



# Take on Compliance with Confidence

How technology helps restaurants keep up with evolving labor laws and regulations



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**NOTE:** The contents of this document are not intended as legal advice. UKG does not guarantee the accuracy of the information contained herein. Please consult your own legal counsel for advice concerning wage and hour compliance and how your use of UKG solutions might affect such compliance. This eBook is meant to provide a general overview of current key labor laws and regulations that impact the food service industry, and how a workforce management or human capital management solution might help with compliance.



# The growing compliance conundrum

When it comes to labor compliance, restaurants face ever-increasing challenges. Keeping up with existing regulations is tough enough, but the rollout of new predictive scheduling laws is creating even bigger compliance headaches. From Fair Labor Standards Act (FLSA), Family and Medical Leave Act (FMLA), Affordable Care Act (ACA), and Fair Workweek legislation to wage and hour regulations at the federal, state, and local levels, labor compliance management can bring your organization to its knees.

Many restaurant operators are still trying to manage all this complexity using multiple, disparate systems. But this outdated, siloed approach makes it difficult to enforce compliance rules accurately and consistently — especially across multiple geographies — and to spot potential risks before it's too late.

What can your food service business do to better keep up with labor compliance and **avoid costly litigation, penalties, and fines?**



# Take a proactive approach to compliance management

The UKG Dimensions™ suite from UKG (Ultimate Kronos Group) enables you to take on labor compliance challenges with confidence. Powered by the industry-first UKG D5™ Platform, this next-generation workforce management solution provides unprecedented visibility into potential compliance risks. Real-time projections predict possible violations before they occur, so you can take immediate corrective action. AIMEE™, an advanced artificial intelligence (AI) engine for workforce management, analyzes your people data and provides best-fit recommendations, helping your organization stay on top of compliance and avoid unnecessary litigation and fines.

With smart UKG™ technologies automating compliance management and guiding critical workforce decisions, your managers have more time to focus on engaging employees and delivering a great guest experience.

[Read on to learn how UKG helps solve your most pressing compliance challenges.](#)

## Catapult your compliance efforts



### CENTRALLY ENFORCE RULES

based on employment status and location



### AUTOMATE DECISIONS

with powerful data aggregation and analysis



**GET PROACTIVE  
RECOMMENDATIONS**  
and compliance alerts



**IMPROVE  
SCHEDULING ACCURACY**  
with AI-powered forecasting

# Fair Workweek and predictive scheduling laws

An increasing number of states and municipalities are passing Fair Workweek and predictive scheduling laws to promote better work-life balance and financial stability for shift workers. Depending on the jurisdiction, these laws mandate that employers provide workers with “good faith” estimates of weekly hours, days, and shift times at the start of employment; seven days’ to two weeks’ advance notice of schedules; extra pay for schedule changes made within established penalty periods; and adequate rest periods between shifts. In addition, almost all of them have exemptions for mutually agreed-upon shift swaps by employees.<sup>1</sup>

As the Fair Workweek and predictive scheduling movement sweeps the nation, restaurants are being forced to move away from common industry practices, such as clopenings and on-call scheduling, to operate within the law. After all, the stakes are high: Failure to comply with these mandates can expose employers to significant penalties. That means restaurant operators — especially those with locations across multiple jurisdictions — will need to rely on technology more than ever to achieve compliance with location-specific requirements.



<sup>1</sup> HR Dive, *Predictive Scheduling Laws* (December 2, 2019), found at <https://www.hrdive.com/news/a-running-list-of-states-and-localities-with-predictive-scheduling-mandates/540835/>.

## SOLUTION

With UKG Dimensions, you can configure appropriate predictive scheduling laws once and enforce them consistently and accurately across your locations. The system automatically tracks where and when all schedule changes originate, making it easy to differentiate employee-requested versus manager-initiated changes for calculating penalty pay. Plus, UKG Dimensions fully automates the workflow for employee approval of schedule changes made within the penalty period. You can even send schedule and pay change notifications to the employee's mobile device for greater transparency.

AIMEE analyzes historical trends, learns from that data, and constantly updates the system to provide more accurate and efficient forecasting, minimizing the need for changes after schedules are posted. Based on forecasts and good faith estimates, UKG Dimensions can schedule employees in a repeat pattern that adheres to applicable predictive scheduling laws. Once the schedule is optimized, employees can pick up open shifts not filled by good faith estimate schedules.

