

IN THE KNOW

Bulletins for Benefits & HR Professionals



August 27, 2020

Preparing to Deal With Employee Absences as Schools Move to Remote and Alternate Schedules

“As the fall nears, the school year is about to kick off. While employees juggling work and school obligations can always present an issue, this year could prove to be a little more complicated than usual. Although some schools are preparing to go back to school in-person, others are utilizing a variety of modified schedules, or going totally remote.”

[Full Article](#)

Foster Swift



New EEOC Guidance Answers Opioid Addiction and Employment Questions

“Amidst the COVID-19 pandemic, opioid addiction continues to be a public health crisis. It presents many challenges to employers, including compliance with the Americans with Disabilities Act (ADA). The Equal Employment Opportunity Commission (EEOC) released two technical guidelines to address concerns about ADA employment provisions and the opioid epidemic.” [Full Article](#)

Phelps Dunbar

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Labor Board Decision Broadly Approves Holding ULP Trials by Video

“The National Labor Relations Board (NLRB) upheld an administrative law judge’s (ALJ) ruling directing that an unfair labor practice trial be conducted by video conference because of the COVID-19 pandemic. William Beaumont Hospital, 370 NLRB No. 9 (Aug. 13, 2020). This decision may have broad effect even after COVID-19 concerns have passed.” [Full Article](#)

Jackson Lewis



Federal Court Ruling Partially Vacating the DOL’s FFCRA Rules Creates Dilemma for Employers

“Racing to respond to the devastating impact from the COVID-19 pandemic, Congress passed the Families First Coronavirus Response Act (FFCRA). The FFCRA created Emergency Paid Sick Leave (EPSL) and Emergency Paid Family and Medical Leave (EFML) to employees unable to work for qualifying reasons due to COVID-19. The New York State Attorney General later sued under the Administrative Procedure Act (APA), challenging portions of these regulations, and arguing that the DOL exceeded its authority. A federal court for the Southern District of New York agreed with the New York Attorney General, and issued a ruling on August 3, striking down several of DOL’s rules. The reach of the court’s order remains unclear, particularly for employees working outside of New York State. Nevertheless, if broadly applicable, the court’s interpretation of the FFCRA represents a sea change on when leave must be granted under the FFCRA.” [Full Article](#)

Lane Powell

As the EEOC Resumes Sending out Right-To-Sue Letters, Employers Should Expect an Increase in Discrimination Lawsuits

“In a little-publicized move near the beginning of the U.S. coronavirus lockdown, the EEOC temporarily suspended issuing right-to-sue letters with respect to most charges of discrimination. That decision was made as a part of the EEOC’s efforts to operate in accordance with public health guidelines. Since March 21, 2020, right-to-sue letters have typically been issued only to charging parties who have requested them. However, the EEOC resumed sending out right-to-sue letters on August 3, 2020, and announced that any suspended notices would be sent out between that date and September 30, 2020.” [Full Article](#)

Hunton Andrews Kurth



Making Green Mean “Go” Rather Than “Oh No” for Employers

“Most states have lifted certain COVID-19 mitigation limitations and businesses have understandably been eager to resume or expand operations. Employers, however, face many new challenges that may have them putting on the breaks and saying “Oh No” rather than “Go” as they try to drive their business forward.” [Full Article](#)

Leech Tishman

State & International Compliance

LOUISIANA



Louisiana Expands its Non-Compete Statute in Favor of Companies

"In a strengthening of company contractual rights, the Louisiana Legislature recently expanded its state non-compete statute by permitting a corporation, partnership, or limited liability company to enter into agreements with their shareholders, partners, or members, respectively, that prevent them from becoming employees of a competing company under certain circumstances." [Full Article](#)

Seyfarth Shaw

CALIFORNIA



San Francisco Clarifies Back to Work Ordinance Requirements

"In July, San Francisco's Back to Work ordinance went into effect. The ordinance requires employers operating in San Francisco to offer reemployment to eligible employees laid off as a result of the COVID-19 pandemic and the related stay at home and shelter in place orders issued by the City of San Francisco when they are rehiring for the same or similar classifications." [Full Article](#)

Jackson Lewis

NEW JERSEY



New Jersey Supreme Court Clarifies Procedures for Implementing Employee Arbitration Agreements

"The New Jersey Supreme Court handed down a company-friendly decision this week clarifying New Jersey law on employers' implementation of arbitration agreements for disputes with employees, even without the employee's affirmative consent. The Court's guidance is also applicable to other changes in the terms of employment of current employees." [Full Article](#)

Lowenstein Sandler

WASHINGTON



Washington Governor Creates COVID-19 Food Production Workers Paid Leave Program

"Under the Washington COVID-19 Food Production Workers Paid Leave Program, no food production employer in Washington may operate from August 18, 2020, to November 13, 2020, unless the employer provides its workers with paid leave for certain qualifying events. The Program was created by Governor Jay Inslee under Proclamation 20-67."

[Full Article](#)

Jackson Lewis

MARYLAND



Maryland Salary History Ban and Wage Range Notice Requirement to Take Effect October 1

"The new law amends Maryland's existing Equal Pay for Equal Work (EWEW) law. Its requirements, which will apply to all private, state, and local government employers in Maryland, add to existing provisions that set nondiscrimination and equal pay standards and prohibit employers from requiring employees to keep their pay information confidential."

[Full Article](#)

Hogan Lovells