

SO YOU WANT TO BE THE BOSS:



A Step-by-Step Guide to Hiring Your First Employee

LETTER

SO YOU WANT TO BE THE BOSS



Dear Entrepreneur,

First, congratulations on achieving your dream of becoming your own boss!

If you are reading this, you have likely achieved a measure of success with your business and are contemplating hiring your first employee to help you get to the next level.

At ComplyRight, we know the hiring process can be complex, and we want to help simplify it for you – so you can get it right the first time. This e-book will help you determine whether you are truly ready to hire and will walk you through every step, from recruiting and interviewing to complying with tax and employment laws. Our goal is to remove the obstacle of ‘not knowing what to do’ so you can get on with what’s important: adding productive employees who can help you grow your business.

If you still have questions after reading this guide, fear not: SCORE mentors stand by ready to help you. SCORE offers the nation’s largest network of volunteer business mentors available in person and online to answer your questions and help guide you to success – free of charge. Founded in 1964, SCORE counselors have assisted more than 11 million entrepreneurs start, build, expand and protect their small businesses.

Through a partnership with the SCORE Foundation, ComplyRight provides online workshops and other educational resources (such as this e-book) to help entrepreneurs like you understand your obligations – and your rights – as an employer. At ComplyRight, our mission is to free you from employee-related compliance burdens, so you can focus on your customers and your business. From mandatory labor law postings, to time and attendance tracking tools and more, our market-leading products are guaranteed to be 100% compliant with federal and state (and increasingly, local) employment laws. Our solutions are designed for small businesses like yours, so you don’t have to be an HR expert or have one on staff to use them.

Together with SCORE, ComplyRight wants to make it easier for you to live your dream. We look forward to providing the information, guidance and tools you need to manage employee tasks effectively and helping you succeed along the way.

All the best,

Susan Drenning

President

ComplyRight, Inc.

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PART 1

BEFORE YOU HIRE

Your “solopreneur” business has taken off, and you’ve achieved your dream of being your own boss. Congratulations! But now are you ready to be someone else’s boss?

Most self-employed entrepreneurs reach a point when, even with the help of freelancers or outside contractors, they have more business than they can handle. At this stage, the only way to keep growing—and growing more profitable—is to hire employees.

This guide will help you decide whether you need to hire and explain every step to doing so—from recruiting and interviewing job candidates to complying with employment law and tax regulations. When you’re done, you’ll be all set to bring your first employee on board.

SMART TIP

LEARN TO LEAD

If you don’t have previous management experience, you can learn by reading up on best practices, attending a workshop or taking a class on the subject. SCORE mentors can recommend resources to improve your management skills. Visit www.score.org to learn more.



STEP 1: Make Sure You’re Ready

Understand What’s Involved

- **Financial investment:** Hiring an employee means new expenses, and depending on the role you’re hiring for, you may not see a return on that investment right away. It’s important to make sure you can afford the financial hit in the short run and that the position will pay for itself in the long run.
- **Time investment:** It takes time to recruit job candidates, interview them and decide whom to hire. Once the employee is on staff, you’ll invest more time onboarding and training him or her. In addition, hiring an employee requires an ongoing time commitment to supervise and manage the worker, maintain records and handle all the necessary administrative tasks the law requires of employers.

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BEFORE YOU HIRE

ARE YOU
TURNING
DOWN
WORK
BECAUSE
YOU DON'T
HAVE
ENOUGH
TIME?

- **People management:** As a “solopreneur,” the only person you have to motivate and manage is yourself. But as an employer, you’ll need good communication and management skills to keep your employee engaged and motivated. You’ll also need the courage to confront problems, discipline and even terminate an employee if he or she doesn’t meet expectations.

Decide Whether the Timing Is Right

Can you afford to hire right now?

- Remember to consider all costs involved in hiring—not just the employee’s wages, but also the cost of placing job listings, purchasing new equipment and furnishings for the employee and providing extra work space, insurance and taxes.
- Unless you’re hiring an experienced employee who can generate income immediately, expect to dip into your profits in the short run until the new worker gets up to speed.

Is there enough steady work to support an employee?

- If you’re still spending a lot of your time drumming up business, or your company goes through frequent “dry spells,” you’re probably not ready to take on the commitment of hiring an employee. After all, do you want to hire someone and then have to lay him or her off?
- Are new customers finding you without much effort? Are you starting to miss deadlines because you’re so busy? Are you turning down work because you don’t have enough time? These are all good signs that you are ready to hire.
- Do you have ideas for developing and launching new products or services but you’re too busy to make time for them? Bringing on an employee may be the only way to make these ideas reality.

Are additional skills needed to run your business effectively?

- Are you spending too much time on tasks that aren’t your strong suit or administrative tasks that don’t bring in money? Consider hiring someone to take on those duties so you can focus on what you’re good at—and what brings in the profits.
- Are your customers asking for services you don’t have the skills to deliver? Hiring someone whose expertise complements your own will help you take advantage of the demand.

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BEFORE YOU HIRE

- Do you hate selling? Sales skill is so important to a growing business that, if you aren't good at it, it's time to hire a salesperson. Or maybe you're great at selling, but not so good at execution. Hire someone to handle that side of the business while you sell, sell, sell.

Do you have the cash flow to support an employee?

