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Associate Professional in Human Resources Certification

EXAM GUIDE

SECOND EDITION

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Christina Nishiyama, SPHR®, SHRM-CP®   Dory Willer, SPHR®, SHRM-SCP®

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McGraw Hill

New York   Chicago   San Francisco
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To all HR professionals who constantly strive to do better. This book is dedicated to all the new human resource management professionals who are entering our field of special skills. We need new talent. Whether you are in HR for your entire career or on a rotational assignment, we welcome you and want you to know how important your role is going to be for your organization.

—*The authors*

To Steve, Malea, and Siena for your love and encouragement. To my parents for being lifelong examples of what it means to have the "heart" of an HR person.

—*Christina Nishiyama*

I dedicate this book to my first HR boss, the late John Sharkey, who guided me to the career path of human resources, becoming my mentor and inspiring me to do well as an HR professional. He has left a great legacy for the profession.

—*Dory Willer*

My efforts are dedicated to the HR professionals who will find excitement and confidence in the process of gaining professional certification. Congratulations on your achievement.

—*Bill Truesdell*

I dedicate this book with love to my wife, Cheryl. Through days and nights, thick and thin, and months that have grown into years, you are always there— sometimes for support, sometimes for your knowledge and insights, sometimes to push, and sometimes just to be together. You are my rock. I love you!

—*Bill Kelly*

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ABOUT THE AUTHORS

Christina Nishiyama has over 15 years of human resource and organizational development experience, as well as a history of leadership in project management, finance, and information technology. Christina received her bachelor's degree from the University of California, San Diego and her MBA from San Diego State University. She also holds her SPHR and SHRM-CP certifications and is currently pursuing her Ph.D. in learning sciences with a focus on group dynamics in technology settings. She has served on SHRM's National Young Professionals Advisory Board and as Board Chair of Southern Nevada SHRM Young Professionals. Christina is also the co-author of the *PHR/SPHR Professional in Human Resources Certification Exam Guide, Second Edition* and has published research in the academic journal *Innovations in Education and Teaching International*. Christina currently serves as vice president at Bienati Consulting Group, where she works with clients across the nation on human resource and organizational development projects. She also currently serves as an instructor in the Human Resource Certificate Program at the University of Nevada, Las Vegas. Prior to consulting and teaching, Christina served as director of human resources at MGM Resorts International where she managed the HR strategic plan and the project management office as well as ran HR operations at Vdara Hotel and Spa during her tenure. Prior to her role at MGM, she served as the director of human resources and finance for The Mob Museum, overseeing the human resources, finance, information technology, and volunteer operations.

Dory Willer is a certified executive coach with more than 30 years of experience as a senior HR executive, keynote speaker, and strategic planning facilitator. She has broad and diverse experience working for blue-chip and Fortune 100 companies, leaving her last corporate position as a vice president of HR to open Beacon Quest Coaching based in the San Francisco Bay Area. Willer coaches senior and C-suite executives in leadership enhancement, performance improvement, and career renewal, helping her clients to thrive in life and careers. Additionally, she facilitates strategic planning sessions that stretch paradigms, align behaviors with goals, and hold groups accountable to produce results. She was among the first graduating classes from Stanford's Executive HR Certification Program (Graduate School of Business 1994). Willer achieved the designation of SPHR more than 25 years ago. She holds a B.S. degree in behavioral science from the University of San Francisco and several advanced certifications in executive coaching.

William H. Truesdell is now retired. For 34 years he was president of The Management Advantage, Inc., a personnel management consulting firm. He spent more than 20 years in management with American Telephone and Telegraph, part of that in HR and operations. Truesdell is an expert on the subjects of personnel practices, employee handbooks, equal opportunity, and performance management programs. He is past president of the Northern California Employment Round Table and former HR course instructor at the University of California – Berkeley extension program. Truesdell holds the SPHR certification, the SHRM-SCP certification, and a B.S. in business administration from California State University – Fresno.
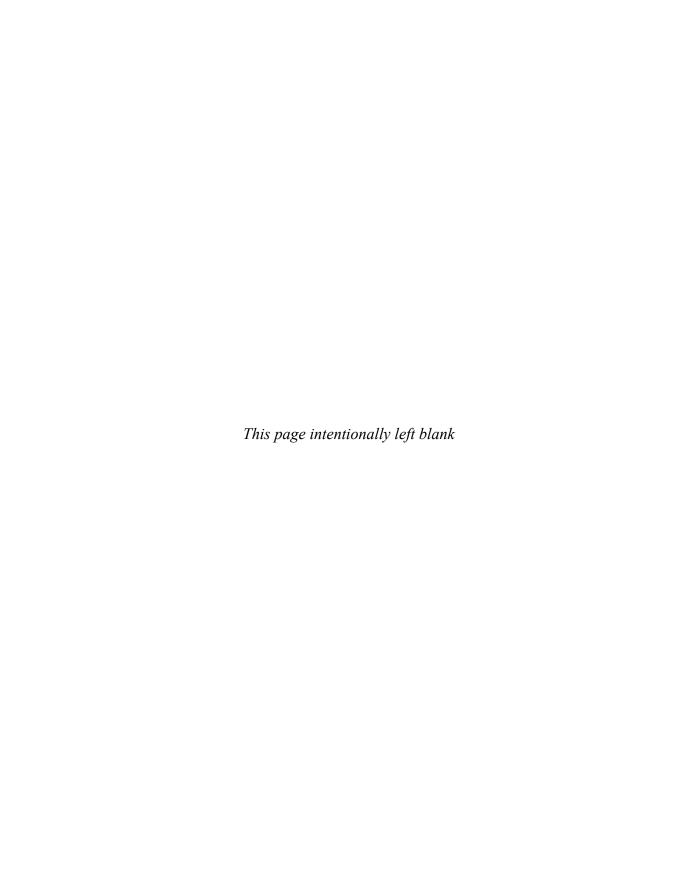
William D. Kelly is the owner of Kelly HR, an HR consulting services firm specializing in providing generalist HR consulting services and support for small business enterprises. Bill's experience includes more than 40 years of professional-level HR responsibilities, including 22 years at Bechtel in San Francisco and, later, at Brown and Caldwell Environmental Engineers in Pleasant Hill, California. His credentials include experience in employee relations, state and federal legal compliance, staffing and recruitment, equal employment opportunity and affirmative action, compensation, benefits, training and development, health and safety, and government contract management. Bill also has 20 years of experience in HR consulting that includes providing HR services, support, and advice to a wide range of Northern California clients. He has 17 years of experience as an instructor for the University of California extension program teaching such courses as Management of Human Resources; Recruiting, Selection, and Placement; California Employment Law; and Professional HR Certification Preparation. Bill has taught the Professional PHR/SPHR Certification Preparation Course for more than 17 years, SHRM's recently introduced SHRM-CP and SHRM-SCP Certification Preparation Course, and the California HR Certification Preparation Course for 8 years for the Society for Human Resource Management (SHRM) and the Northern California HR Association (NCHRA). He played a key role in the development of California's HR certification credential; he was also the project manager for the team of California HR professionals who developed SHRM's first California Learning System in support of California certification. Bill's professional leadership also includes roles on the board of directors and as national vice president for the SHRM, the board of directors and president for the HR Certification Institute (HRCI), state director for the California State Council of SHRM, the board of directors and president for the NCHRA, and commissioner and chair for the Marin County Personnel Commission. Bill received his B.S. in political science from Spring Hill College in Mobile, Alabama, and undertook post-graduate studies in organizational management at the College of William and Mary in Williamsburg, Virginia, and the University of Virginia in Richmond, Virginia. Prior to HR, Bill had a military career, achieving the rank of major in the United States Army with tours of duty in the United States, Germany, Thailand, and Vietnam.

