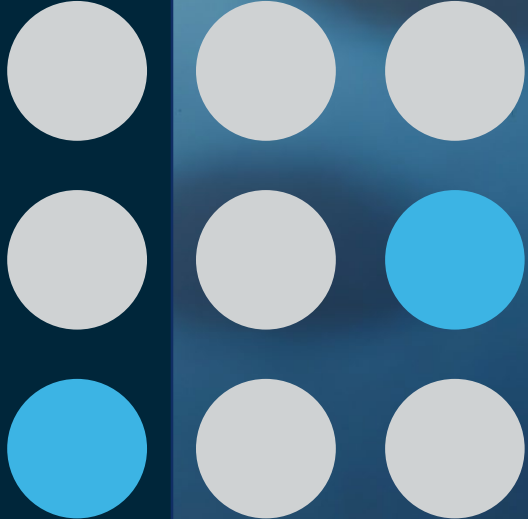


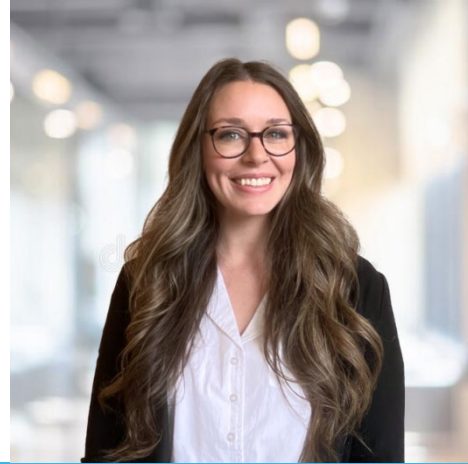
What to Expect in 2025: A Highlight Reel

December 12, 2024

Littler® Compliance **HR**



Today's Webinar Host



STEPHANIE ZIELINSKI

Marketing Director

ComplianceHR

Who We Are



- Technology Platform
- Infrastructure enterprise



- Subject matter expertise
- Knowledge management team
- Case databases



What we do:
Deliver expert guidance in a fraction of time and cost vs traditional methods

Compliance **HR**



PolicySmart™

Create and maintain an up-to-date and legally compliant employee handbook



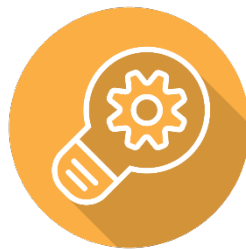
Navigator Independent Contractor

Remove risk in determining Independent Contractor status



Navigator Overtime

Determine if an employee is exempt or non-exempt



The Reference Center

A Comprehensive Solution for Employment Law and Common HR Compliance Questions



The Document Center

Efficiently generate state and federal compliant documents throughout the employee lifecycle

Our Most Popular Solutions



ComplianceHR
PolicySmart™
Changing the way companies create and maintain compliant handbooks

Creating and maintaining compliant handbooks is a daunting task.
Your company's employee handbooks can be invaluable tools that help shape company culture, communicate operational policies, and minimize the risk of employment-related legal liability. A well-thought and legally compliant handbook is essential to keeping the HR process running smoothly, and most employees would agree that keeping up with federal, state, and local employment laws can seem overwhelming.

PolicySmart™ takes handbooks to the next level.
PolicySmart™ is an intuitive handbook compliance tool that provides employers with national and state-specific templates, a unique compliance timeline, and so much more.

Fueled by the subject matter expertise of Littler, the world's largest employment law firm and built on Nauto's AI-powered platform, PolicySmart™ allows users to easily create and maintain legally compliant handbooks that are cost-effective, up-to-date, and delivered on-demand.

- Federal and State Compliant Templates:** A comprehensive library of federal and state-specific templates, as well as policy templates that are fully customizable, depending on your needs and operational needs.
- Innovative Compliance Timeline:** Provides an up-to-date timeline of important legal changes that will soon take effect in your selected jurisdictions, helping to ensure that policies are updated at the right time.
- Handbook Policy Checklists:** Gain access to jurisdiction-specific checklists that tell employers which policies are required by law to appear in their handbook and who is covered by each policy.
- Automated Monthly Emails:** Receive a summary and analysis of relevant legal developments that impact your workplace, with guidance on how to revise policy language.



