

Human Resources Compliance Review Program

Gray Plant Mooty is pleased to offer an affordable proactive approach to managing employer risk. Our approach to compliance reviews combines our legal expertise and perspective with a practical business viewpoint. We candidly review the strengths and weaknesses of your current practices and policies, identify any risk areas, and provide constructive recommendations.

Each compliance review in our series is offered at a customized flat rate. To learn more about our offerings, read about each review below.

WAGE & COMPLIANCE REVIEW

LABOR LAW REVIEW

EXECUTIVE COMPENSATION REVIEW

INDEPENDENT CONTRACTOR COMPLIANCE REVIEW

SOCIAL MEDIA & TECHNOLOGY RISK REVIEW

401(K) REVIEW

1-9 COMPLIANCE REVIEW

INTERNSHIPS REVIEW

BACKGROUND CHECKS/APPLICATION SCREENING REVIEW

RETIREMENT PLAN GOVERNANCE REVIEW

GROUP HEALTH PLANS REVIEW

WAGE & HOUR COMPLIANCE REVIEW

We are pleased to offer an affordable proactive approach to managing employer risk.

The federal Fair Labor Standards Act and its state law counterpart prescribe standards for minimum wage and overtime pay for employers in Minnesota. Compliance with these laws has become a key focus area of the Department of Labor and plaintiffs' attorneys. Seemingly minor infractions can result in severe penalties for those employers found to be non-compliant with the law.

Learn more about [Wage & Hour Compliance Review](#)

LABOR LAW REVIEW

Our approach to compliance reviews combines our legal expertise and perspective with a practical business viewpoint.

Although private sector unionization rates are down, organized labor is aggressively trying to turn that trend around. Employees tend to be most receptive to unions when there is distrust of management. Lack of management responsiveness or communication, and issues with personal safety, job stability, disrespectful treatment by supervisors, or the company's complaint process can unite employees against their employer as much or more than dissatisfaction with wages and benefits. By the time employees start to talk about wanting a union, it may be too late to prevent unionization, as the National Labor Relations Act (NLRA) severely restricts employer activity in the context of employee organizational efforts. Moreover, defending against a union's organizational campaign is, in itself, very time-consuming and expensive.

The key to avoiding the high costs of unionization and union organizing efforts is to detect and address employee concerns early and often.

This review would benefit:

- Employers who have not recently updated their policies for Labor Law compliance
- Employers interested in union avoidance
- Employers who have had union organization activity
- Employers who wish to enhance work force relations or have concerns in this area

Learn more about [Labor Law Review](#)

EXECUTIVE COMPENSATION REVIEW

We candidly review the strengths and weaknesses of your current practices and policies, identify any risk areas, and provide constructive recommendations.

Executive compensation programs are subject to complex requirements under the tax laws and, in some cases, the Employee Retirement Income Security Act of 1974 (ERISA). To comply with these laws, these programs must satisfy a variety of requirements in both form and operation. Because violations of these rules can result in severe tax consequences to both employers and employees, they should be promptly identified and corrected as appropriate.

This review would benefit:

- Employers that have or are considering adopting severance agreements, employment agreements with deferred compensation, or any other nonqualified deferred compensation arrangements
- Employers with the above agreements and arrangements that have not been reviewed by tax counsel in recent years

Learn more about [Executive Compensation Review](#)

INDEPENDENT CONTRACTOR COMPLIANCE REVIEW

The laws and regulations that impact and govern the relationship between employer and employee are complex and we are here to help you review the strengths and weaknesses of your current practices and policies.

The laws and regulations that impact and govern the relationship between employer and employee are complex. Improper misclassification of workers under various federal and state laws can lead to costly litigation and administrative penalties. In 2011, the federal government has dedicated significant dollars and manpower to administrative efforts to investigate and penalize employers who improperly label workers as independent contractors. Employers who fail to address these issues may be at risk.

Learn more about [Independent Contractor Compliance Review](#)

SOCIAL MEDIA & TECHNOLOGY RISK REVIEW

This review is a broad-based evaluation of your company's policies and practices involving technology and social media and your company's vulnerability to associated legal risks.

The law related to these issues in the workplace is complex and evolving. When managing the risks associated with technology and social media, employers must balance the company's needs with employees' rights under privacy, discrimination, anti-retaliation, labor, wage and hour, and other laws.

The rapid growth and extensive reach of technology and of social media sites like Facebook, Twitter, and YouTube, has forever changed the way people communicate in and outside of work. The use of technology by employees has many advantages, but also comes with risks. Companies need to be mindful about a wide variety of potential risks and rewards associated with social media and technology.

This review would benefit:

- Employers interested in maintaining current and lawful technology or social media policies
- Employers concerned about protecting and preserving electronic data and intellectual property
- Employers concerned about inappropriate online activity by employees
- Employers interested in lawfully using technology to recruit applicants or manage current employees

Learn more about [Social Media & Technology Risk Review](#)

401(K) REVIEW

This review is informed by our experience with IRS 401(k) audits and will provide a focus on those areas that are most likely to result in significant liability.