About the Technical Editor

Dr. Larry Bienati has over 35 years of senior-level human resources experience in various organizational settings in the areas of retail, engineering, medical devices, and healthcare. As a consultant to management for over 30 years, he represents many well-known organizations in the public, private, and not-for-profit sectors. Among his many service offerings, his focus is in the areas of strategy, succession planning systems, leadership development, human resources mentoring, all process areas of HR-OD, and guiding organizations through transformational change efforts. Dr. Bienati holds a B.S. in industrial relations and personnel administration and an MBA in management sciences from California State University. He also holds a Ph.D. in business administration from Golden Gate University with an emphasis in the area of human resources management in his doctoral achievements. He has achieved lifetime certification as a Senior Professional in Human Resources (SPHR) for his early work in HR and teaching in various PHR/SPHR certification programs at UC Berkeley. He also is a Certified Compensation Professional (CCP), has the SHRM-SCP designation, and is a certified mediator handling complex employee/labor relations issues. He spent 15 years as core faculty for accelerated undergraduate and graduate degree programs at Saint Mary's College of California. Additionally, he taught many HR, OD, OB, and strategy courses in the EMBA programs at CSU, Sacramento and the MS in Engineering Management Program at CSU, Maritime Academy over the past 15 years. Currently, he is also an Associate Professor in the MHA and PsyD programs at California Northstate University.

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CONTENTS

ACKNOWLEDGMENTS

First, we'd like to thank all the highly skilled staff at McGraw Hill for their help getting this book to print so quickly. Special thanks goes to our editor, Wendy Rinaldi, for her endless kindness, support, and unrivaled expertise. It is always a joy working with you!

Additionally, a special note of acknowledgment comes from Christina to her coauthors, Dory Willer, Bill Truesdell, and Bill Kelly. You are truly HR legends. I am so appreciative for the opportunity to work on the second edition of this book. Dory, Bill, and Bill, the wealth of knowledge you put into the first edition has been such an incredible asset to early-career HR professionals everywhere. You have supported so many people in achieving their career goals from all walks of life, including me. For that, I will be forever grateful to you.

Finally, to Larry Bienati, better known as Led Poppi and technical editor extraordinaire. You never cease to amaze me. Thank you for always supporting me and taking the time to share your valuable thoughts and insights on every chapter of this book. You have inspired so many HR professionals in your career, and I am thrilled for this book to inspire a new generation of HR professionals.

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INTRODUCTION

Allow us to be the first to congratulate you on making the decision to sit for the HR Certification Institute (HRCI) certification exam and to strive to obtain your Associate Professional in Human Resources (aPHR) certification! Professional certifications are a mark of distinction that sets you apart in the profession and speaks volumes about your commitment to your career. More than 500,000 of your colleagues around the globe have obtained the HRCI certifications, including us.

Human resources is most likely part of our DNA makeup; we've lived it and breathed it for many decades. Our purpose is to share with you some strategies and experience that will assist you when you sit for the certification exam. It is our intention that this book will provide the knowledge and concepts you are expected to have mastered as an aPHR candidate. It is our pleasure to share those things with you. You also bring your own professional experience to the process. As you combine your experience with the information included in this book, you will be better able to answer the situational-based and competency-based questions about human resource situations you will find on the exam.

We want you to be successful. It is our belief that the HRCI professional certifications are important because the certifications endorse your knowledge and expertise to employers and clients. Having a professional certification has become increasingly important. It may be a requirement of your next job assignment or the promotion you are pining for within your organization. You may decide that these certifications are necessary qualifications for future HR professionals that you may hire in your future. In any event, we wish you the best professional regards and success in passing your exam and earning the prestigious designation of aPHR.

HRCI Certification vs. SHRM Certification

Over the past few years, there has been a great deal of buzz from both the Society of Human Resource Management (SHRM) and the HRCI regarding the two accredited institutes certifying HR professionals. Both certifications have their merits and result in a professional level of recognized achievement in HR. HRCI will continue to confer its industry-recognized certifications for professional levels of achievement in the application of knowledge and competencies expected of HR professionals.

How to Use This Book

This book has been completely updated for the 2022 aPHR exam release. Each chapter describes the new aPHR Body of Knowledge (BOK) as it has been divided into functional topic areas of human resources. Our ordering of the functional areas is as follows:

1. HR certifications
2. U.S. laws and regulations
3. Talent acquisition
4. Learning and development
5. Compensation and benefits
6. Employee relations
7. Compliance and risk management
8. Early human resource career-level tasks

Additionally, within each functional area, we have organized the presentation of topics to follow this same logic. As you progress through the material, we hope you will do so with a feeling of accomplishment associated with mastering the information presented and thereby increase your drive and motivation to continue.

The following is a brief overview of the organization of this book and how we feel this organization will benefit you.

Chapter 1: Human Resource Certification

In Chapter 1, we explain everything you need to know about the aPHR exam and also discuss the different types of HR certifications available. Additionally, you'll find information about the process of registering for the exams, the actual exam experience, and what the style and format of questions are on the exams.

Chapter 2: U.S. Laws and Regulations

Chapter 2 provides a list of all the U.S. laws and regulations you will need to know. We placed this information in a chapter rather than an appendix to emphasize the importance of reviewing these laws and regulations prior to diving into the functional areas. Understanding these laws should make it easier for you to grasp the reasoning behind the material presented in Chapters 3–7. You will find some questions on the certification exams that are directly related to these laws. While it is true that you don't have to be a lawyer to function as an HR professional, it is critical that you have a grasp on the essential requirements of each federal law so you can guide your internal organization clients toward legal compliance.

Chapter 3: Talent Acquisition

In this chapter, you'll find information about how to identify recruiting sources, management of applicant databases, methods of recruiting, and alternative staffing practices. It also covers interviewing techniques and post-offer activities (medical exams, background checks, employee onboarding, and so on).

Chapter 4: Learning and Development

In this chapter, you'll find information about how to deliver and evaluate training programs, what career development programs mean to your organization, and how to manage change in your organization.

Chapter 5: Compensation and Benefits

Compensation and benefits are topics held dear by every employee. This chapter includes how to determine base pay, incentives, differentials, and job evaluation programs. Employee benefits are always receiving attention in the news. In this chapter, you will find information about determining which benefit programs might be best for your organization and how to support them with enrollment and training efforts.

Chapter 6: Employee Relations

Employee relations includes information about methods for gaining employee feedback, establishing and implementing expectations for employee behavior, handling complaints and grievances, and progressive discipline approaches. If you ever wondered about employee engagement and diversity programs, you will find what you need here. This chapter also covers performance evaluation methods for employees.

Chapter 7: Compliance and Risk Management

Many legal compliance issues are associated with health and safety programs. As a new HR professional, you will be involved in some or all of them. Risk management and processing safety reports are components you will discover are critical to the success of HR programs.

Chapter 8: Early HR Career–Level Tasks

In this final chapter, you will find a series of 31 HR tasks that will occupy your time as a new HR professional. While the tasks will not appear on the aPHR exam, they all derive from the knowledge areas in preceding chapters. Additionally, you will find special sections in this chapter, titled "In the Trenches," that contain valuable insight and advice about several of the HR tasks from an early-career HR perspective.

Exam Tips

Sprinkled throughout the book are "Exam Tips" designed to give you a bit of a head start over those who don't have the advantage of seeing them; they point out areas to pay attention to that will help you on the exam.

Questions and Answers

At the end of Chapters 2 through 7, you will find a set of review questions and answers to help you test your knowledge and comprehension. Practice, practice, practice—it will pay off on exam day.

Appendixes

We have also included four appendixes to supplement the information you need to know.

Appendix A

Appendix A is a list of acronyms. The HR field is notorious for abbreviations creating the jargon in HR language, and these abbreviations have flowed into the everyday business language of employers, employees, and the public at large. It is likely you will see questions on the exams that include and reference these acronyms, so be sure to familiarize yourself with this list.

Appendix B

In Appendix B, we have listed all the associated legal cases you should know and review prior to sitting for the exams. The cases are organized by functional area and include a brief synopsis of what each case addressed. A URL is provided so that you can review each case in more detail, and we recommend that you spend time reviewing these cases.

Appendix C

Here are additional reading materials you will find helpful if you choose to extend your study.

Appendix D

This appendix includes directions on how to access the 250 practice exam questions that are available online in the TotalTester customizable test engine. You can test yourself in both Practice and Exam modes, and narrow your preparation by domain or chapter.

Glossary

A glossary of terms has been created for your ease of reference. Using the glossary will help you review the key terms covered in this book and for the HR profession in general.