ComplianceHR
Reference Center
The Comprehensive Solution for Employment Law and Common Compliance Questions

Last year, thousands of employment law requirements were created and overhauled. Maintaining compliance across all jurisdictions is an incredibly difficult feat, but the Reference Center is here to help.

Answer your compliance questions with the Reference Center

ComplianceHR is committed to innovation. To better suit your workflow, we have created the Reference Center. This solution provides you with a single way to answer your compliance questions, easily find content on several employment law topics, and even provide deeper content that bridges multiple employment law topics.

Your organization needs a proactive strategy instead of a reactive approach to compliance. The Reference Center provides state and local information for a variety of topics, such as final pay, FMLA, minimum wage, predictive scheduling, and workplace posters, among many others.

Fueled by the subject matter expertise of Littler, the world's largest employment law firm, the Reference Center is a critical tool for your HR and legal teams.

- Local, State and Federal Information:** A comprehensive library of state and national information that bridges a variety of compliance topics to ensure you're able to access important data.
- Wide Range of Compliance Topics:** From COVID-19 final pay, FMLA to rate changes, pay frequency to an call, organizations of any size and in any sector can benefit from this information.
- Streamlined Workflow:** The Reference Center is designed to help people across your organization quickly find answers to their questions, whether they're on a centralized legal team or an HR team distributed across the country.

PolicySmart provides you with:

- Federal and state-compliant templates
- Innovative compliance timeline
- Handbook policy checklists
- Automated twice monthly legal update emails

The ComplianceHR Reference Center provides you with:

- Local, state and federal information
- Streamlined workflows
- Wide range of compliance topics
 - o Leave, final pay, FMLA, minimum wage, and more

When coupled, these two solutions provide you with comprehensive compliance program support

Sign Up for a Demo

Three ways to sign up for a demo:

1. Reply “Yes” to the on-screen poll
2. Visit our website: Compliancehr.com
3. Email our team at demo@compliancehr.com

Benefits of a custom demo:

- Discuss your organization’s requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies

ComplianceHR Demo & Free Trial:

<https://compliancehr.com/webinar-demo/>

Resources

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[State-by-State CLE Guide](#)
[BeaconLive - How to Access Certificates](#)

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New Legislation and Anticipated Legal Trends for 2025

Agenda: New Legislation and Trends

- Child Labor
- Bans on Mandatory Employer-Sponsored Meetings
- Non-Competes
- Artificial Intelligence
- Impact of the 2024 election



Child Labor

- Uptick in legislation likely due to worker shortages and increased child labor violations.
- More than half of the state legislatures introduced bills seeking to regulate child labor standards in 2024.
- Popular topics of regulation: work permits, increased penalties, and expanded work hours.

Federal Child Labor Violations

	FY 2024	FY 2023	FY 2022
Number of Cases with Violations	736	955	835
Civil Money Penalties	\$15,164,150	\$8,039,728	\$4,386,205

Statistics provided by the Federal Department of Labor's Wage and Hour Division: <http://www.dol.gov/agencies/whd/data/charts/child-labor>

Child Labor: Notable Enacted 2024 Laws

- Increased penalties: **Alabama, Colorado (effective January 1, 2025), North Carolina, and Oregon**
- Voluntary social compliance audit: **California (effective January 1, 2025)**
- Enhanced protections for minors and employer obligations: **Illinois (effective January 1, 2025)**
- Removal of certain time and hour restrictions: **Indiana (effective January 1, 2025) and Florida**
- Recreation or meal periods only for minors under 16: **Louisiana**



Bans on Mandatory Employer-Sponsored Meetings

- **NLRB update:** *Amazon.com Services LLC, 373 NLRB No. 136 (2024)*.
 - Mandatory meetings regarding unionization
- Restrict employers from requiring employees to attend employer-sponsored meetings regarding the employer's opinion on ***political or religious matters***.
- **23 bills from 13 jurisdictions**