Workforce Advisor, a personal digital consultant available in UKG Dimensions, alerts district managers and corporate leaders of repeat predictive scheduling violations so they can initiate conversations with location or regional managers who consistently fail to comply. In addition, the tool analyzes workforce data and makes recommendations to facilitate employee shift swapping — all while helping restaurants stay in compliance.



# Fair Labor Standards Act and state overtime regulations

All U.S. restaurants need to adhere to FLSA overtime rules, but in some states that's not enough. Many states are passing more employee-friendly overtime regulations, and it's up to employers to stay in the know and play by the rules. This can be particularly challenging when you have employees who work in multiple locations — sometimes across more than one state.

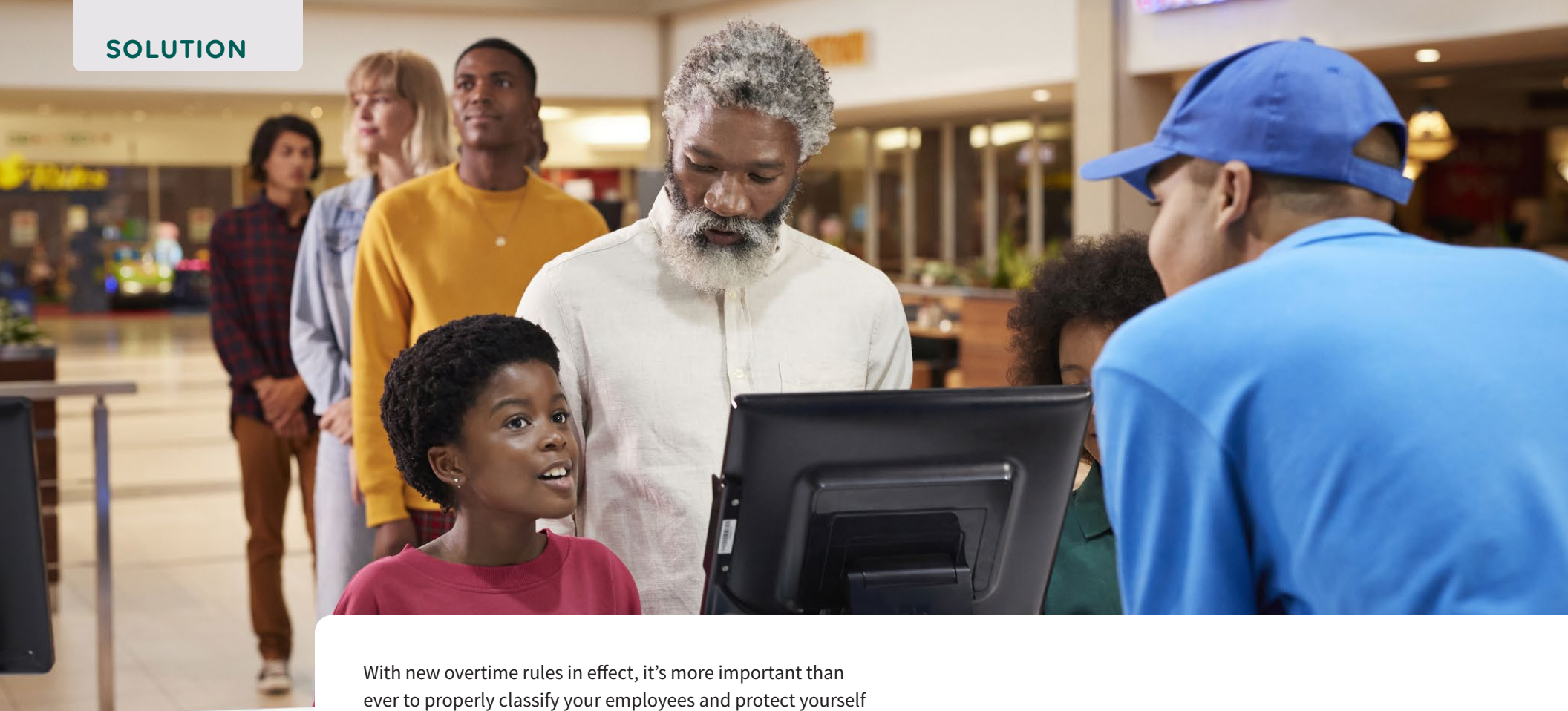
Upping the ante, the Department of Labor recently issued its final rule on the FLSA overtime salary threshold for white-collar exemptions, raising it to \$35,568 a year (\$684 a week) and extending overtime protections to more than 1 million workers who were previously ineligible under federal law.<sup>2</sup> So when it comes to properly tracking and paying overtime, there's more at stake than ever before. Violations can result in stiff state and federal penalties — not to mention employee litigation for back pay and liquidated damages.