Index

In the very back of the book is an index that will guide you to the appropriate pages where a term is mentioned or discussed.

The Examination

The aPHR exam is not a simple true/false or memory-recall exam. You will be sitting for a 2-hour and 15-minute, 100-question multiple-choice (plus 25 pretest questions) exam that will test your knowledge of the HR profession. The knowledge-based questions will require you to know your facts. These questions test your knowledge of different HR laws. Sometimes you will be asked to identify an example chart or graph, so pay attention to the figures included in the chapters.

EXAM TIP   It usually takes roughly a year (or more) for the HRCI exam to reflect new laws, executive orders, and regulations. Don't be fooled, though. You may still see questions related to changes that have been recently introduced by the U.S. president or Congress. It is your responsibility to follow these updates and master the new requirements.

Preparing Is the Key

Preparing for any type of certification exam is not about memorizing information. The aPHR exam requires that new HR professionals are capable of understanding the laws and concepts in which HR management is based.

EXAM TIP   You may have already invested in an education for your career; investing in serious study time and preparation will pay off so that you can pass your exam.

For those with more limited experience or the minimal experience qualifications, we suggest you begin preparation and study 6 months prior to your exam date. For those with significantly more experience and time on the job as an HR professional, 3 months should be your yardstick. If you decide not to study the material outlined in this book, your chances of passing the aPHR exam will likely be low, even if you have been in an HR exempt position for a few months or years. We aren't saying that it can't be done, but your chances of passing the exam are much better if you study the information in this book and the accompanying practice exam questions to prepare for the time when you will sit in that room with only a computer screen. Guessing strategies are not foolproof and not a good substitute for solid study habits in preparation for an exam. The best preparation strategy is one that is focused on committed preparation with study time spent in a productive manner.

NOTE   If you are interested in working through even more practice exam questions as you prepare for the exam, we recommend *aPHR Associate Professional in Human Resources Certification Practice Exam, Second Edition.*

Final Thoughts

In the past few years, we've battled a worldwide pandemic, and HR professionals have been the "glue" holding organizations together. There have been new federal and state laws, executive orders, and EEOC guidance. How these changes affect your organization and HR long-term is yet to be seen. Your responsibility as an HR professional is to monitor what is happening and guide your employer through the changing compliance requirements as laid out by the U.S. president or Congress. There will also be many related policy choices to be made. If you have a labor-management attorney, getting updates from that person would be helpful.

This book has been designed not only to assist you, the HRCI exam candidate, in studying for the aPHR exam, but also to serve as a reliable reference book to be placed on the shelf in your office. There is a lot for a human resource professional to remember. It is our hope that this book becomes a convenient resource that guides you when something pops up for which you need a refresher. At a minimum, we hope it gives you direction in your effort to improve your HR circumstance.

Finally, thank you for selecting this book. We sincerely hope your aPHR exam goes well and wish you the absolute best on exam day!

PART I

The Human Resource Profession

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Human Resource Certification

As you begin a career in human resources (HR), the skills and abilities you will use to produce your desired results as an HR professional require a mastery of sorts. Mastery of any profession will involve a continuous career-long commitment to learning, and that is a foundational truth within the HR profession. HR has been, and continues to be, an evolving component of an organization because its basic focus is on people. The constant changes and outside influences on an organization's workforce increase the demands on HR professionals. HR professionals today must master the art of staying two steps ahead while having one foot firmly planted in the present.

Professional Certifications

Certifications demonstrate to your employer and colleagues that you are educated in your profession and committed to a higher standard. When you achieve your first HR credential, it signals your mastery of core knowledge in human resources, raising the confidence of an employer and your peers in your knowledge and abilities. Because the HR profession is constantly evolving, it is important for HR professionals to regularly update their HR competencies and knowledge. Achieving certification and recertification is a good method to do this.

A professional certification should not be confused with a certificate program. Professional certifications are based on work experience and education, along with recertification requirements. Certificate programs do not require work experience or an educational component, and they do not require recertification. Professional certifications address a critical need in the global marketplace because employers expect more today from their internal experts, and the HR profession must be ready to meet those expectations.

HR Certification Organizations

As of 2021, three certifying organizations offer HR professionals the opportunity to become professionally certified: the HR Certification Institute (HRCI), the Society for Human Resource Management (SHRM), and the International Public Management Association for Human Resources (IPMA-HR). As of this writing, only HRCI offers

a certification for entry-level career HR professionals with the Associate Professional in Human Resources® (aPHR) exam. All three organizations' certifications test knowledge required of HR professionals, as well as the application of that knowledge.

The HR Certification Institute (HRCI)

The HR Certification Institute (www.hrci.org) was established in 1976 as an internationally recognized certifying organization for the human resource profession. Its mission is to develop and deliver the highest-quality certification programs that validate mastery in the field of human resource management and contribute to the continued improvement of individual and organizational performance. Nearly 140,000 HR professionals in more than 100 countries are certified. Until 2015, HRCI was the only certifying organization for the HR profession.

HRCI exists to enhance the professionalism of the HR profession with its various certification processes. HRCI certifications demonstrate relevance, competence, experience, credibility, and dedication to human resources. The institute is designated a 501(c)(3)[1] nonprofit organization by the Internal Revenue Service (IRS). The Society of Human Resource Management is a 501(c)(6)[2] organization. HRCI was accredited by the National Commission for Certifying Agencies (NCCA) in 2008.

HRCI's Body of Knowledge (BoK) is a complete set of knowledge and responsibilities statements required to successfully understand and perform generalist HR-related duties associated with each of HRCI's credentials, which are Associate Professional in Human Resources® (aPHR), Professional in Human Resources® (PHR), Senior Professional in Human Resources® (SPHR), Global Professional in Human Resources® (GPHR), Professional in Human Resources – California® (PHRca), Associate Professional in Human Resources™ – International (aPHRi), Professional in Human Resources – International™ (PHRi), and Senior Professional in Human Resources – International™ (SPHRi). The BoK is periodically updated, typically every 5 to 7 years, to ensure it is consistent with and reflects current practices in the HR field. Our book *PHR/SPHR Professional in Human Resources Certification All-in-One Exam Guide, Second Edition*[3] provides in-depth preparation for the PHR and SPHR exams.

aPHR

HRCI's Associate Professional in Human Resources is the first-ever HR certification designed for professionals who are just beginning their HR career journey. It certifies that a person has the knowledge of foundational human resources.

Eligibility Requirements   To sit for the aPHR exam, no prior education or experience is required since the aPHR credential is a knowledge-based credential.

PHR

The Professional in Human Resources (PHR) certification demonstrates mastery of the operational aspects of HR practices and U.S. laws and regulations at the professional level.

The PHR is appropriate for HR professionals who focus on program implementation with a tactical orientation, who report to another HR professional within the organization, and have responsibilities that focus on the HR department rather than the whole organization.

Eligibility Requirements   To sit for the PHR exam, you must have one of the following:

- A minimum of 1 year of experience in a professional-level HR position and a master's degree or higher
- A minimum of 2 years of experience in a professional-level HR position and a bachelor's degree
- A minimum of 4 years of experience in a professional-level HR position with less than a high-school diploma or equivalent

SPHR

The Senior Professional in Human Resources certification demonstrates that a person has mastered the strategic and policy-making aspects of HR management as practiced in the United States. The credential is designed for the HR professional who plans rather than implements HR policy, focuses on the "big picture," has ultimate accountability in the HR department, has breadth and depth of knowledge in all HR disciplines, understands the business beyond the HR function, and influences the overall organization.

Eligibility Requirements   To sit for the SPHR exam, you must have one of the following:

- A minimum of 4 years of experience in a professional-level HR position and a master's degree or higher
- A minimum of 5 years of experience in a professional-level HR position and a bachelor's degree
- A minimum of 7 years of experience in a professional-level HR position with less than a high-school diploma or equivalent

GPHR

The Global Professional in Human Resources is a global, competency-based credential that is designed to validate the skills and knowledge of an HR professional who operates in a global marketplace. The credential demonstrates a mastery of cross-border HR responsibilities that include strategies of globalization, development of HR policies and initiatives that support organizational global growth and employer retention, and creation of organizational programs, processes, and tools that achieve worldwide business goals.