Bans on Employer-Sponsored Meetings: Enacted 2024 Legislation

Enacted and Effective in 2024

- Hawaii
- Minnesota
- Vermont
- Washington

Enacted in 2024 and Effective in 2025

- Alaska – Ballot Measure (July 1, 2025)
- California (January 1, 2025)
- Illinois (January 1, 2025)



Non-Competes

- **Federal regulation:** The Federal Trade Commission's non-compete rule broadly bans non-competes.
 - Currently enjoined
 - FTC is considering an appeal
 - Appeal likely to be abandoned by the incoming administration
- **2024: 35 bills were introduced in 17 jurisdictions**
- **Enacted state laws in 2024: Colorado, Minnesota, and Washington**



Use of AI Tools in Employment Decisions

- 2024: Colorado enacts the first comprehensive state-level law impacting an employer's obligations with respect to use of AI tools in employment decisions.
- Colorado's law creates tort liability for artificial intelligence (AI) algorithmic discrimination in employment. The new law's scope is limited to machine-based algorithms that use inferential techniques to produce predictions, recommendations, decisions, or content more generally.
- Applies to businesses using "high-risk AI systems" – an AI tool that is a substantial factor in making certain decisions, including employment-related decisions such as hiring, firing, and promotion.
- No private right of action – will be enforced by the Colorado state attorney general, who may seek injunctive relief and civil penalties of up to \$20,000.



Use of AI Tools in Employment Decisions

In 2025, expect to see more state-level efforts at AI regulation. While several bills have been introduced at the federal level, none of them progressed.

President Biden's October 2023 Executive Order addressing AI as well as various agency guidance addressing AI in the workplace and algorithmic discrimination may be rescinded.

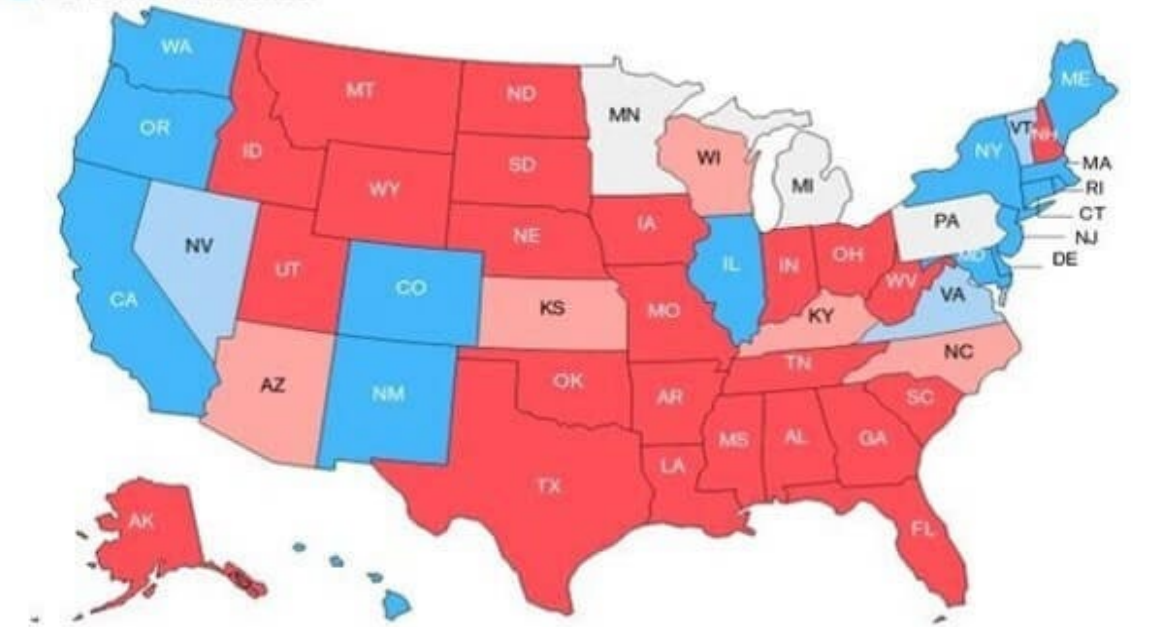
Colorado's law was based on model legislation that lawmakers in several states have workshopped with various stakeholders, including employers and tech companies.