- Just because you have a lot of customers doesn't mean you have enough cash flow to hire. Cash flow refers to the timing of when your business expenses hit vs. when your receivables come in. Poor cash flow is the number one reason new businesses fail. Even if you're doing well on paper, poor cash flow can make it difficult to afford an employee.
- Why? Adding an employee means cutting a paycheck every week or two, regardless of when your customers pay you. Before committing to hiring an employee, make sure you're in a position to meet payroll without fail.



If the signs are there, don't wait too long to act!

- If you're so busy that you're missing deadlines, not returning calls from prospects and customers, or falling behind on essential administrative tasks such as invoicing, you could lose revenue and damage your reputation.
- Without employees, you could be stretched so thin that you miss out on a big opportunity to grow your business, such as taking on a major customer or introducing a new product or service your current customers need.
- Hiring in a hurry leads to poor decisions. Start the hiring process early enough that you have time to find the best candidate for the job before you're desperate.

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BEFORE YOU HIRE

EXEMPT VS. NONEXEMPT EMPLOYEES

“Exempt” employees are exempt from both [minimum wage](#) and [overtime pay](#) requirements. The FLSA defines the white collar exemptions as employees in executive, administrative, professional and outside sales roles, as well as certain computer employees. They must also meet certain tests regarding their job duties, be paid a salary of at least \$913 a week (\$47,476 a year), and meet all other Department of Labor requirements for exemption. Visit the [Department of Labor](#) to learn more about specific exemptions.



STEP 2: Know Your Legal Obligations

Learn the Basics of Federal Employment Laws

Fair Labor Standards Act (FLSA)

The FLSA establishes standards that employers must follow regarding minimum wage, overtime pay, recordkeeping and employees under age 18. These include:

- **Federal minimum wage:** The federal minimum wage for non-exempt (“hourly”) workers is currently \$7.25 an hour. However, your state may have a separate minimum wage law. If your employees are subject to both state and federal minimum wage laws, you must pay the higher rate. Be sure to check with your [state labor department](#) for details.
- **Overtime pay:** Nonexempt employees who work over 40 hours a week must receive overtime pay of at least 1.5 times their regular pay rate for the additional hours. Just as with minimum wage laws, if your state’s overtime laws differ from the federal laws, you must comply with the law that is more advantageous to the employee.
- **Recordkeeping:** You must maintain employee time and pay records and display an official FLSA poster in the workplace outlining FLSA rules.
- **Child labor:** If you plan to hire workers under age 18, review the FLSA rules regarding [child labor](#) to make sure you are in compliance.

Visit the Department of Labor website for more information about [the FLSA](#).

Federal discrimination laws

Federal discrimination laws prohibit discrimination in all stages of employment, including job advertisements, testing, hiring and compensation. These laws include:

- **The Americans with Disabilities Act (ADA)** prohibits employment discrimination against people with disabilities and guarantees equal employment opportunities for disabled individuals.
- **The Age Discrimination in Employment Act (ADEA)** protects people age 40 or older from employment discrimination based on age.

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BEFORE YOU HIRE

- **The Equal Pay Act** prohibits discrimination on the basis of gender in paying wages or benefits, as long as men and women perform work requiring similar skill, effort and responsibility under similar working conditions.
- **Title VII of the Civil Rights Act of 1964** prohibits employment discrimination based on race, color, religion, gender or national origin, as well as harassment based on these factors. As an employer, you should help to prevent harassment in the workplace.
- **The Pregnancy Discrimination Act (PDA) of 1978** prohibits employment discrimination on the basis of pregnancy, childbirth or related medical conditions.

OSHA safety regulations

Regulations issued by the Occupational Safety and Health Administration (OSHA) are meant to protect employees from injury on the job. Specific OSHA regulations vary by industry; if you own a construction company whose employees climb ladders and use power tools, you'll have to comply with more stringent regulations than if you own a tutoring service. However, all businesses must comply with the following general standards:

- Alert employees of hazardous chemicals in the workplace and how to protect themselves
- Develop an Emergency Action Plan for employee safety
- Develop a Fire Prevention Plan
- Develop a plan for emergency exit routes
- Maintain safe walking and working surfaces, such as flooring, stairs, ladders and other places where employees may perform their jobs
- Have medical/first aid supplies appropriate for the nature of the work



OSHA offers lots of resources, guides and training programs to help you create a safe workplace. Visit the [OSHA Small Business center](#) online, review [OSHA's Compliance Assistance Quick Start](#) module and get help from OSHA's free [On-site Consultation Program](#), which provides small businesses free, confidential safety and occupational health advice.

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Look into State Requirements for Employers

- **State employment discrimination laws:** Most states have their own laws prohibiting employment discrimination based on factors such as race, gender, age, marital status, national origin, religion or disability. Learn more about state discrimination laws [here](#).
- **Unemployment taxes:** In addition to federal unemployment taxes (FUTA), you must also withhold and remit state employment taxes from employees' wages. Learn more about your [state's unemployment taxes](#).
- **Workers' compensation insurance:** This insurance protects employees if they are injured on the job by covering their medical costs and lost wages. It also helps protect your business against lawsuits.

Workers' compensation laws are established by each state. In most states, businesses with employees must carry workers' compensation insurance, which you can buy from a commercial insurance company or from your state's Workers' Compensation Insurance program. (Your state's [Workers' Compensation Office](#) can provide more information.)

Some states exempt very small businesses from providing workers' compensation unless they have a minimum number of employees (generally three, four or five). Visit your [state Department of Labor website](#) for your state's specific rules and exemptions.