Eligibility Requirements   To sit for the GPHR exam, you must have one of the following:

- A minimum of 2 years of experience in a global professional-level HR position and a master's degree or higher
- A minimum of 3 years of experience in a professional-level HR position (at least 2 in global HR) and a bachelor's degree
- A minimum of 4 years of experience in a professional-level HR position (at least 2 in global HR) with less than a high-school diploma or equivalent

Global HR experience is defined as having direct, cross-border HR responsibilities for two or more countries or regions.

PHRca

The Professional in Human Resources – California demonstrates mastery of the laws, regulations, and HR management practices specific to the state of California. The PHRca is for HR or business professionals who are responsible for human resources in California. You do not have to be located in California to earn a PHRca.

Eligibility Requirements   To sit for the PHRca exam, you must have one of the following:

- A minimum of 1 year of experience in a professional-level HR position and a master's degree or higher
- A minimum of 2 years of experience in a professional-level HR position and a bachelor's degree
- A minimum of 4 years of experience in a professional-level HR position with less than a high-school diploma or equivalent

aPHRi

The Associate Professional in Human Resources – International is a global, competency-based credential that is designed to validate foundational HR knowledge and skills. The credential is best suited for entry-level HR or business professionals located outside of the United States.

Eligibility Requirements   To sit for the aPHRi exam, no prior education or experience is required since the aPHRi credential is a knowledge-based credential.

PHRi

The Professional in Human Resources – International is a global, competency-based credential that is designed to validate professional-level HR knowledge and skills. The credential demonstrates a mastery of generally accepted technical and operational

HR principles. Through demonstrated knowledge, the credential enhances the credibility of HR professionals outside of the United States and the organizations they serve.

Eligibility Requirements   To sit for the PHRi exam, you must have one of the following:

- A minimum of 1 year of experience in a professional-level HR position and a master's degree or global equivalent
- A minimum of 2 years of experience in a professional-level HR position and a bachelor's degree or global equivalent
- A minimum of 4 years of experience in a professional-level HR position with less than a secondary education or global equivalent

SPHRi

The Senior Professional in Human Resources – International is a global, competency-based credential that is designed to validate professional-level core HR knowledge and skills. This credential demonstrates a mastery of generally accepted HR principles in strategy, policy development, and service delivery. Independent of geographic region, this credential complements local HR practices. Through demonstrated knowledge, this credential enhances the credibility of HR professionals outside of the United States and the organizations they serve.

Eligibility Requirements   To sit for the SPHRi exam, you must have one of the following:

- A minimum of 4 years of experience in a professional-level HR position and a master's degree or global equivalent
- A minimum of 5 years of experience in a professional-level HR position and a bachelor's degree or global equivalent
- A minimum of 7 years of experience in a professional-level HR position with less than a secondary education or global equivalent

Recertification

Recertification is the process of renewing one's certification. To maintain certification, a certification holder must be prepared to show that they are building their knowledge, growing as a professional, and increasing their experience. HRCI recertification is required every 3 years through demonstrated professional development and professional achievements (the preferred method) or retaking the exam.

Here are some examples of ways to earn recertification credit. A complete list can be found at www.hrci.org:

- Continuing education
- Instruction
- On-the-job experience

- Research/publishing
- Leadership
- Professional membership

Recertification requires much more than attending conferences and workshops. Most certified HR professionals earn their recertification credits through the activities they do daily for their organizations. Effective 2021, all HRCI certifications require that one recertification credit in each 3-year cycle is focused on ethical practices and behaviors in the workplace.

The Society for Human Resource Management (SHRM)

For more than 70 years, the Society for Human Resource Management (www.shrm.org) has served the human resource profession and HR professionals worldwide. Founded in 1948, SHRM is the world's largest HR membership organization devoted to human resource management. Representing more than 300,000 members in more than 165 countries, SHRM is the leading provider of resources to serve the needs of HR professionals and advance the professional practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India, and the United Arab Emirates.

SHRM began offering its own certifications in 2015, the SHRM Certified Professional® (SHRM-CP) and the SHRM Senior Certified Professional® (SHRM-SCP) certifications, which are associated with its defined Body of Competency and Knowledge (BoCK). Accreditation was received in late 2016.

SHRM-CP

The SHRM-Certified Professional exam is for HR professionals who implement policies and strategies, serve as a point of contact for staff and stakeholders, deliver HR services, and perform operational HR functions.

Eligibility Requirements The following are the SHRM-CP eligibility requirements to sit for the exam:

Less Than a Bachelor's Degree*	**HR-Related Program** Three years in HR role	**Non-HR Program** Four years in HR role
Bachelor's Degree	**HR-Related Degree** One year in HR role	**Non-HR Degree** Two years in HR role
Graduate Degree	**HR-Related Degree** Currently in HR role	**Non-HR Degree** One year in HR role

*Less than a bachelor's degree includes the following: working toward a bachelor's degree, associate's degree, some college qualifying HR certificate program, high-school diploma, or general educational development (GED).

SHRM-SCP

The SHRM-Senior Certified Professional exam is for HR professionals who develop strategies, lead the HR function, foster influence in the community, analyze performance metrics, and align HR strategies to organizational goals.

Eligibility Requirements   The following are the SHRM-SCP eligibility requirements to sit for the exam:

Less Than a Bachelor's Degree*	**HR-Related Program** Six years in HR role	**Non-HR Program** Seven years in HR role
Bachelor's Degree	**HR-Related Degree** Four years in HR role	**Non-HR Degree** Five years in HR role
Graduate Degree	**HR-Related Degree** Three years in HR role	**Non-HR Degree** Four years in HR role

*Less than a bachelor's degree includes the following: working toward a bachelor's degree, associate's degree, some college qualifying HR certificate program, high-school diploma, or GED.

Recertification

Recertification is how you will continue to grow and adapt to meet the evolving needs of the profession. SHRM-CP or SHRM-SCP credential holders must do one of the following for recertification:

- Earn 60 professional development credits (PDCs) within a 3-year recertification period
- Retake the certification exam at the end of the 3-year recertification period

The International Public Management Association for Human Resources (IPMA-HR)

Whereas HRCI and SHRM offer certifications covering all employment sectors (private, public, international, and federal government), IPMA-HR focuses solely on public sector human resource professionals. It is international in scope.

IPMA-CP

This designation is for entry- to mid-level public sector HR professionals. It requires that candidates participate in a fee-based Public Sector HR Essentials training course, which is currently offered three times a year. You may then sit for the exam. Once you have passed the exam, you will be certified.

IPMA-SCP

This designation is for public sector human resources professionals who have reached the manager, director, senior management, or executive level in their profession. Regardless of the educational level achieved, all candidates for this certification must have a minimum of 1 year of work experience in the public sector. Eight years of HR work experience are required if there is no degree beyond high school. Those with an associate degree must have 6 years of HR work experience. Bachelor degree holders must have 4 years of HR work experience, and graduate degree holders must have a minimum of 2 years of HR work experience. All IPMA-SCP candidates must be in jobs that are classified as exempt under the Fair Labor Standards Act (FLSA) at the time an application is submitted for testing.

Benefits of Certification

Earning an HR credential adds a level of recognition as an expert in the HR profession. This certification is a distinction that sets you apart in the profession, indicating you have a high level of knowledge and skills. It adds to your career value and to the organization you work in. Your HR certification could mean the difference between you and your competition. In fact, according to research by PayScale, HR professionals who hold certifications make more money and progress more quickly in their careers than their peers who do not.[4] HR certification is becoming an important means for employers to recognize HR expertise and for HR professionals to increase their value and worth.

Earning an HR credential can help you do the following:

- Boost your confidence
- Create recognition for you as an HR professional
- Master the expertise needed in the HR profession
- Protect your organization from risk by knowing regulatory compliance
- Stand out from other HR candidates in job searches and promotions
- Broaden your perspective in the HR field
- Keep up with HR innovations, developments, and legislative changes
- Demonstrate your commitment to the HR profession

Many organizations, including a number of Fortune 500 organizations, now require or prefer HR certification for their new HR hires or for internal promotions. A study from Software Advice, Inc., called "Study: What Employers Are Looking For in HR Positions,"[5] revealed that employers increasingly demand certification for job candidates. Table 1-1 lists the HR certification preferences, broken down by job title, published by the study.