We expect more bills based on this model to be introduced in 2025. Texas has already pre-filed a similar bill.

Impact of the 2024 Election

Partisan Control of State Legislatures, Governorships

- Full GOP control
- GOP legislature, Democratic governor
- Split legislature
- Democratic legislature, GOP governor
- Full Democratic control



Source: Ballotpedia
Note: Alaska's coalition government is GOP dominant.

Bloomberg Government

- “Trifecta” states – those in which one party has full legislative and gubernatorial control – are more able to pass legislation that advances their parties’ priorities for employment regulation
- As a result of the 2024 elections, two states, Michigan and Minnesota, lost Democratic trifecta status and returned to divided governments. Both states had enacted significant pro-worker legislation in recent years.

Impact of the 2024 Election

Trifecta status does not necessarily determine how successful pro-worker legislation will be.



Examples:

Alaska, Missouri, and Nebraska voters approved ballot measures establishing paid sick leave

California voters narrowly voted against a measure that would have increased the state minimum wage

Impact of the 2024 Election

Hot button issues that likely drove voter turnout:

Reproductive rights:

- Protected or expanded abortion rights: Montana, Nevada, Arizona, Colorado, Maryland, Missouri, New York
- Failed to pass: Florida, Nebraska, South Dakota

Marijuana Legalization:

- Voters approved: Nebraska
- Failed to pass: Florida, North Dakota, South Dakota



Impact of the 2024 Election

Minimum Wage Initiatives

- **Voters approved:**
 - **Alaska** – \$13/hour in 2025; \$14/hour in 2026; \$15/hour in 2027
 - **Missouri** – \$13.75/hour in 2025; \$15/hour in 2026
- **Voters rejected:**
 - **California** – \$18/hour statewide
 - **Massachusetts** – elimination of tip credit
 - **Arizona** – preserve tip credit in state constitution

Impact of the 2024 Election

Paid Sick Leave Initiatives

- Voters said “yes” in **Alaska, Nebraska, and Missouri** to requiring employers to provide paid sick leave:
 - **Alaska, Missouri** – Employees entitled to accrue up to 56 hours of paid sick leave per year.
 - **Nebraska** – Employers with fewer than 20 employees must provide up to 40 hours (5 days) of sick leave annually; larger employers with 20 or more employees must provide up to 56 hours (7 days) annually.



Handbook Updates

Updating Your Handbook: What's in a Year?

- Since January 1, 2024, we have updated or created nearly 50 policy statements to keep the National Handbook template and state supplement templates up-to-date
- Policy-related laws with sunset or repeal
 - Eules, Texas predictive scheduling
 - New York COVID-19 paid sick leave law sunsets July 31, 2025

New and Revised Handbook Policies in 2024—Jurisdiction and Scope	
National	2
California	6
Colorado	3
Connecticut	5
Delaware	1
Illinois	5
Louisiana	1
Maryland	2
Massachusetts	1
Michigan	1
Minnesota	5
Missouri	1
New Hampshire	1
New York	2
Oregon	4
Utah	1
Virginia	1
Washington	2

Handbook-Related Changes Taking Effect January 1

California “intersectionality” and CROWN changes to EEO

California amendments to short-term disability

Benefit increases for California short-term disability and family leave insurance

California paid sick leave and unpaid leave for victims of crime

Connecticut expansion of paid sick leave

Colorado COMPS poster

Illinois Personnel Records Review Act amendments

Illinois amendments to Human Rights Act

New York paid prenatal leave

Rhode Island increase in temporary caregiver leave benefits

Washington expansion of paid sick leave

Policy Updates—New Kids on the Block

- California creates anti-discrimination protections for “intersectionality”
- California indoor heat illness prevention plan
- California workplace violence prevention plan
- Colorado amends CROWN Act to include hair length
- Delaware discrimination protections on the basis of “housing status”
- Expanded employee records access requirements in Illinois
 - Includes employee handbooks, written policies and procedures and employment-related contracts
 - New process for employee requests
- Maryland heat-related illness prevention and management plan
- New York paid prenatal leave
- New York workplace violence prevention (specific to retailers)
- New York paid lactation accommodation (joining Georgia, Illinois and Minnesota)