- **Disability insurance:** Disability insurance replaces part of an employee's wages if he or she becomes disabled and can't work due to an illness or injury suffered outside of work.

Five states—California, Hawaii, New Jersey, New York and Rhode Island—and Puerto Rico require employers to provide disability insurance. However, if you're in a very competitive hiring market or industry, you may want to offer disability insurance anyway as a valuable perk to help attract and retain employees.

- **Local regulations:** Contact your local [Small Business Administration](#) (SBA) office for help identifying any other employer regulations in your city or county that affect your business.

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BEFORE YOU HIRE

- **Apply for an Employer Identification Number (EIN):** You can apply for an EIN (also called an Employer Tax ID) [online](#) or fill out [Form SS-4](#) and fax or mail it to the IRS. The EIN application asks basic questions such as your form of business (corporation, LLC, sole proprietorship, etc.), the reason you're applying for an EIN, your name and Social Security number, and your legal business name and address. Have this information at hand when you start the online application, because if you don't finish the application in one session, you'll have to start all over next time.

If you apply online, you'll get your EIN as soon as your information is verified, and can use it right away to open a business bank account, apply for a business license or file a tax return for your business by mail. You'll need to wait up to two weeks after it's issued for your EIN to be entered in the IRS's permanent records. Once that's done, you can file an electronic tax return, make an electronic tax payment and pass the IRS Taxpayer Identification Number matching program. If you apply by mail, you'll wait at least a week to receive your EIN—longer if there is any missing information on your application.

Use the EIN for reporting taxes, correspondence with the IRS, and on documents and correspondence as required by your state.



STEP 3: Define the Role and Pay Range

Decide What Your New Employee Will Do

- **Ask yourself which tasks you want to offload first.** Sales? Customer service? Accounting or administrative work? Use the worksheet “What Kind of Employee Do I Need?” on page 10 to figure out what duties you should delegate.
- **Don't expect to find a jack-of-all-trades.** If you're looking for an employee who can do everything, you're sure to be disappointed. Instead, search for someone with a specific skill set who can take over tasks you aren't good at or don't want to do.

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BEFORE YOU HIRE

- **Decide whether you want to move quickly or slowly when it comes to hiring:**
 - ✓ Do you want to take a cautious approach? If so, start by adding administrative support, such as an employee to answer calls and emails, process invoices and do simple bookkeeping.
 - ✓ If your business is growing rapidly, you probably need multiple employees with specialized skills, such as a salesperson or marketing specialist.
- **Consider starting with part-time to ease into this new expense:**

Your needs, your budget and your approach to hiring will determine whether hiring a part-time or full-time employee is better for your business.
- **Write a detailed job description:** This should include the specific responsibilities of the job, the day-to-day tasks, any required skills or work experience, desirable traits (for example, detail orientation for an administrative role, networking skills for a salesperson or creativity for a marketing assistant). Search for similar job descriptions online to get ideas of what to include. Use the “Job Analysis Worksheet” on page 12 to develop your job description.

Establish the Pay Range

Start by looking online for similar job postings that list pay rates.

- Use online salary sites such as [PayScale](#), [Salary.com](#) and [Indeed.com](#). You can search salaries by job title, location and other factors to see the current averages and trends.
- Consult with other business owners who hire for similar positions. They may be willing to share this information if they aren't directly competitive with your business.
- Check whether your industry trade association has information about wage benchmarks for typical jobs in your industry.
- Make sure to take your location into account, because the local cost of living affects how much you need to pay. You can expect to pay more for a bookkeeper in New York City than in Omaha.

PART 1

BEFORE YOU HIRE

BONUS ROUND

Want to attract motivated candidates? Consider offering employees bonuses if they reach goals you set for them. For instance, a salesperson who exceeds the quota might be eligible for a bonus on top of salary and commission.

Decide what benefits to offer.

Benefits help attract and retain quality employees. If your benefits are good enough, they can even make a low-paying job attractive. You can offer benefits in conjunction with any type of pay, whether hourly, salaried or commission.

- Most small businesses start by offering employees some paid time off. For example, it's common to offer major national holidays off (unless your business operates on holidays, such as in healthcare or hospitality), plus at least one week of sick time/personal time to be taken as needed.
- You may need to offer additional benefits if the position you are hiring for is especially competitive in your market. The most popular benefits are health insurance and retirement savings plans such as a 401(k). Other benefits to consider include life insurance and disability insurance (if your state doesn't already require it).
- "Soft" benefits, such as flexible work hours, the ability to work from home and other perks, are very attractive to some applicants. For small business owners on a budget, these can be a smart alternative or addition to paid benefits.
- When deciding what types of benefits to offer, consider your budget and the kinds of employees you're likely to hire as your business grows. For instance, employees with families may prefer life insurance, while single employees may be more attracted by flexible hours.
- Do benefits sound too expensive? Be sure to weigh the costs of offering benefits against the potential return. The more benefits you offer, the better the quality of employees you will attract, and the more loyal they will be.
- Make sure your benefits plan complies with [federal regulations](#). Are you hiring part-time workers? Laws regarding benefits payments for part-time employees vary from state to state. Check with your state department of labor to be sure you're in compliance.



PART 1

BEFORE YOU HIRE

WORKSHEET

What Kind of Employee Do I Need?

Before hiring, you need to determine what type of employee could best benefit your business. Use this worksheet to decide which tasks in your business might be suited to an employee.