More than **\$1.4 billion in back wages was recovered** by the Department of Labor's Wage and Hour Division in the past five years.<sup>3</sup>

<sup>2</sup> SHRM, *FLSA Overtime Rule Resources* (accessed March 3, 2020), found at <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/flsa-overtime-rule-resources.aspx>.

<sup>3</sup> U.S. Department of Labor, Wage and Hour Division Data (accessed April 20, 2020), found at <https://www.dol.gov/agencies/whd/data>.



With new overtime rules in effect, it's more important than ever to properly classify your employees and protect yourself from litigation.<sup>4</sup> UKG Dimensions can help you manage complex federal and state overtime policies consistently and accurately — even if you have employees who work in multiple locations across more than one state.

UKG Dimensions features a centralized rules engine that automatically determines the pay associated with regular and overtime hours by locality to drive accurate payroll. Our integrated workforce platform supports any number of scenarios to accurately track time worked, such as shift differentials, order of importance, daily and total hours worked, and more. The solution alerts managers when employees are approaching hours-worked and overtime thresholds, to guide cost-effective, compliant scheduling decisions.

With UKG, you get real-time visibility into workforce data to better manage FLSA and overtime compliance, while effectively balancing employee, guest, and business needs.

<sup>4</sup> National Restaurant Association, *Complying with the New Overtime Rules*, Restaurant Business (November 11, 2019), found at <https://www.restaurantbusinessonline.com/workforce/complying-new-overtime-rules>.



# Affordable Care Act

The ACA requires employers with 50 or more full-time workers to offer health benefits to employees who work more than 30 hours per week — or face hefty penalties. Organizations must identify which employees are eligible for coverage using a “lookback” period (a three-to-12-month timeframe for determining which part-time employees should be reclassified as full time). Guidelines around hours-per-week thresholds, lookback periods, and employee classification can be complex to adhere to, especially in industries like food service where employees do not always fit neatly into part-time and full-time categories.<sup>5</sup>



<sup>5</sup> Nicole Duncan, *The Healthcare Dilemma*, QSR Magazine (April 2014), found at <https://www.qsrmagazine.com/employee-management/healthcare-dilemma>.

## SOLUTION

UKG Dimensions enables proactive management of your ACA compliance strategy across your entire workforce. It gives you the tools to effectively manage regular- and variable-hour employees' benefit compliance, along with applicable reporting and a simple year-end process for IRS filing.

Automate and streamline ACA compliance efforts with:

- **REAL-TIME AND HISTORICAL DATA** on your ACA status for individual employees and the entire organization
- **AUTOMATED COMPLIANCE ALERTS** that notify managers when scheduled hours put an employee over the benefits eligibility limit
- **EMPLOYEE ELIGIBILITY NOTIFICATIONS** with links to automate the benefits enrollment process via self-service features
- **DETAILED REPORTS AND AUDITS** of HR, timekeeping, and payroll data to simplify benefits administration
- **CONFIGURATION OF RULES** to enforce schedules and adhere to your preferred part-time/full-time employee mix



# Meal and rest breaks

While meal and rest breaks are not mandated by federal law, many individual states have specific break rules you need to follow. Depending on the state, employers are required to offer a meal break if the employee's shift exceeds five to seven consecutive hours. States that mandate rest breaks vary regarding how long the break must be — anywhere from five to 20 minutes — and how long a shift must last to make a rest break necessary. In general, however, these rules serve to minimize clopening practices, which can negatively impact employee well-being and the guest experience.

To add to the confusion, some states distinguish between paid breaks and nonpaid breaks by the amount of time employees take and whether they are relieved of all duties during that period. The onus is on restaurant operators to follow these complex rules accurately — even during periods of heavy demand — or face potential fines and penalties. That's why restaurants need technology and tools to help enforce meal and rest breaks, reduce clopenings, and demonstrate compliance to regulators.



## SOLUTION

UKG Dimensions, powered by a centralized rules engine and the advanced AI capabilities of AIMEE, accurately forecasts business volume and helps managers plan and execute employee schedules that comply with state-by-state meal and rest break mandates. Quick actions facilitate easy and efficient schedule edits, if needed, and supporting metrics such as coverage or target hours provide real-time insights to help you stay compliant.