Recent and Forthcoming Changes in the Paid Leave Landscape

- Payroll deductions and/or payroll taxes begin in 2025 for new paid family and medical leave laws in Delaware, Maine and Maryland
- Alaska new paid sick leave (effective July 1, 2025)
- California expanded authorized reasons for paid sick leave use (effective January 1, 2025)
- Connecticut amendments to paid family and medical leave (effective October 1, 2024)
- Connecticut expansion of paid sick leave (effective January 1, 2025)
- Illinois new regulations interpreting Paid Leave For All Workers Act (effective April 30, 2024)
- Chicago Paid Leave and Paid Sick Leave Ordinance took effect July 1, 2024
- Maryland delayed implementation of its Family and Medical Leave Insurance Program (leave now available July 1, 2026)
- Michigan Supreme Court revives old paid sick leave law (effective February 21, 2024)

Recent and Forthcoming Changes in the Paid Leave Landscape (cont'd)

- Missouri new paid sick leave (effective May 1, 2025)
- Nebraska new paid sick leave (effective October 1, 2025)
- Massachusetts expanded reasons for use of earned sick time (effective November 21, 2024)
- Minnesota amendments to Earned Sick and Safe Time Act (effective May 24, 2024)
- Minnesota amendments to paid family leave law (effective May 24, 2024)
- Oregon: Changes to Paid Leave Oregon (effective July 1, 2024, with additional changes effective January 1, 2025)
- Washington expanded authorized reasons for paid sick leave (effective January 1, 2025)
- Washington amendments to paid family and medical leave (effective June 14, 2024)

New Notice Requirements

- Colorado AI Algorithmic Discrimination in Employment
- D.C. Wage Transparency Act notice
- Delaware Service Worker Protection Act
- Illinois Worker Freedom of Speech Act
- Los Angeles ordinance prohibiting retaliation for reporting public health violations
- Los Angeles County Fair Chance Ordinance
- Oregon notice related to warehouse worker quotas
- Rhode Island Veterans' Benefits and Services (poster requirement)
- Texas Workplace Violence Hotline poster
- Washington Free Choice Act

Changes to Notice Requirements

- California workers' compensation
- California Whistleblowers Protection Act notice
- Maryland notice of pay information at the time of hire

Handbook Updating Processes to Keep in Mind

- Set up a regular review schedule to keep policies legally compliant
- Document changes to handbooks
- Maintain copies of prior versions
- Evaluate whether additional non-policy-related changes are needed
 - Forms (PWFA)
 - Updated posters and notices
 - Payroll practices



NLRB Update

NLRB



Chair Lauren McFerran (D)
Term ends
December 16, 2024



Member Marvin Kaplan (R)
Term ends
August 27, 2025



Member David Prouty (D)
Term ends
August 27, 2026



Vacant Seat
Previously held by Member John Ring (R)
Term ended December 16, 2022
Nomination/ Josh Ditelberg (R) pending

Image Source: dol.gov



Gwynne Wilcox (D)
Term ends
August 27, 2028

Significant NLRB Cases in 2024

- Feb. 21 - Employee wearing “Black Lives Matter” insignia on work apron was protected concerted activity, major retailer violated NLRA by instructing removal
- Aug. 22 - *Metro Health, Inc.*, 373 NLRB No. 89 (2024) – Discontinued the practice of consent orders, a tool for case resolution
- Nov. 8 – NLRB overruled *Tri-Cast, Inc.*, 274 NLRB 377 (1985) – Restricted employer speech concerning the impact of unionization on the relationship between employer and employee
- Nov. 13 – *Amazon.com Services LLC*, 373 NLRB No. 136 (2024) – Captive audience meetings deemed unlawfully coercive
- Dec. 10 – *Endurance Environmental Solutions, LLC*, 373 NLRB No. 141 (2024) – makes it harder for employer to defend a unilateral change in working conditions based on union’s contractual waiver