Job Title Classification	Certification Required	Certification Preferred	Total
HR Business Partner	70%	30%	100%
Associate HR Director	35%	30%	65%
Senior HR Manager	10%	45%	55%
HR Director	10%	45%	55%
HR Manager	5%	40%	45%
Senior HR Generalist		55%	55%
Senior HR Business Partner		45%	45%
Employee Relations Manager		30%	30%
HR Generalist		15%	15%
Other		30%	30%

Table 1-1   HR Certification Specifications by Job Title

This survey suggests that certification is essential for any professional-level HR job candidate. If an individual wants to be considered for a senior-level HR position, then certification is nearly an absolute requirement. Those expectations will be further solidified as time goes on.

The aPHR Exam

The aPHR exam is a computer-based test (CBT) that is 2 hours and 15 minutes long. It includes 100 multiple-choice questions plus 25 pretest questions. The multiple-choice questions consist of a statement, known as a *stem,* and three or four choices. The choices consist of one correct or best choice that is the correct answer as well as incorrect or inferior choices knowns as *distractors*. The pretest questions are non-scored questions that are included to develop a statistical history that serves as a basis for validating the questions for future use as scored questions. Pretest questions are randomly placed throughout the test. New exams are produced annually.

The aPHR exam covers the identified BoK for the level of HR experience required of an aPHR professional and the federal laws applicable to the employment relationship, which are covered in detail in Chapter 2. HRCI realizes that employment laws change constantly. As such, exam candidates are responsible for knowing the HR laws and regulations that are in effect as of the start of their exam period.

The Significance of the HR Body of Knowledge

The Associate Professional in Human Resources (aPHR) exam was created using the aPHR Exam Content Outline, which details the BoK needed by those performing early HR career roles. HR subject-matter experts created the outline through a rigorous practice analysis study, which was then validated by HR professionals working in the field through an extensive survey instrument. It is updated periodically to ensure it is consistent with current practices in the HR field.

The BoK is broken down into five functional areas. These functional areas, with their respective exam weighting noted, are covered in the following sections.

Functional Area 1: Talent Acquisition (19%)

Fundamental understanding of all aspects related to the talent acquisition process, including planning, sourcing, recruiting, screening, selection, hiring, and onboarding of a new hire.

Knowledge of:

1. Methods to identify staffing needs and guide talent acquisition efforts; for example, forecasting, job analysis, the creation and structure of job descriptions, and alternative staffing approaches
2. Talent sourcing tools and techniques to identify and engage prospective candidates; for example, employer branding, social media, candidate pipelines, resume mining, job postings, job fairs, and employee referrals

3. Recruiting procedures and strategies for screening and selecting qualified applicants; for example, recruitment firms/staffing agencies, skills assessments, interview techniques and best practices, and biases

4. The lifecycle of hiring and onboarding a selected applicant; for example, reference and background checks, offer letters and counteroffers, employment contracts, and the distribution and collection of company-mandated documents such as employee handbook and policy acknowledgments, non-disclosure or other agreements, and benefits paperwork

5. The use of technology for collecting, storing, reviewing, and analyzing candidate/applicant information and recruiting data; for example, applicant tracking systems, human resource information systems (HRIS), return on investment (ROI), cost-per-hire, and time-to-fill

Functional Area 2: Learning and Development (15%)

Assessing the needs of the organization and understanding the techniques and methods for delivering training programs in order to provide employees with the tools, skills, and knowledge to align with current and future organizational goals.

Knowledge of:

1. The overall purpose and desired outcomes of employee orientation for new hires and/or internal hires; for example, setting expectations, building relationships, and acclimation

2. The concept of instructional design and components of commonly used models and methods for developing an organizational learning strategy; for example, knowledge, skills, and abilities (KSAs), ADDIE model, needs analysis, goals/objectives, available training resources, and intended audience

3. Elements and suitable applications for various training formats and delivery techniques; for example, blended, virtual, self-paced, instructor-led, on-the-job, role play, facilitation, and in-house vs. external training services

4. The concept, purpose, and key/desired outcomes of a change management process; for example, assessing readiness, communication plans, identifying needs, and providing resources and training

5. Methods and tools used to track employee development and measure the effectiveness of the training; for example, learning management systems (LMSs), reporting, post-training evaluation, and metrics

Functional Area 3: Compensation and Benefits (17%)

Understanding elements of the total rewards package, including compensation, benefits programs, retirement planning, and how they support organizational competitiveness.

Knowledge of:

1. The elements involved in developing and administering an organization's compensation strategy, such as pay structures, pay adjustments, and incentive programs; for example, external service providers, market analysis, job evaluation/classifications, merit increases, pay scales/grades, cost of living adjustments, and service awards

2. Health benefit and insurance programs, including eligibility requirements, enrollment periods, and various designs; for example, high deductible plans, health savings accounts, flexible spending accounts, preferred provider organizations, and short- or long-term disability

3. Supplemental wellness and fringe benefit programs commonly offered by organizations; for example, employee assistance programs (EAPs), gym membership, online therapy, housing or relocation assistance, and travel/transportation stipends

4. Employee eligibility for and enrollment in retirement plans as well as rules regarding contributions and withdrawals; for example, 401(k), 457(b), catch-up contributions, and hardship withdrawals

5. Components of wage statements and payroll processing; for example, taxation, deductions, differentials, garnishments, leave reporting and final pay, and total reward statements

Functional Area 4: Employee Relations (24%)

Understanding the methods organizations use to monitor and address morale, performance, and retention. Balancing the operational needs of the organization with the well-being of the individual employee.

Knowledge of:

1. The purpose and difference between mission, vision, and value statements and how they influence an organization's culture and employees

2. How HR supports organizational goals and objectives through HR policies, procedures, and operations; for example, functions of human resource information systems (HRISs), organizational structures, preparing HR-related documents, basic communication flows and methods, SWOT analysis, and strategic planning

3. Techniques used to engage employees, collect feedback, and improve employee satisfaction; for example, employee recognition programs, stay interviews, engagement surveys, work/life balance initiatives, and alternative work arrangements

4. Workforce management throughout the employee lifecycle, including performance management and employee behavior issues; for example, goal setting, benchmarking, performance appraisal methods and biases, ranking/rating scales, progressive discipline, termination/separation, offboarding, absenteeism, and turnover/retention

5. Policies and procedures to handle employee complaints, facilitate investigations, and support conflict resolution; for example, confidentiality, escalation, retaliation, and documentation

6. The elements of diversity and inclusion initiatives and the impact on organizational effectiveness and productivity; for example, social responsibility initiatives, cultural sensitivity and acceptance, unconscious bias, and stereotypes

Functional Area 5: Compliance and Risk Management (25%)

Complying with laws, regulations, and policies as well as educating stakeholders in order to identify, mitigate, and respond to organizational risk. Awareness of records management, storage, and retention regulations and reporting requirements.

Knowledge of:

1. Applicable laws and regulations related to talent acquisition, training, and employee/employer rights and responsibilities, such as nondiscrimination, accommodation, and work authorization; for example, EEOC, DOL, I-9 form completion, employment-at-will, Title VII, ADA, Immigration Reform and Control Act, and Title 17 (copyright law)

2. Applicable laws, regulations, and legal processes affecting employment in union environments; for example, WARN Act, NLRA, collective bargaining, and alternative dispute resolution methods

3. Applicable laws and regulations related to compensation and benefits, such as monetary and non-monetary entitlement, wages, and hours; for example, ERISA, COBRA, FLSA, USERRA, PPACA, and tax treatment

4. Applicable laws and regulations related to workplace health, safety, security, and privacy; for example, OSHA, Drug-Free Workplace Act, ADA, HIPAA, Sarbanes-Oxley Act, WARN Act, and sexual harassment

5. Risk assessment and mitigation techniques to promote a safe, secure, and compliant workplace; for example, emergency evacuation procedures, violence, business continuity plan, intellectual and employee data protection, and theft

6. Organizational restructuring initiatives and their risks to business continuity; for example, mergers, acquisitions, divestitures, integration, offshoring, downsizing, and furloughs

The Test Development Process

HRCI follows certification-industry best practices to create and update all of its exams. Practicing HR professionals are involved in every step of the exam development process, which is overseen by the Pearson Vue testing organization. The following are the steps taken to develop all of HRCI's exams:

1. HRCI exams are based on Exam Content Outlines developed for each exam. These outlines are created by a small group of practicing HR professionals and then validated by a much larger group through a practice analysis study.