In Column 1: List all the duties you currently perform for your business.

In Column 2: Put a check mark next to the duties from Column 1 that you frequently neglect because you lack the time or skill to do them.

In Column 3: Rank the importance of each duty to your business growth on a scale of 1-5, where 1= not important 2= somewhat important 3= important 4= very important 5= critical.

In Column 4: Rank your skill level for each duty as weak, adequate or strong.

In Column 5: Write "Y" or "N" to indicate whether that duty can be delegated.

Review your completed worksheet and it will be easy to see the duties you frequently neglect, aren't very good at and could delegate to a new employee.

1	2	3	4	5
DUTY	NEGLECTED	IMPORTANCE	MY SKILL LEVEL	CAN BE DELEGATED
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

PART 1

BEFORE YOU HIRE

WORKSHEET

Job Analysis Worksheet

Job Title
Job Responsibilities (Define the overall goals of the job, such as "Provide administrative and bookkeeping support for the CEO.")
Duties (List the day-to-day tasks involved in the job responsibilities, such as answering phone calls or creating invoices.)
Required Education/Training (If the job requires professional certifications, degrees or special training, indicate them here.)
Required/Preferred Experience (What previous job experience is required or preferred?)
Required/Preferred Skills (This could include specific skills such as using Excel or QuickBooks, or general skills such as being able to type.)
Required/Preferred Personality Traits (What personality traits will help the person do this job better? Confidence for a salesperson or detail orientation for a bookkeeper are examples.)
Physical Requirements (Does the job require physical abilities such as being able to lift a certain amount or stand for 8 hours a day?)
Other (Note any other requirements of the job, such as frequent travel, working nights or working weekends.)
Wages (Setting a minimum and maximum wage or salary range, rather than a firm amount, gives you more flexibility when negotiating with candidates.)

PART 2

THE HIRING PROCESS

SMART TIP

IS YOUR JOB APPLICATION LEGAL?

What you can and cannot legally ask on a job application varies from state to state, so it's important to use a job application that complies with your state's legal requirements. For example, many states, cities and counties have enacted "ban the box" legislation that prohibits asking, "Have you ever been convicted of a crime?" on a job application. The goal is to level the playing field for job applicants with criminal records during the application stage. (You can still ask about criminal history at a later stage of the hiring process as specified by your state). Learn more about "ban the box" and job applications [here](#).



STEP 5: Screen Candidates Thoroughly — and Legally

Pre-Screen Candidates

- Go through the resumes and cover letters you receive from your job listing. Review them against the job description you created. Remove those who clearly don't meet your requirements, and follow up on those who do.
- Contact the qualified candidates and have them fill out a [job application](#). Review the completed applications and weed out candidates who don't fit your criteria.
- Conduct a remote interview. If you still have a lot of applicants at this point, consider pre-interviewing them by phone or using a videoconferencing app such as Skype. This will help narrow down the best candidates to a reasonable number for in-person interviews.

Conduct an In-Person Interview

- **Be prepared.** Don't wing it during an interview. Before the interview, review the candidate's resume, job application and any other relevant information. Plan your questions in advance. Set aside plenty of time for the interview so you can devote full attention to each job candidate.
- **Be consistent.** To fairly evaluate the candidates, ask everyone the same general questions. This also protects you in case there is ever a question of discriminatory hiring. Use the "Job Interview Worksheet" on pages 15 - 16 to develop a standard set of questions.
- **Open up.** Encourage the applicant to start talking by asking open-ended questions rather than "yes or no" questions. For example, instead of "Did you enjoy your last job?" ask, "What did you enjoy most about your last job?"
- **Take time to listen.** It's natural to be nervous when interviewing a job applicant, and many people start talking a lot when they're nervous. You'll get a better idea of the candidate's personality, aptitude and experience if you keep still and listen more than you talk.

PART 2

THE HIRING PROCESS

SMART TIP

RED FLAGS

Watch for warning signs.

Does the candidate complain a lot about former employers?

Does he blame everyone else for his problems? Does she seem bored during the interview? Did she show up 20 minutes late?

Job candidates can tell you quite a lot without saying a word.

- **Encourage questions.** When you're done with your questions, give the job candidates a chance to ask questions of their own. A good candidate will ask questions that indicate an interest in the job, a desire to work for your business and ideas for improving your company. Their focus is on what they can bring to your business. Be more skeptical of candidates who ask questions about what benefits you offer or how soon he or she can get promoted. Their focus is on what they can get from your business.

- **Know what not to ask.** Various federal and state laws prohibit asking pre-employment questions whose answers might be used to discriminate against applicants. See "To Ask or Not to Ask During the Interview" on page 17 for more guidance.

- **Create an interview assessment form.** Using your list of interview questions, create a standard assessment form you can use to take notes about each job candidate during and after the interview. Before the interview, let the candidates know you will be taking notes while they talk—and keep the notes confidential.



PART 2

THE HIRING PROCESS

WORKSHEET

Job Interview Worksheet

Following are general areas to cover in a job interview. Use this worksheet to develop a list of questions you'll ask each candidate for the job.

CATEGORY	QUESTIONS
Job experience	1. 2. 3.
Job skills	1. 2. 3.
Education	1. 2. 3.
Training/certifications	1. 2. 3.
Time-management skills	1. 2. 3.
Managerial skills	1. 2. 3.
People skills	1. 2. 3.

