

Weekly Digest

• May 17, 2023 •



Human Resources

OSHA Launches Nationwide Program Focusing on Workplace Falls

"For the last 12 years, 29 CFR 1926.501 (Duty to Have Fall Protection) has topped OSHA's list of most frequently cited standards. Despite the agency's enforcement efforts, falls from heights remain the leading cause of fatalities and serious injuries across all industries." [Full Article](#)

Littler Mendelson P.C.



Compliance Update for U.S. Employer Conducting Criminal Background Checks in the Hiring Process

"Employers who conduct background checks on applicants or employees must comply with the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq. Among other things, the FCRA requires employers who procure criminal background reports ("consumer reports") to provide applicants and employees with a Summary of Rights form as prepared by the Consumer Financial Protection Bureau (CFPB) when providing them with the FCRA-required pre-adverse action notices." [Full Article](#)

Hunton Andrews Kurth, LLP

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5 Steps for Managing Layoffs and Workplace Reductions

"No one likes to think about layoffs and workforce reductions, but they are a reality from time to time, especially when market conditions are uncertain or unfavorable. Although workforce reductions are unfortunate, there are things that employers can do to facilitate a smooth transition and protect against legal consequences." [Full Article](#)

Levenfeld Pearlstein, LLC



Best Practices for Handling and Documenting a Non-Performing Employee

"Addressing an employee's failure to meet performance expectations can be challenging for an employer. This article highlights best practices for handling and documenting a non-performing employee." [Full Article](#)

Venable LLP

EEOC Offers "Promising Practices" for Battling Workplace Harassment

"The Equal Opportunity Employment Commission (EEOC) released what it describes as "Promising Practices for Preventing Harassment" with detailed recommendations in the categories of (1) Leadership and Accountability, (2) Comprehensive and Effective Anti-Harassment Policy, (3) Effective and Accessible Anti-Harassment Program and (4) Effective Anti-Harassment Training." [Full Article](#)

Phelps Dunbar LLP



Bueller? Bueller? EEOC Examining Attendance Policies for ADA Violations

"Do you have a "no fault" attendance policy or some other way in which employees get points for absences? If so, be careful. A recent Eleventh Circuit matter, EEOC v. Eberspaecher North America, Inc. suggests that the Equal Employment Opportunity Commission (EEOC) wants to check out those policies to see if there is an ADA violation and may want to expand its search beyond one facility." [Full Article](#)

Bradley Arant Boult Cummings LLP

STATE COMPLIANCE UPDATES

FLORIDA

Florida Poised to Mandate Use of E-Verify for Private Employers



"The Florida Legislature has passed a bill that, if enacted, will require private employers with 25 or more employees to use the federal E-Verify system to verify the employment eligibility of newly hired employees beginning July 1, 2023. The bill, SB 1718, is expected to be signed into law by Governor Ron DeSantis." [Full Article](#)

Proskauer Rose LLP

NEW YORK

New York Minimum Wage to Increase Again



"The Fiscal Year 2024 New York State Budget (the "Budget") includes a multi-year plan to increase the State's minimum wage starting on January 1, 2024. The new statutory minimum wage rates apply to all New York employers regardless of size." [Full Article](#)

Seyfarth Shaw LLP

MARYLAND

Maryland Modifies its Paid Family and Medical Leave Insurance Program



"Maryland became the eleventh state (in addition to the District of Columbia) to adopt a statewide family and medical leave program (the "Program"). The Maryland General Assembly recently concluded its 2023 session and passed modifications to the Program." [Full Article](#)

Littler Mendelson P.C.

WASHINGTON

Washington State to Bar Employers from Relying on Off-Duty Use of Marijuana in Hiring Decisions



"The state of Washington will prohibit employers from making hiring decisions based on off-duty use of cannabis or positive pre-employment drug test results that find an applicant to have non-psychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids. The new law (SB 5123) takes effect on January 1, 2024." [Full Article](#)

Jackson Lewis P.C.

ILLINOIS

Illinois Department of Labor Amends Regulations on Employer Reimbursement of Employee Expenses



"The regulations establish a new five-factor test for assessing whether an employer must reimburse expenses. The amended regulations also impose new record-keeping requirements on employers." [Full Article](#)

Barnes & Thornburg LLP