2. Certified HR professionals write the exam questions (also known as *items*), based on the Exam Content Outline.

3. The questions go to another group, the Item-Review Panel, which checks for accuracy and proper coding.

4. Approved questions are then "pretested" for reliability.

5. Multiple exam forms are created and reviewed by a panel of subject-matter experts.

6. A passing score for each exam is determined.

The Exam Experience

Applicants must meet both HR work experience and education requirements, if required, to qualify for each exam. Applicants should complete the application process early to increase the chance of getting their first choice for test date and location. As of this writing, the current exam fee is $300 plus a $100 nonrefundable application fee. Testing for the aPHR exam is year-round, subject only to space availability at a Pearson Vue testing center of your choice.

The aPHR Registration Process

HRCI describes the application process[6] in steps:

1. Create an online account with HRCI.

2. Choose the exam that's right for you (aPHR, PHR, SPHR, and so on). We will presume that your background and qualifications indicate that the aPHR exam is right for you.

3. Build your own bundle. Decide whether you would like to purchase preparation materials through HRCI's "Build Your Own Bundle" option. We feel that this study guide would be sufficient for your studying efforts.

4. Affirm that all the information submitted on the application is complete and true and that you have read the HRCI Certification Handbook (available online through the HRCI web site at https://www.hrci.org/).

5. Submit the application with payment.

6. Schedule your exam date with Pearson Vue and plan your preparation.

7. Take the exam. Make sure to bring an official, valid, government-issued identification with you to the exam.

8. Receive your preliminary results at the testing center and an official score report 24 to 48 hours after testing.

Preparing for the Exam

From our years of experience helping HR professionals achieve their certifications, we have compiled a list of tips for exam takers. First, let's begin with studying. The following tips will help you get the most benefit from your preparation efforts:

- Before studying, go for a brief walk to take in some air and clear your mind in preparation for the focused time to study. Put all your other thoughts and projects of the day on a back burner and give your mind a clean slate, setting the intention that this specific amount of time is exclusively for HRCI studying.

- Make sure your "do not disturb" sign is on your door if you are at home or in the office and that others clearly know that nothing is to disturb you for the next hour. Speaking of an hour, that's plenty of time to devote on a regular schedule to study. Most people find that 4 or 5 hours a week is sufficient for this type of material.

- Clear your study area. It should be void of anything that might distract you from studying. Keep the focus on your studying and be sure to create a bit of visual incentive for yourself—such as a letter mock-up stating that you have successfully passed your exam. Spoof a letter from HRCI, print it, put it in a nice picture frame, and place it in front of you every time you begin studying. What the mind can conceive, you can achieve!

- Select a time of day that is optimal for you to study. Are you best in the wee hours of the early morning with a cup of coffee prior to work, or perhaps you're more focused at the noon hour? Maybe you're a person whose rhythm kicks in just after dinner. Find that sweet hour and make the appointment on your calendar, listing it as "VIP-HRCI." *You* are the very important person, and this appointment will cause you to think twice before allowing another activity to muscle in on your time slot.

- The old adage that practice makes perfect is not quite right. "Perfect practice makes perfect" is a better way to state the intention. As you make your study time perfect and practice saying "no thank you" to others and things that interrupt your study time, you are practicing the perfect combination that will allow you to stay focused and produce the results you want.

- Two days prior to the exam, be sure to get a full night's sleep each night, which is typically 7 to 9 hours for most people.

- Hydrate, hydrate, hydrate the day before and the day of the exam. Try to avoid massive amounts of caffeine because it will lead to dehydration.

The following are some suggestions to keep in mind as you take your exam:

- Trust your gut, or your first impression. Your first impression of the correct answer is many times the best choice. This should not be confused with guessing. This refers to topics you know that you know.

- Watch out for basing your answer on what your current organization's policy is. Keep focused on generally accepted HR practices for correct answers.

- There will be no patterns, so don't even try to look for them. The psychometric exam process used for the HRCI exam prevents questions from falling into patterns.

- Only federal laws apply—don't mix your state laws with your federal laws.

- The most common weakness of HR test-takers is overanalyzing the options. Be thorough, but be reasonable in your analysis and selection of the options.

- When stumped, try to eliminate the obviously incorrect answers and then just focus on what remains.

- Read all answer options—it may be that you need to select the best answer and yet all answers are correct.

- Resist the urge to change your answers. This goes hand in hand with trusting your instincts. If you are absolutely, positively sure that you have an incorrect answer, go ahead. But for the most part, resist the urge to change answers.

- Don't rush. Manage your time. You will have a little over a minute for each question. A clock is visible on your monitor screen counting down the amount of time left.

Exam Readiness

HRCI's aPHR Exam Content Outline is one of your most important documents leading to a successful exam experience. Each exam question has a specific corresponding functional knowledge area that is identified in the applicable Exam Content Outline. As such, this valuable information will enable you to use the Exam Content Outline as an exam readiness checklist to indicate the knowledge topics you need to know and comprehend in order to pass this exam. Additionally, we recommend you use our practice exams to determine which functional areas you may need to study more. The following is the exam weighting given to each functional area:

- Talent Acquisition (19%)
- Learning and Development (15%)
- Compensation and Benefits (17%)
- Employee Relations (24%)
- Compliance and Risk Management (25%)

Chapter Review

The number of HR professionals needed in the coming years to manage the human capital in organizations will continue to expand. The U.S. Bureau of Labor Statistics anticipates that the number of HR manager positions will grow 9 percent and will grow 10 percent for HR specialist positions by the year 2030.[7] In addition, employer-selection systems will increasingly use certification as an employment-screening element. The value of certification is being recognized in all levels of the organization and throughout the HR profession. We're confident that beginning your professional career in human resources by adding the aPHR certification to your résumé will draw special attention to your achievement and to the commitment of growing your abilities in the profession.

Endnotes

1. To be tax exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an action organization; i.e., it may not attempt to influence legislation as a substantial part of its activities, and it may not participate in any campaign activity for or against political candidates. Organizations described in section 501(c)(3) are commonly referred to as charitable organizations. Organizations described in section 501(c)(3), other than testing for public safety organizations, are eligible to receive tax-deductible contributions in accordance with Section 170. (IRS Code, https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501-c-3-organizations)

2. IRC 501(c)(6) provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are not organized for profit and no part of the net earnings of which ensures to the benefit of any private shareholder or individual. (IRS Code, https://www.irs.gov/pub/irs-tege/eotopick03.pdf)

3. William H. Truesdell, Christina Nishiyama, and Dory Willer, *PHR/SPHR Professional in Human Resources Certification All-in-One Exam Guide, Second Edition* (McGraw Hill, 2019)

4. PayScale Human Capital research report, "HR Certifications: How They Impact Pay and Career Trajectory, 2018 U.S. Edition," https://www.payscale.com/data/hr-certifications-pay

5. Brian Westfall, "Study: What Employers Are Looking For in HR Positions," *Software Advice* (July 18, 2017), https://www.softwareadvice.com/resources/what-employers-look-for-hr-jobs/

6. https://hrci.org/aphr

7. Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2020 Edition,* https://www.bls.gov/ooh/

U.S. Laws and Regulations

This chapter introduces the federal laws and legislation that all human resource (HR) professionals must know and understand. Federal laws apply to every state in the United States (U.S.) and will be covered on the Associate Professional in Human Resources (aPHR) exam. There are also many laws that apply only to the U.S. state(s) in which your employer operates. State laws will not be covered on the aPHR exam or in this chapter, but it is important to know your state's laws to be successful in your HR position.