PART 2

THE HIRING PROCESS

WORKSHEET

Job Interview Worksheet (Continued)

CATEGORY	QUESTIONS
Problem-solving skills	1. 2. 3.
Job accomplishments	1. 2. 3.
Strengths/weaknesses	1. 2. 3.
Interest in your company	1. 2. 3.
Attitude	1. 2. 3.
Other	1. 2. 3. 4. 5.

PART 2

THE HIRING PROCESS

DO'S and DON'TS

To Ask or Not to Ask During the Interview

During the pre-employment phase, federal and state laws prohibit employers from asking certain questions that may be construed as discriminatory. Use this chart to make sure you phrase your questions appropriately. *If you're in doubt as to whether a question is prohibited, visit the [Equal Employment Opportunity Commission \(EEOC\) website](#) for detailed guidance.*

DON'T ASK:	DO ASK:
<p>How old are you? <i>Inquiring about age could be used as evidence of age discrimination under federal and/or state laws.</i></p>	Are you of legal age to serve alcohol? (If pertaining to the job.)
<p>Are you a U.S. citizen? <i>Inquiring about a person's citizenship status could lead to national origin discrimination claims under federal, state and local law. Once you hire a candidate, the mandatory Form I-9 will establish his/her eligibility to work in the USA, which is not necessarily a matter of citizenship.</i> <i>After hiring a candidate, you'll need them to fill out an employment eligibility verification I-9 document.</i></p>	Are you authorized to work in the United States?
<p>Are you married? Do you have children? Are you pregnant? Are you planning to get pregnant? <i>Asking questions regarding family or marital status could violate state or local discrimination laws. Further, inquiries that reveal family or marital status could be used as evidence of sex discrimination under Title VII of the Civil Rights Act, as these types of questions are frequently used to discriminate against women.</i></p>	<p>Will extensive travel be a problem? Will working late hours be a problem? Will working overtime be a problem?</p>
<p>Do you have any mental or physical disabilities? Are you in good health? <i>The Americans With Disabilities Act prohibits asking about or rejecting a job candidate due to mental or physical disabilities, health problems or addictions.</i></p>	<p>Can you perform the essential duties required by this job with or without a reasonable accommodation? Are you willing to undergo drug and alcohol testing?</p>
<p>Are there any religious holidays or hours that you can't work? <i>Inquiring about religious holidays could be used as evidence of religious discrimination under federal and/or state laws. All inquiries about scheduling should be neutral and job-related. Further, federal law requires employers to reasonably accommodate an employee's religious beliefs or practices (e.g., flexible scheduling), unless doing so would cause an undue hardship on the business.</i></p>	Can you work all the days and hours required by this job?
<p>What ethnicity are you? What country are you from? What accent is that? <i>The Civil Rights Act of 1964 prohibits asking about race or ethnicity. If you want this information for affirmative action purposes, you can ask job candidates to volunteer it on the job application, but you can't require them to do so.</i></p>	Nothing about race or ethnicity.
<p>How many sick days did you take last year? Were you hospitalized in the last year? <i>Asking about sick time and recent hospitalization is likely to reveal information about a person's health-related conditions in violation of the Americans with Disabilities Act. Under the law, employers generally cannot ask disability-related questions or require medical examinations until after an applicant has been given a conditional job offer.</i></p>	Are you able to meet the attendance requirements of this job?

PART 2

THE HIRING PROCESS

SMART TIP

PLAY FAIR

Whether you are conducting a personality test, aptitude test, skills test or drug test, you must require all job candidates to get through the same testing or you could be accused of discrimination. Also check state laws, as some states may require you to get written permission from applicants before testing. Check with your state's labor department or an employment law attorney.

Conduct Additional Screenings if Necessary

Are you still unsure whether a candidate is right for the job? Depending on your budget, the job duties and the position's potential value to your business, you may want to conduct additional tests.

- **Personality test:** A [personality test](#) can provide more objective information to help make your hiring decision. Be sure to choose a personality test designed for pre-employment screening. General personality tests may include questions that don't comply with federal laws, which could become grounds for a lawsuit.
- **Skill tests:** [Skill tests](#) can help determine if a candidate has the right skills for the job. Be sure to select the appropriate skill or test for the type of position you're filling. For example, if you're hiring an administrative assistant, conduct a clerical skills test. If you're hiring a sales representative, administer a sales skills test. A grammar test would help in hiring a marketing communications manager who handles blog posts and press releases, but not an engineering or warehouse job applicant.
- **Aptitude tests:** Round out your pre-employment testing with professionally created [aptitude tests](#) that identify applicants with the qualifications to get the job done. The proper aptitude test will accurately and objectively reveal effective problem solvers, top performers and quick learners, while eliminating those who lack the thinking and reasoning skills needed to succeed in the workplace.



Check References

- To verify information and get more insight into candidates, always ask for at least three references from former employers. If you're hiring an entry-level employee who hasn't had three previous jobs, get references from people he or she has worked with in a volunteer capacity, teachers or professors—not from friends or family members. Make sure you use a job application that has a field for applicants to explicitly grant you permission to contact their references.