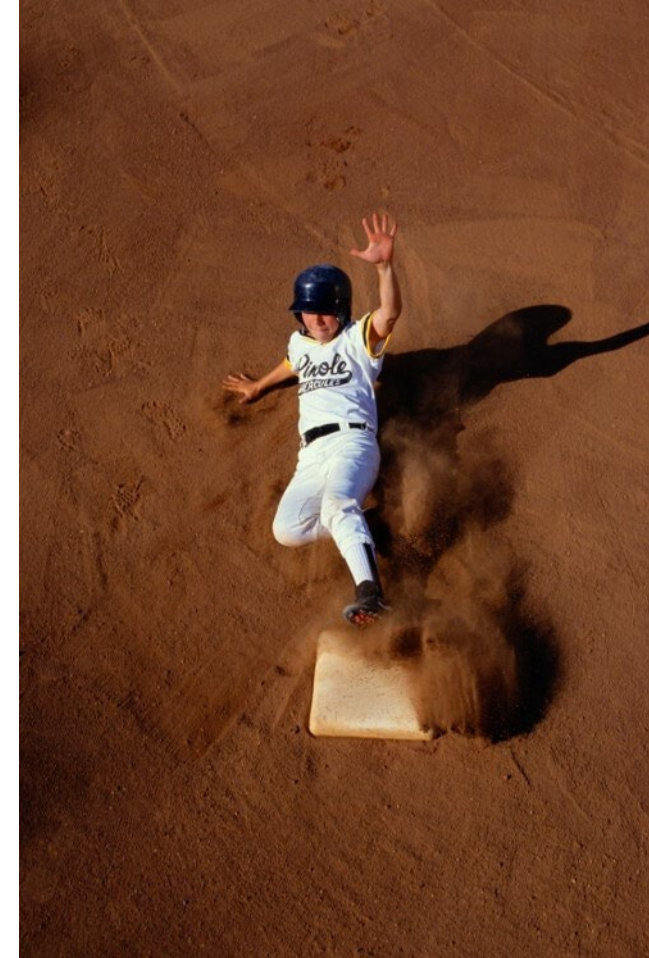
Mandatory Meetings About Unionization

- In *Amazon.com*, the NLRB overruled 76 years of precedent and held (prospectively) that an employer commits ULP when it “compel[s] its employees, on pain of discharge or discipline, to attend a meeting during which it expresses its views concerning unionization.”
- “Safe Harbor” – Employers may continue meeting with employees as long as employees are given reasonable advance notice of the meeting that informs employees:
 1. The employer intends to express its views on unionization at a meeting at which attendance is **voluntary**;
 2. Employees will **not be subject to discipline, discharge, or other adverse consequences** for failing to attend the meeting or for leaving the meeting; and
 3. The **employer will not keep records** of which employees attend, fail to attend, or leave the meeting.



How Safe is the Safe Harbor?

- How much notice is “reasonable”?
- What about one-on-one encounters with employees?
- What about multi-purpose meetings?
- What if an employee brings up unionization?
- Do the new rules cover mandatory meetings about other union-related topics like CBA negotiations or strikes?