Integrated attestation tools capture accurate employee attestation responses in real time at the data collection source. Employees receive a prompt — at the end of their scheduled shifts or when submitting timesheets at the end of a pay period — asking them to attest to whether they have taken mandated meal or rest breaks. You can even customize prompts to reflect applicable laws and policies, or send automated notifications that alert employees of missed attestations to help keep compliance efforts on track.

Meal and rest breaks  
help **boost employee  
safety, performance,  
and engagement.**



# Family and Medical Leave Act

The FMLA requires employers with more than 50 employees to provide eligible workers with 12 weeks of job-protected unpaid leave for qualified medical and family reasons — such as serious illness or the birth or adoption of a child — or risk fines and lawsuits. In order to be eligible for FMLA leave, an employee must have worked for the employer for at least 12 months and must have worked at least 1,250 hours over the past 12 months. Beyond federal regulations, many states and cities have passed laws providing additional family and medical leave protections for workers.<sup>6</sup>

Given the eligibility threshold, a part-time employee could potentially still work enough hours to gain FMLA status.<sup>7</sup> In the restaurant business, where the workforce includes a large proportion of part-time hourly employees, accurate visibility into time worked is particularly important for determining leave eligibility under FMLA.

<sup>6</sup> Lisa Nagele-Piazza, J.D., *SHRM-SCP, How Can Employers Navigate Multiple Leave Laws?*, SHRM (March 15, 2018), found at <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/navigating-multiple-family-leave-and-sick-leave-laws.aspx>.

<sup>7</sup> Katie Clarey, *Back to Basics: A Rookie's Guide to the FMLA*, HR Dive (October 2, 2018), found at <https://www.hrdive.com/news/back-to-basics-a-rookies-guide-to-the-fmls/533426/>.



## SOLUTION

UKG Dimensions standardizes administration and enforcement of organizational, local, state, and federal leave policies, including FMLA. The solution allows you to control the abuse of intermittent leave time and eliminates error-prone manual tasks so you can maintain current, accurate, and consistent employee leave records. Integration with time and attendance management makes it simple to determine FMLA eligibility based on hours worked within a 12-month period — even for part-time, hourly employees who may work in multiple locations.

Streamline FMLA management with automated tools to:

- **DETERMINE ELIGIBILITY** for sick time, vacation, and FMLA cases
- **FLAG ACTION ITEMS** such as policy violations and potential FMLA cases with automated alerts
- **STREAMLINE DOCUMENT GENERATION** with customizable disciplinary action letters and FMLA-related medical certification form templates