PART 2

THE HIRING PROCESS

- Call each of the references—but be careful. Just as with a job interview, any questions you ask a reference about a job candidate must directly relate to the job duties, performance of the previous job, information the candidate provided on the application or information you learned during the interview process. You cannot ask for personal information about the candidate, such as age, marital status, ethnicity, health or anything not directly related to the candidate’s ability to perform the job.
- Ask to speak to the person who directly supervised the job candidate at his or her past job. That person will know more than the HR department, and may be more willing to talk.
- For legal reasons, many employer references will disclose only the bare-bones information about a former employee, such as the dates of employment and the job title. However, you can often get a sense of how good the worker was by listening to tone of voice, pauses and other signals. Try to ask open-ended questions like, “What type of work ethic does (name) have?” to get the reference talking. If the reference won’t answer this type of question, you can still get useful information by asking objective, “yes or no” questions such as, “Is (name) eligible for rehire by your company?” or “Did (name) have any problems with absenteeism or lateness?”

Consider Conducting a Background Check

- Depending on the nature of the job you are hiring for, you may want to conduct a background check of top candidates before making a job offer. For example, if the new employee will be driving on the job, handling money, doing your company’s bookkeeping, working with sensitive data such as customers’ financial information, or working on your business’s computers, a background check is a wise move.
- Background-checking companies confirm information the job candidate stated on the resume and employment application, such as previous employment, job titles, hiring and termination dates, and education or credentials. They may also do a search to confirm the person’s Social Security number and uncover additional information, such as past workers’ compensation claims, criminal records, motor vehicle records, bankruptcy records and credit history.



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THE HIRING PROCESS

- To make sure you're complying with both state and federal regulations, use a background-check company that is familiar with what is permitted in your state. When using a third-party company to conduct a background check, federal law requires you to obtain written consent from the job applicant. If you decide not to hire a candidate as a result of the background check, you must give the applicant written notice and offer him or her a chance to dispute the information the background check revealed.



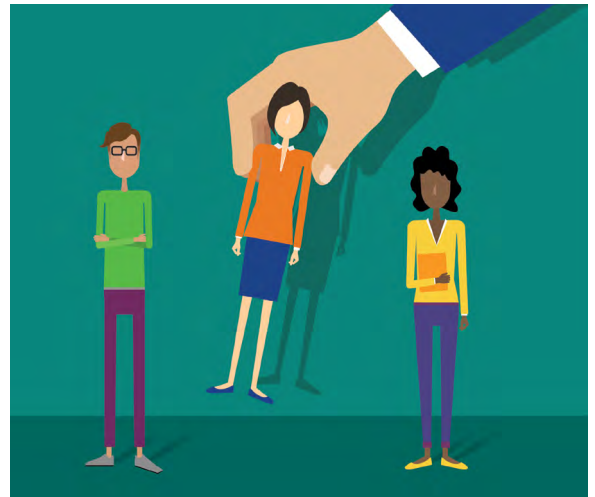
STEP 6: Make the Job Offer

Put Together All the Details

- List the salary or hourly wage, the date you want the employee to start working for you, and what benefits he or she will receive.
- Call the candidate to make the offer. Though some candidates may be delighted and accept on the spot, others may ask for time to “think about it.” Set a deadline for the person to either accept or decline so you can move on to other candidates quickly, if necessary. In most cases, 48 hours should be enough time.
- If you don't hear back from your chosen candidate by the deadline, call again to follow up. However, don't wait too long to get an answer or you may lose out on other qualified candidates.

Create an Offer Letter

Your chosen candidate accepted your offer! Now it's time to create an offer letter that lays out the details of the job offer so both you and your new employee are on the same page. Your offer letter doesn't need to be overly formal; it's more important that it be clear and complete. Every offer letter should include:



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THE HIRING PROCESS

- ✓ A job description, including job title, duties and responsibilities
- ✓ Required hours or schedule
- ✓ Starting date
- ✓ Salary/wages and benefits
- ✓ Next steps for accepting the job offer

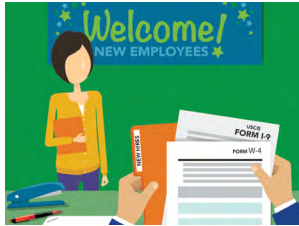
The offer letter can specify that the offer is conditional on the employee's completing certain requirements successfully, such as passing additional tests or undergoing a background check. If you're already satisfied that the employee has passed all your tests, state when you expect to receive a signed offer letter back.

Consider Drug and Alcohol Screening

- **Drug and alcohol screenings** help protect your business from hiring an employee with a substance abuse problem. Such problems have been shown to cause higher absenteeism, higher healthcare costs and a greater risk of lawsuits against the employer.
- Federal law prohibits asking about job candidates' health before a job offer is made, so you can only conduct a drug screening after a potential employee has received a conditional job offer. State in your offer letter that employment is conditional on passing a drug and alcohol test.
- State and local laws about pre-employment drug and alcohol screening vary widely, but most require it to be done by a state-certified laboratory. Companies also must put their drug and alcohol testing policies in writing and obtain consent from job applicants before conducting these tests.
- Along with your offer letter, include a separate written notice and **consent form** for the candidate to sign that includes the details of the drug testing procedure, explains what you are testing for, and releases your business from any legal liability if you decide not to hire the candidate as a result of the test outcome. This notice should also explain what happens if the candidate refuses to take the drug test (*Will the job offer be rescinded?*) or if the results come back positive (*Will the candidate have a chance to take the test again, or explain the reason for the positive results?*).
- If you conduct pre-employment drug screening for one job candidate, you must require it for all candidates or you could be accused of discrimination.