Employer Options

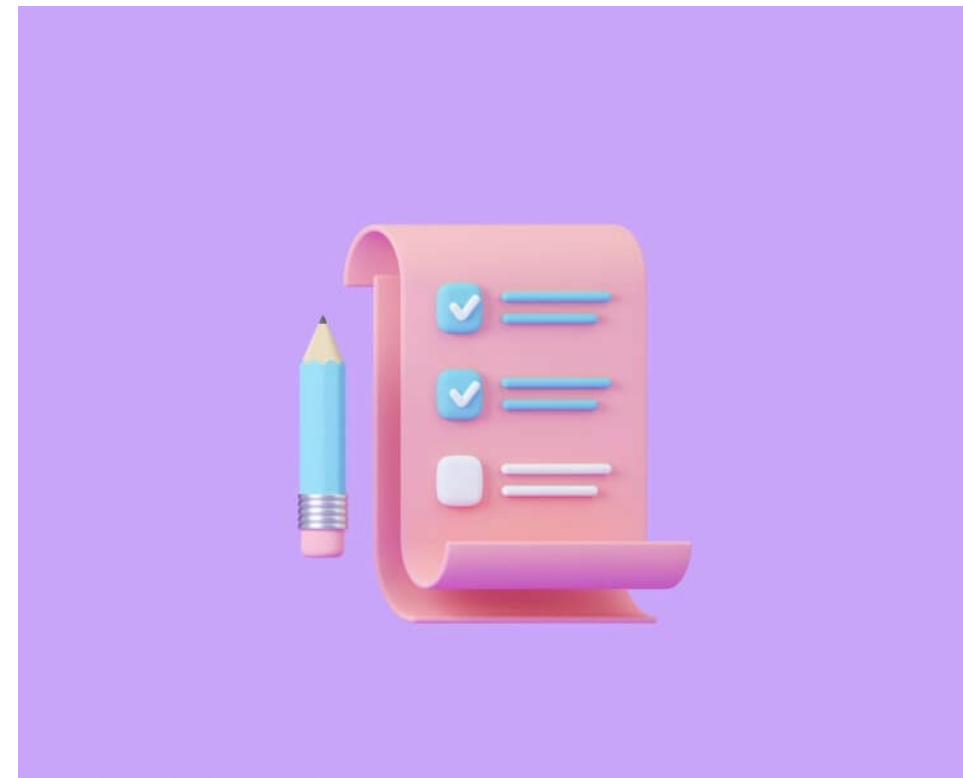
Must consider the company's risk tolerance -

- “Safe harbor” approach
- Amicus briefs
- *Leedom* Action in federal court seeking injunction
- Modern Labor Compliance training
- Banking on the appeal (most risky, although several bases exist for appeal)



Unfulfilled GC Agenda Items

- GC indicated she wants to overturn the following cases but has so far been unable to do so:
 - *Caesars Ent.*, 368 NLRB No. 143 (Dec. 16, 2019) (employee use of employer IT systems).
 - *Care One at New Milford*, 369 NLRB No. 109 (2020) (duty to bargain over discipline pre-CBA).
 - *Velox Express, Inc.*, 368 NLRB No. 61 (no independent violation for misclassification).



Administration Transition

What changes are we likely to see in the second Trump admin?

- Firing the General Counsel
- R nominees take Board majority in 2025
- Change of policies/interpretations on noncompetes, electronic monitoring, settlements
- Ending (again) the war on handbooks
- Abandonment of efforts to modify/rescind 2020 joint employer standard
- Attempt to reverse Biden Board decisions on bargaining orders, handbooks, confidentiality clauses in settlements, IC classification, employer free speech

The question is pace.





