information is on a strict need to know basis?
7. Has every employee had at least one hour of training on [preventing harassment](#) and using electronic communications intelligently, and have you documented that they have?

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Employers that can answer yes to all seven of these questions are on top of their game and likely doing much better avoiding and winning claims than employers who are not. What would you add to this list?