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THE HIRING PROCESS



STEP 7: Complete the Required Paperwork

Verify Employee Eligibility

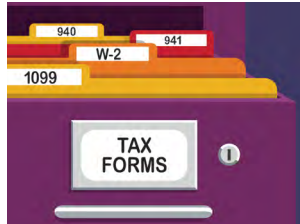
- Under federal law, you must verify an employee's eligibility to work in the United States within three days of hiring. To do this, you'll need to complete Form I-9, Employment Eligibility Verification. This form asks you to examine the employee's documents to confirm his or her citizenship or eligibility to work in the United States.
- You can either download Form I-9 at the U.S. Citizenship and Immigration Services website or ensure accurate form completion with the [I-9 Form and Template Set](#).
- Although you don't have to submit Form I-9 to the government, you do need to keep it on file for three years after the employee's hire date or one year after the employee leaves your company, whichever comes later. Maintain all your employees' completed forms in a separate [Form I-9 Folder](#), not in each employee's individual personnel file.

Have the Employee Complete IRS Form W-4, Withholding Allowance Certificate

- Employees use Form W-4 to tell you the number of allowances they want to claim, which affects how much you will withhold from their paychecks. Download this form from the IRS website or use this [downloadable PDF version](#) for an electronic record.

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THE HIRING PROCESS



STEP 8: Set up Payroll and Tax Withholding

Establish a Payroll System

- As an employer, you must withhold part of each employee's wages for taxes and remit the taxes to the appropriate authority. These taxes include:
 - ✓ Federal income tax
 - ✓ Social Security and Medicare tax
 - ✓ State income tax: Not every state collects state income tax. Check [this list of state tax agencies](#) at the Federal Tax Administrator's website for the rules in your state.
- Using a payroll service can simplify payroll and tax withholding. Plenty of payroll services offer rates that are affordable for even the smallest businesses. Payroll services stay abreast of tax law changes, automatically withhold the proper taxes from employees' wages, and even send you reminders when it's time to file your taxes.
- For a detailed explanation of your responsibilities regarding federal employment taxes, read IRS Publication 15, Circular E, [Employer's Tax Guide](#), available on the IRS website.

Set up a Recordkeeping System for Withholding Taxes

- Start off on the right foot by setting up an organized recordkeeping system for your employees' tax information. This will greatly simplify tax time and ensure you are complying with IRS rules. The IRS requires you to keep employment taxes records for at least four years after the taxes were paid. In addition to employees' W-4 forms, you must also keep records of employees' wages and tips (if applicable). State laws about recordkeeping may vary.

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ONGOING RESPONSIBILITIES



STEP 9: Register and Report Your New Hire

Report Your New Employee to the State

- Every state has its own new-hire reporting agency to track down parents who owe child support and aren't paying it. You must report any new hires to this agency within 20 days of hiring. Find your state's new-hire reporting agency at the [Office of Child Support Enforcement](#) website.

Register with Your State Labor Department

- Depending on your state's laws, you may have to pay state unemployment compensation taxes once you hire your first employee. These taxes fund the state's unemployment compensation program for people who are out of work. Learn the laws in your state and how to register at [Business.USA.gov](#).



STEP 10: Display Mandatory Labor Law Information

Prominently Display Labor Law Posters as Required by Law

- Federal laws require any business with at least one employee to post notices with information about labor laws, employer responsibilities and employees' rights where workers can easily see them. In addition, each state has its own requirements for displaying posters. Employers must display both state and federal postings, even if they address the same topic or cover conflicting information.

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SMART TIP

THE EASY WAY

Employers have the option to chase down all of these postings from separate agencies, but the easier solution is to use a reputable [poster service](#) to save you time finding all the posters you need to display.

- When state and federal laws change and governments issue updates to mandatory posters, your business must remove the outdated posters and put up the current ones to remain in compliance. Some 150 new posters are issued every year on the state level alone, and the government does not notify businesses when these changes occur.
- Altogether, there are more than 370 different required federal and state posters, and these posters are issued by some 175 different agencies. In any given state, an employer would have to track the posting regulations issued by nine different agencies to get all the required federal and state posters. The number of required local (city and county) postings is growing, too.
- If you neglect to display all required posters and to ensure they are current at all times, you could be exposed to lawsuits or liable for substantial fines.



STEP 11: File Required IRS Forms

File IRS Form 941 Quarterly

- Form 941, Employer's Quarterly Federal Tax Return, is used to report income taxes, Social Security tax and Medicare tax withheld from employees' paychecks, as well as the employer's portion of Social Security or Medicare tax. Get more information about Form 941 [here](#).

File IRS Form 940 Each Year

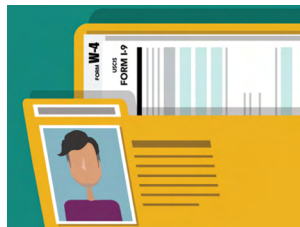
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, is used to report federal unemployment tax for any year in which 1) you paid wages of \$1,500 or more in any quarter or 2) an employee worked for you in any 20 or more weeks of the year. (They don't have to be consecutive weeks.) Get more information about Form 940 [here](#).