SEC Whistleblower Protections and Employment Agreements

SEC's Role

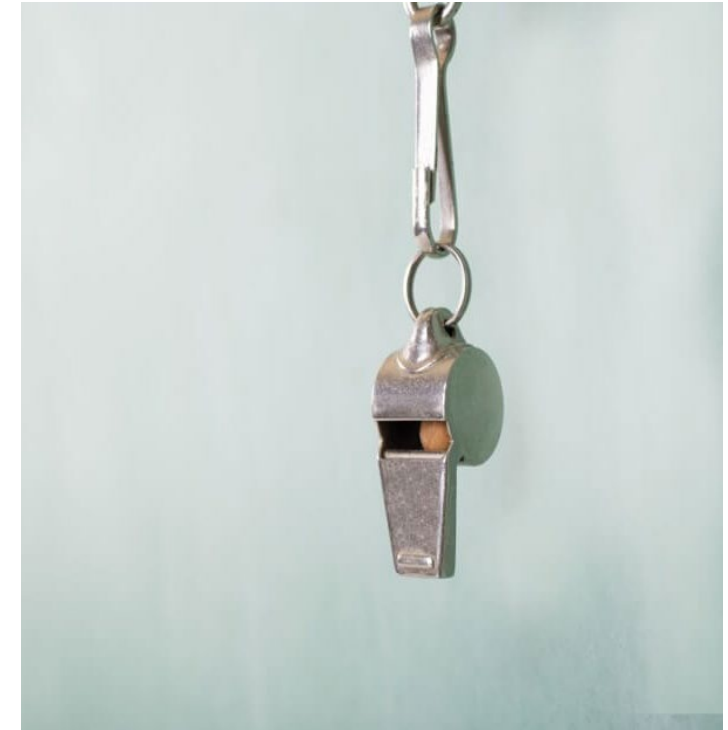
- SEC responsible for enforcing securities laws
- Most common securities law violations according to the SEC website include issuer disclosure and accounting violations, foreign bribery, manipulation of market prices, investment advisory issues, insider trading, broker-dealer misconduct, and securities offerings
- SEC can bring civil or administrative actions
- Can seek orders / injunctions in court
- Can order civil fines
- Can work with DOJ to pursue criminal violations



The Culprit

§ 240.21F-17 Staff communications with individuals reporting possible securities law violations.

- **(a) No person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement ... with respect to such communications.**
- Adopted August 2011
- Employment agreements, confidentiality agreements, release agreements, nondisparagement agreements, confidentiality policies, consulting agreements, etc:
- Private companies, too (<https://www.sec.gov/education/capitalraising/building-blocks/sec-have-do-my-private-company>)
- Fines/penalties in 2023-2024 ranged from \$225k to \$18 million!



Problematic Provisions

- Prohibitions on communications with the SEC or government agencies generally
- Limits on scope of permissible communications to government agencies, *e. g.*, only “as required by law” or in response to orders from courts or other government authorities, without any exception for voluntary communications with SEC
- Requiring notice to, and/or authorization by, the company of any voluntary communications to government agencies
- Statement acknowledging that individual has not filed any complaint against company with any state or local federal court or local, state or federal agency (even with prospective carveout)
- Waiver of right to legal or equitable relief or monetary recoveries based on reporting to government agencies, either by reference to the SEC whistleblower program explicitly or generically
- Forfeitures or liquidated damages for breach if employee communicates with the government



Examples of Problematic Provisions

Separation agreement: “Nothing in this agreement is intended to limit in any way your right or ability to file a charge or claim with any federal, state, or local agency. ... You retain the right to participate in any such action, *but not the right to recover money damages or other individual legal or equitable relief awarded by any such governmental agency.*”

Release agreement: As a condition of receiving deferred comp and other benefits worth up to millions of dollars, required ~ 400 departing employees to *affirm that they had not filed any complaints with any govt agency.*

Contractor agreement: “Nothing in this Agreement shall be construed to prevent disclosure of Confidential information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, and order Contractor agrees to provide written notice of any such order to an authorized officer of [Company] within 2 business days of receiving such order, but in any event sufficiently in advance of making any disclosure to permit [Company] to contest the order or seek confidentiality protections, as determined in [Company]’s sole discretion.”

Compliance Steps

Affirmative statement that employees are permitted to voluntarily disclose confidential information and otherwise communicate to government entity.

Express statement that the person may make communications without notice to, or approval by, the company.

Express statement indicating that nothing shall bar or impede in any way ability to seek or receive any monetary award or bounty from any governmental agency or regulatory or law enforcement authority or self-regulatory organization.

Revise offending agreements and policies.

Contact current and former employees and clarify their right to communicate with government/enforcement agencies/regulators.

Implement training programs for appropriate staff.

Obtain certifications from employees that they read updated policy.

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1. Reply “Yes” to the on-screen poll
2. Visit our website: [Compliancehr.com](https://compliancehr.com)
3. Email our team at demo@compliancehr.com

Benefits of a custom demo:

- Discuss your organization’s requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies

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Questions?

This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.

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Inspired by you.®**



Thank You



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