When you thoroughly read these laws and regulations, you will better understand the material in Part II of this book. Knowing these laws can sometimes make the difference in selecting the right answer on the Associate Professional in Human Resources (aPHR) exam. After studying this chapter and completing the practice questions, you should have a better understanding of the relevance of these laws in the employment relationship. HR professionals in both small and large companies play an important role in dealing with day-to-day employment issues relating to recruiting, hiring, managing, and training employees. Also, HR systems must be guided by legal requirements.

Many times, as you read this chapter, you will discover the phrase "engaged in interstate commerce." This is a term used by Congress to identify which employers will be subject to a law's requirements. Interstate commerce includes shipping a Maine lobster to a New Mexico restaurant for tonight's dinner, for example. Also included are selling products on Amazon, eBay, or a similar Internet site to customers in states other than the one you are in and purchasing products from a supplier in a state other than the one you are in. As you can tell, it is a broad statement that applies to many employers, both large and small. The following sections cover what you need to know concerning federal laws and regulations that govern employment.

When You Have ONE or More Employees

Employers sometimes forget that the moment they hire their first employee, they become subject to a host of legal requirements. Here are 52 laws that will impact an employer with one or more employees on the payroll.

The Clayton Act (1914)

This legislation modified the Sherman Anti-Trust Act by prohibiting mergers and acquisitions that would lessen competition. It also prohibited a single person from being a director of two or more competing corporations. The law also allowed for more union activity, such as labor strikes, picketing, and boycotts, by restricting the use of injunctions against these activities. An injunction is a court order requiring a person or an organization to stop doing something. For more information, see 15 U.S.C. Sec. 12 at www.law.cornell.edu/uscode/text/15/12 or perform an Internet search for the law by name.

The Consumer Credit Protection Act (1968)

Congress expressed limits to the amount of wages that can be garnished or withheld in any one week by an employer to satisfy creditors. This law also prohibits employee dismissal because of garnishment for any one indebtedness.

For more information, see https://www.dol.gov/agencies/whd/wage-garnishment or perform an Internet search for the law by name.

The Copeland "Anti-Kickback" Act (1934)

This act prevents a federal contractor or subcontractor from encouraging an employee to give up any part of their wages to the employer for the benefit of having a job. For more information, see https://webapps.dol.gov/elaws/elg/kickback.htm or perform an Internet search for the law by name.

The Copyright Act (1976)

The Copyright Act offers protection of "original works" for authors so others may not print, duplicate, distribute, or sell their work. In 1998, the Copyright Term Extension Act further extended copyright protection to the duration of the author's life plus 70 years for general copyrights and to 95 years for works made for hire and works copyrighted before 1978. If anyone in the organization writes technical instructions, policies and procedures, manuals, or even e-mail responses to customer inquiries, it would be a good idea to speak with your attorney and arrange some copyright agreements to clarify whether the employer or the employee who authored those documents will be designated the copyright owner. Written agreements can be helpful in clearing up any possible misunderstandings. For more information, see www.copyright.gov/title17/92appa.pdf or perform an Internet search for the law by name.

The Davis-Bacon Act (1931), as Amended in 2002

This law requires contractors and subcontractors on certain federally funded or assisted construction projects worth more than $2,000 in the United States to pay wages and fringe benefits at least equal to those prevailing in the local area where the work is performed. This law applies only to laborers and mechanics. It also allows trainees and

apprentices to be paid less than the predetermined rates under certain circumstances. For more information, see www.dol.gov/whd/regs/statutes/dbra.htm or perform an Internet search for the law by name.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)

This law offers a wide range of mandates affecting all federal financial regulatory agencies and almost every part of the nation's financial services industry. It includes a nonbinding vote for shareholders on executive compensation, golden parachutes, and return of executive compensation based on inaccurate financial statements. A golden parachute is an agreement with an employee that they will receive significant benefits if their employment is terminated. Also included are requirements to report chief executive officer (CEO) pay compared to the average employee compensation and provision of financial rewards for whistleblowers. In 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act made some banks exempt from these requirements. For more information, see www.sec.gov/about/laws/wallstreetreform-cpa.pdf or perform an Internet search for the law by name.

The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) (2001)

This law introduced modifications to the Internal Revenue Code that adjust pension vesting schedules, increasing retirement plan limits, permitting pretax catch-up contributions by participants older than 50 in certain plans (which are not tested for discrimination when made available to the entire workforce), and modifying distribution and rollover rules. For more information, see www.irs.gov/pub/irs-tege/epchd104.pdf or perform an Internet search for the law by name.

The Electronic Communications Privacy Act (ECPA) (1986)

This is a unique law composed of two pieces of legislation: the Wiretap Act and the Stored Communications Act. Combined, they provide rules for access, use, disclosure, interpretation, and privacy protections of electronic communications, and they provide the possibility of both civil and criminal penalties for violations. They prohibit interception of e-mails in transmission and access to e-mails in storage. The implications for HR have to do with recording employee conversations. Warnings such as "This call may be monitored or recorded for quality purposes" are intended to provide the notice required by this legislation. Having cameras in the workplace to record employee or visitor activities is also covered, and notices must be given to anyone subject to observation or recording. Recording without such a notice can be a violation of this act. If employers make observations of employee activities and/or record telephone and other conversations between employees and others and proper notice is given to employees, employees will have no expectation of privacy during the time they are in the workplace.

For more information, see www.justice.gov/jmd/ls/legislative_histories/pl99-508/pl99-508.html or perform an Internet search for the law by name.

The Employee Polygraph Protection Act (1988)

Before 1988, it was common for employers to use "lie detectors" as tools in investigations of inappropriate employee behavior. That changed when this act prohibited the use of lie detector tests for job applicants and employees of companies engaged in interstate commerce. Exceptions are made for certain situations, including law enforcement and national security. There is a federal poster requirement. Note: Many state laws also prohibit the use of lie detector tests. Be sure you understand state laws where you have work locations.

For more information, see https://www.dol.gov/agencies/whd/polygraph or perform an Internet search for the law by name.

The Employee Retirement Income Security Act (ERISA) (1974)

This law doesn't require employers to establish pension plans but governs how those plans are managed once they have been established. It establishes uniform minimum standards to ensure that employee benefit plans are established and maintained in a fair and financially sound manner; protects employees covered by a pension plan from losses in benefits due to job changes, plant closings, bankruptcies, or mismanagement; and protects plan beneficiaries. It covers most employers engaged in interstate commerce. Public-sector employees and many churches are not subject to ERISA. Some charities, schools, and volunteer organizations are also not subject to ERISA due to the Cooperative and Small Employer Charity Pension Flexibility Act, which became a law in 2014. Employers that offer retirement plans must also conform to the Internal Revenue Service (IRS) code in order to receive tax advantages. For more information, see https://www.dol.gov/general/topic/health-plans/erisa or perform an Internet search for the law by name.

The Equal Pay Act (an Amendment to the FLSA) (1963)

Equal pay requirements apply to all employers. The act is an amendment to the Fair Labor Standards Act (FLSA) and is enforced by the Equal Employment Opportunity Commission (EEOC). It prohibits employers from discriminating on the basis of sex by paying wages to employees at a rate less than the rate paid to employees of the opposite sex for equal work on jobs requiring equal skill, effort, and responsibility and which are performed under similar working conditions. It does not address the concept of comparable worth. For more information, see https://www.eeoc.gov/statutes/equal-pay-act-1963 or perform an Internet search for the law by name.

The FAA Modernization and Reform Act (2012)

Congress took action in 2012 to amend the Railway Labor Act to change union certification election processes in the railroad and airline industries and impose greater oversight of the regulatory activities of the National Mediation Board (NMB). This law requires the Government Accountability Office (GAO) initially to evaluate the NMB's certification procedures and then audit the NMB's operations every 2 years. For more information, see https://www.congress.gov/bill/112th-congress/house-bill/658/text or perform an Internet search for the law by name.

The Fair and Accurate Credit Transactions Act (FACT) (2003)

The financial privacy of employees and job applicants was enhanced in 2003 with these amendments to the Fair Credit Reporting Act, providing for certain requirements in third-party investigations of employee misconduct charges. Employers are released from obligations to disclose requirements and obtain employee consent if the investigation involves suspected misconduct, a violation of the law or regulations, or a violation of preexisting written employer policies. A written plan to prevent identity theft is required. For more information, see www.gpo.gov/fdsys/pkg/PLAW-108publ159/pdf/PLAW-108publ159.pdf or perform an Internet search for the law by name.