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ONGOING RESPONSIBILITIES

File a Form W-2 for Each Employee Each Year

- Use the Form W-2, Wage and Tax Statement, to report to the IRS how much you paid in wages and how much you withheld in taxes for each employee who receives a salary, wage or other form of compensation from your business.
- Give each employee a copy of his or her W-2 by January 31 of the year following the reporting period. Starting in 2017, the due date for filing 2016 Form W-2 with the [Social Security Administration](#) is also January 31. Get more information about [Form W-2](#) at the IRS website. For the fastest and easiest way to deliver and file a W-2, use an [online e-filing service](#).



STEP 12: Maintain Accurate Employee Records

Set up Three Files for Each Employee

- The [personnel file](#) includes all documents related to the employees' work history, such as:
 - ✓ Hiring documents (job description, cover letter/resume, job application, interview notes, offer letter)
 - ✓ Performance (records of promotions/demotions, performance reviews, disciplinary actions/warnings, awards or commendations)
 - ✓ Separation records (termination paperwork, letters of resignation and exit interview notes.) If an employee leaves your company—either voluntarily or due to disciplinary problems—you'll also need to document the termination (by keeping termination paperwork, letters of resignation and exit interview notes in this file.)
- The [payroll file](#) should include all documents related to the employee's wages, such as:
 - ✓ Documentation of salary, bonuses, benefits and other types of compensation
 - ✓ W-4 and W-2 forms
 - ✓ [Time and attendance records](#), including vacation days, personal days, sick days, etc.
 - ✓ Authorization for any payroll deductions or direct deposits

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ONGOING RESPONSIBILITIES

SMART TIP

PUT IT IN WRITING

As you start to establish policies for your employees, such as time off, pay policies and benefits, jot them down. As your business grows, you'll eventually create an employee handbook that includes these and other policies such as workplace safety, disciplinary standards, cybersecurity policies, and nondisclosure and noncompete agreements. You can use [employee handbook software](#) to develop a handbook easily and affordably.

- You may also need to keep a separate [medical file](#) for documents related to employees' health issues, which must be kept private.

For example:

- ✓ Doctors' notes excusing absenteeism or lateness
- ✓ Reports of on-the-job accidents or injuries and/or workers' compensation benefits
- ✓ Applications for health insurance, life insurance and any other benefits for which medical information is needed



Recordkeeping Time Limits

- In general, employment records must be maintained for one year from the employee's termination date. This is a requirement from the Equal Employment Opportunity Commission (EEOC). If any employee brings EEOC charges against you, you'll need access to these files until a resolution or decision has been reached.
- Resumes and job applications, even for individuals you don't hire, must be held for up to two years. The Civil Rights Act of 1964 and the Americans with Disabilities Act stipulate that you keep these forms for one year; however, the Age Discrimination in Employment Act indicates that for applicants over 40, applications and resumes must be kept for two years. It may be easier to just maintain these files for two years for all applicants and employees. Should an employee or applicant bring a discrimination charge against your business, you must retain these files until a resolution or decision has been reached, even if it's been over two years.
- I-9 forms must be kept for three years after an employee's hire date, or one year after the date his or her employment ends, whichever is later.
- W-4 forms need to be saved for at least four years after the date taxes were due or paid. This is based on federal guidelines under the Social Security Act and the IRS, but your state's laws may vary.

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- Payroll records for nonexempt “hourly” employees should be saved for three years, under the Fair Labor Standards Act (FLSA). These kinds of records include employer copies of pay stubs, proof of overtime wages paid and payroll deductions. Again, state records may vary, so make sure you check your local laws.
- Personnel records related to wages must be stored for two years, per FLSA requirements. Performance reviews or work schedules, for example, should be kept under these requirements, in case you’re called upon to justify a salary.

General Recordkeeping Requirements

- Finding the best way to classify and organize paperwork takes time, so you need to analyze your needs. If you’re a small, single-site business, it might be easiest to manage files by individual employees or by form type, like storing I-9 forms for all employees together. If your company is larger or has multiple locations, it may make more sense to break it down by department or office location instead.
- Regardless of whether you use paper or digital files, consistency is the key to efficient, effective recordkeeping. Once you find the right organizational structure for your company’s recordkeeping, make sure all paperwork is handled in a similar manner. For example, if your hiring forms are sorted by department, don’t start filing health forms by employee names. Keep the same system across all types of records.
- Every piece of paper you handle should be stored in a labeled folder, even if it’s a folder labeled “Random Forms.” Folders prevent these papers from getting lost in the shuffle or crammed into a corner of your filing cabinet. Labeled folders help you save valuable time searching for forms, too. For electronic files, make sure your file folders have accurate, consistent names. Use the checklist “On the Record” on page 29 to ensure you are storing all required records.

Conclusion

Hiring your first employee is one of the most exciting moments in the development of your business. Follow this guide step by step, and you’ll feel more confident in your hiring skills each time you bring a new employee on board.

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ONGOING RESPONSIBILITIES

CHECKLIST

On the Record

The [U.S. Department of Labor](#) requires you to keep records of the following information about each employee as long as he or she works for you:

- Full name and Social Security number
- Mailing address, including ZIP Code
- Birth date (if the employee is under age 19)
- Sex and occupation
- Time of day and day of the week when employee's workweek begins, hours worked each day, and total hours worked each workweek
- Basis on which employee's wages are paid (weekly, bimonthly, etc.)
- Regular hourly pay rate
- Total daily or weekly "straight time" earnings for each workweek
- Total overtime earnings for each workweek
- All additions to or deductions taken from employee's wages
- Total wages paid each pay period
- Date of payment and the pay period covered by the each payment

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