The IRS has a renewed focus on 401(k) plan documentary and operational compliance and the risk of penalties from 401(k) plan errors has only grown. There are correction programs that permit plan sponsors to avoid IRS penalties by correcting plan errors when they are discovered, but a plan sponsor can't correct an error that hasn't yet been found.

This compliance review would particularly benefit employers with 401(k) plans who:

- Allow participants to direct the investment of their accounts
- Permit hardship withdrawals or participant loans from the plan
- Are involved in reviewing or processing qualified domestic relations order in divorce situations
- Are not sure they are in full compliance with the new Labor Department fee disclosure rules
- May not have adopted all of the required amendments to comply with the Pension Protection Act of 2006; the Worker, Retiree, and Employer Recovery Act of 2008; and the Heroes Earning Assistance and Relief Tax Act of 2008

Learn more about [401\(k\) Plan Review](#)

I-9 COMPLIANCE REVIEW

The laws and regulations that impact immigration policies for employers are growing in complexity and we are here to help.

The laws and regulations that impact immigration policies for employers are growing in complexity. The U.S. Immigration and Customs Enforcement Agency (ICE) notified 1,000 employers that it plans to inspect their I-9 records multiple times in 2011. The Notices of Intent to Audit (NOI) that were issued on June 15, 2011, bring the total number of companies audited by ICE to more than 2,300 for this fiscal year, which already surpasses last year's record of 2,196.

The review would benefit:

- Employers who want to be prepared for a potential I-9 audit by the government
- Employers conducting internal due diligence to prepare for a merger or acquisition

Learn more about [I-9 Compliance Review](#)

INTERNSHIPS REVIEW

Internship programs can be beneficial to interns and employers alike. But to the unwary employer, these programs may also be a source of potential liability. Let us provide you with our legal expertise.

Internship programs can be beneficial to interns and employers alike. But to the unwary employer, these programs may also be a source of potential liability. Under the Fair Labor Standards Act (FLSA), employers may be required to compensate interns for the services provided. However, determining whether an intern needs to be paid can be confusing, and getting it wrong can lead to costly litigation and administrative penalties.

The review would benefit:

- For-profit employers with unpaid interns
- Non-profit employers with unpaid interns

Learn more about [Internships Review](#)

BACKGROUND CHECKS/APPLICATION SCREENING REVIEW

Criminal background checks have become relatively quick and inexpensive. Consequently, their use by employers in screening applicants continues to proliferate. Let us provide you with our legal expertise.

Criminal background checks have become relatively quick and inexpensive and their use by employers in screening applicants continues to proliferate. Reports estimate that over 90% of employers rely on criminal background checks in making at least some of their hiring decisions. This has resulted in a growing group of ex-offenders who are unable to obtain employment. Because of this growing social epidemic, which statistically has an adverse impact upon minority groups, applicant screening and hiring practices are receiving greater scrutiny.

Learn more about [Background Checks / Application Screening Review](#)

RETIREMENT PLAN GOVERNANCE REVIEW

Just as you need a regular physical to make sure everything is in working order, your retirement plan could likely use a check-up too. Let our expertise help you.

Federal law holds employers who sponsor retirement plans to high fiduciary standards in the administration of their plans. High fiduciary standards apply when determining benefits, supervising vendors that provide day-to-day administration, selecting and monitoring investment offerings under a 401(k) plan and monitoring investment advisors or managers under all types of plans. Solid plan governance procedures are one of the best protections against breach of fiduciary duty claims.

This program is recommended for all retirement plan sponsors.

- All retirement plans need clear lines of authority for dealing with plan amendments, investment decisions, benefit claims and a wide range of fiduciary decisions
- Special considerations apply for publically held companies and plans that hold employer stock, whether public or private
- Special attention needs to be given to plan governance documentation that is likely to be requested by the Department of Labor if the plan is subject to a Department of Labor audit.

Learn more about [Retirement Plan Governance Review](#)

GROUP HEALTH PLANS REVIEW

Our approach to Group Health Plans combines our legal expertise and perspective with a practical business viewpoint.

Federal law imposes many requirements on group health plans—privacy, portability, and continuation coverage, to name just a few—and health care reform has been adding new requirements each year. Missteps can be expensive in court, the Department of Health and Human Services is stepping up HIPAA audits, and new breach notification requirements have led to some record penalties. In addition, Health Care Reform compliance and strategies can provide planning opportunities for employers.

This compliance review would benefit employers who have questions about their health and welfare benefit programs—for example, employers who:

- Wonder which Health Care Reform requirements apply to them
- Worry about whether their HIPAA training or COBRA compliance are up to date
- Wish they understood the documents that their health insurance carriers, third party administrators, and brokers provide to them

Learn more about [Group Health Plans Review](#)