The Fair Credit Reporting Act (FCRA) (1970), as Amended in 2011

This was the first major legislation to regulate the collection, dissemination, and use of consumer information, including consumer credit information. It requires employers to notify any individual in writing if a credit report may be used in making an employment decision. Employers must also get a written authorization from an individual before asking a credit bureau for a credit report. The Fair Credit Reporting Act also protects the privacy of background investigation information and provides methods for ensuring that information is accurate. Employers who take adverse action against a job applicant or current employee based on information contained in the prospective or current employee's consumer report will have additional disclosures to make to that individual. For more information, see https://www.ftc.gov/enforcement/statutes/fair-credit-reporting-act or perform an Internet search for the law by name.

The Fair Labor Standards Act (FLSA) (1938)

The FLSA is one of a handful of federal laws that establish the foundation for employee treatment. It is a major influence in how people are paid, in employment of young people, and in how records are to be kept on employment issues such as hours of work. The law established a national minimum wage, guaranteed "time-and-a-half" for overtime in certain jobs, and prohibited most employment of minors in "oppressive child labor," a term that is defined in the statute. It applies to employees engaged in interstate commerce or employed by an enterprise engaged in commerce or in the production of goods for commerce, unless the employer can claim an exemption from coverage. It is interesting to note that the FLSA, rather than the Civil Rights Act of 1964, is the first federal law to require employers to maintain records on employee race and sex identification.

Provisions and Protections

Employers covered under the "enterprise" provisions of this law include public agencies; private employers whose annual gross sales exceed $500,000; those operating a hospital or a school for mentally or physically disabled or gifted children; and a preschool, an elementary or secondary school, or an institution of higher education (profit or nonprofit). Individuals can still be covered even if they don't fit into one of the enterprises listed. If the employees' work regularly involves them in commerce between the states, they would be covered. These include employees who work in communications or transportation;

regularly use the mail, telephone, or telegraph for interstate communication or keep records of interstate transactions; handle shipping and receiving goods moving in interstate commerce; regularly cross state lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or in the production of goods for interstate commerce. The FLSA establishes a federal minimum wage that has been raised from time to time since the law was originally passed. The FLSA prohibits shipment of goods in interstate commerce that were produced in violation of the minimum wage, overtime pay, child labor, or special minimum wage provisions of the law.

Recordkeeping Requirements

The FLSA prescribes methods for determining whether a job is exempt or nonexempt from the overtime pay requirements of the act. If a job is exempt from those requirements, incumbents can work as many hours of overtime as the job requires without being paid for their overtime. On the other hand, people who work in nonexempt jobs must be paid overtime according to the rate computation methods provided for in the act. Exempt versus nonexempt status attaches to the job, not the incumbent. So, someone with an advanced degree who is working in a clerical job may be nonexempt because of the job requirements, not their personal qualifications. Employers are permitted to have a policy that calls for paying exempt employees when they work overtime. That is a voluntary provision of a benefit in excess of federal requirements. State laws may have additional requirements. Usually, this is a requirement for overtime after 40 hours of regular time worked during a single workweek. The act also describes how a workweek is to be determined.

Each employer covered by the FLSA must keep records for each covered, nonexempt worker. Those records must include the following:

- Employee's full name and Social Security number
- Address, including ZIP code
- Birth date, if younger than 19
- Sex
- Occupation
- Time and day of week when employee's workweek begins
- Hours worked each day and total hours worked each workweek. (This includes a record of the time work began at the start of the day, when the employee left for a meal break, the time the employee returned to work from the meal break, and the time work ended for the day.)
- Basis on which employee's wages are paid (hourly, weekly, piecework)
- Regular hourly pay rate
- Total daily or weekly straight-time earnings
- Total overtime earnings for the workweek

- All additions or deductions from the employee's wages
- Total wages paid each pay period
- Date of payment and the pay period covered by the payment

There is no limit in the FLSA to the number of hours employees age 16 and older may work in any workweek. There is a provision for employers to retain all payroll records, collective bargaining agreements, sales, and purchase records for at least 3 years. Any time card, piecework record, wage rate tables, and work and time schedules should be retained for at least 2 years. A workplace poster is required to notify employees of the federal minimum wage.

The federal child labor provisions of the FLSA, also known as the child labor laws, were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being, or educational opportunities. These provisions also provide limited exemptions. Workers younger than 14 are restricted to jobs such as newspaper delivery to local customers, babysitting on a casual basis, or acting in movies, TV, radio, or theater. Under no circumstances, even if the business is family owned, may a person under 18 work in any of the 17 most hazardous jobs. See Figure 2-1 for a list of the 17 most hazardous jobs.

• Manufacturing or storing of explosives	• Using power-driven meat-processing machines, slaughtering, meat and poultry packing, processing or rendering
• Driving a motor vehicle or working as an outside helper on motor vehicles	• Using power-driven bakery machines
• Coal mining	• Using balers, compactors, and power-driven paper-products machines
• Forest fire fighting and forest fire prevention, timber tract, forestry service, and occupations in logging and sawmilling	• Manufacturing brick, tile, and related products
• Using power-driven woodworking machines	• Using power-driven circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs
• Exposure to radioactive substances	• Working in wrecking, demolition, and ship-breaking operations
• Using power-driven hoisting apparatuses	• Roofing and work performed on or about a roof
• Using power-driven metal-forming, punching, and shearing machines	• Trenching or excavating
• Mining, other than coal	

Source: "U.S. Department of Labor, eLaws Fair Labor Standards Act Advisor" on September 15, 2021, https://webapps.dol.gov/elaws/whd/flsa/docs/haznonag.asp

Figure 2-1 The 17 most dangerous jobs that may not be performed by workers younger than 18

For workers aged 14 and 15, all work must be performed outside school hours, and these workers may not work:

- More than 3 hours on a school day, including Friday
- More than 18 hours per week when school is in session
- More than 8 hours per day when school is not in session
- More than 40 hours per week when school is not in session
- Before 7 A.M. or after 7 P.M. on any day, except from June 1 through Labor Day, when nighttime work hours are extended to 9 P.M.

For workers aged 16 through 17, there are no restrictions on the number of hours that can be worked per week. There continues to be a ban on working any job among the 17 most hazardous positions. All of these conditions must be met or the employer will be subject to penalties from the U.S. Department of Labor.

Overtime Computation

Overtime is required at a rate of 1.5 times the normal pay rate for all hours worked over 40 in a single workweek. An employer may designate that their workweek begins at a given day and hour and continues until that same day and hour 7 days later. Once selected, that same workweek definition must be maintained consistently until there is a legitimate business reason for making a change. That change must be clearly communicated in advance to all employees who will be affected by the change. No pay may be forfeited because the employer changes its workweek definition. Compensating time off is permitted under the FLSA if it is given at the same rates required for overtime pay.

Enforcement

Provisions of the FLSA are enforced by the U.S. Department of Labor's Wage and Hour Division. With offices around the country, this agency is able to interact with employees on complaints and follow up with employers by making an on-site visit if necessary. If violations are found during an investigation, the agency has the authority to make recommendations for changes that would bring the employer into compliance. Retaliation against any employee for filing a complaint under the FLSA is subject to additional penalties. Willful violations may bring criminal prosecution and fines up to $10,000. Employers who are convicted a second time for willfully violating the FLSA can find themselves in prison.

The Wage and Hour Division may, if it finds products produced during violations of the act, prevent an employer from shipping any of those goods. It may also "freeze" shipments of any product manufactured while overtime payment requirements were violated. A 2-year limit applies to recovery of back pay unless there was a willful violation, which triggers a 3-year liability. For more information, see www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf or perform an Internet search for the law by name.

The Foreign Corrupt Practices Act (FCPA) (1977)

The FCPA prohibits American companies from making bribery payments to foreign officials for the purpose of obtaining or keeping business. Training for employees who are involved with international negotiations should include a warning to avoid anything