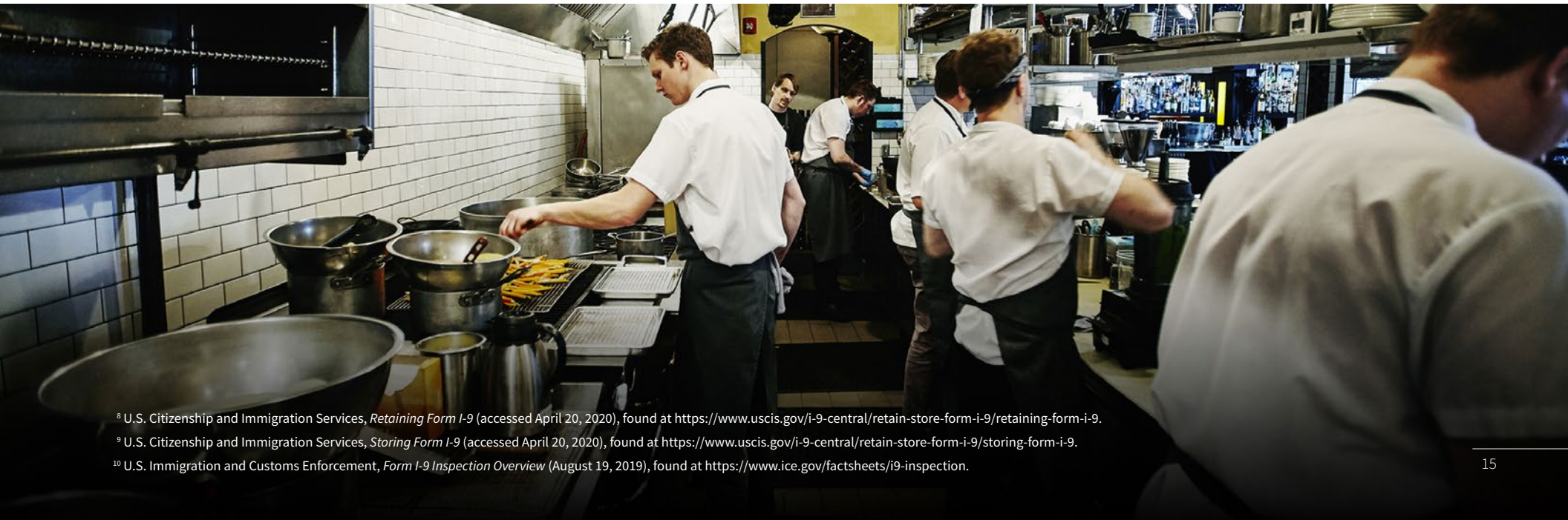


# Form I-9 employment eligibility verification

Employment eligibility verification is a big deal in the restaurant business. Form I-9 is used to verify the identity and employment authorization of individuals hired to work in the U.S. Restaurant operators must ensure proper completion of Form I-9 for each individual — citizen or noncitizen — they hire for U.S. employment. Reverification of eligibility may also be required under certain circumstances. But when you're scrambling to hire and onboard restaurant workers to keep up with demand, it can be challenging to get all the administrative work done in an expedient manner.

Employers must retain original I-9 forms for three years after the date of hire, or one year after the date employment ends, whichever is later.<sup>8</sup> The forms should be stored separately from other personnel files to facilitate response to an inspection request.<sup>9</sup>

Form I-9 violations can result in significant penalties, especially for repeat offenders. In determining penalty amounts, the U.S. Immigration and Customs Enforcement agency considers a number of factors: business size, good faith effort to comply, seriousness of the violation, whether the violation involved unauthorized workers, and any history of previous violations.<sup>10</sup>



<sup>8</sup> U.S. Citizenship and Immigration Services, *Retaining Form I-9* (accessed April 20, 2020), found at <https://www.uscis.gov/i-9-central/retain-store-form-i-9/retaining-form-i-9>.

<sup>9</sup> U.S. Citizenship and Immigration Services, *Storing Form I-9* (accessed April 20, 2020), found at <https://www.uscis.gov/i-9-central/retain-store-form-i-9/storing-form-i-9>.

<sup>10</sup> U.S. Immigration and Customs Enforcement, *Form I-9 Inspection Overview* (August 19, 2019), found at <https://www.ice.gov/factsheets/i9-inspection>.

## SOLUTION

At UKG, we understand the need to respond quickly and efficiently to changing demand. That's why UKG Dimensions helps your teams recruit, screen, track, hire, and complete employee verification of best-fit candidates to build a more engaged and productive workforce. Once you've made a hiring decision, the unified UKG platform creates a seamless flow of information into the employee record, reducing errors and saving time.

At the same time, our flexible solution allows you to store workers' I-9 forms and associated documentation separately from the employee record — with ready access in the event of a U.S. Immigration and Customs Enforcement audit — to minimize risk of noncompliance. UKG Dimensions also makes it easy to configure a workflow, complete with automated reminders, to reverify employees with work permits that expire and to accurately dispose of old forms.

Fines for substantive violations, which include failing to produce a Form I-9, **range from \$230 to \$2,292 per violation.**<sup>11</sup>



<sup>11</sup> Ibid.



# Successfully navigate the compliance landscape

Count on UKG to help your food service business manage compliance with ever-evolving labor laws and regulations at the federal, state, and local levels. Our industry-leading workforce platform provides the intelligent tools and innovative technologies you need to streamline processes, automate rule enforcement, guide proactive decisions, and minimize compliance concerns — so you can focus on engaging employees, delighting guests, and driving better business outcomes.

For more information, visit us at [UKG.com](https://www.ukg.com).

## About UKG

At UKG (Ultimate Kronos Group), our purpose is people.™ Built from a merger that created one of the largest cloud companies in the world, UKG believes organizations succeed when they focus on their people. As a leading global provider of HCM, payroll, HR service delivery, and workforce management solutions, UKG delivers award-winning Pro, Dimensions, and Ready solutions to help tens of thousands of organizations across geographies and in every industry drive better business outcomes, improve HR effectiveness, streamline the payroll process, and help make work a better, more connected experience for everyone. UKG has more than 12,000 employees around the globe and is known for its inclusive workplace culture. The company has earned numerous awards for its culture, products, and services, including consecutive years on Fortune's *100 Best Companies to Work For* list. To learn more, visit [ukg.com](https://www.ukg.com).



Our purpose is people

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