

# IN THE KNOW

Bulletins for Benefits & HR Professionals



September 23, 2020

## U.S. Equal Employment Opportunity Commission Updates Guidance for Employers on COVID-19 and EEO Laws

“On September 8, 2020, the U.S. Equal Employment Opportunity Commission (EEOC) issued a substantive update to its “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws.” Much of this update incorporates and confirms guidance offered in previous sources. While guidance on this topic continues to evolve, this most recent update provides a useful snapshot to employers of what issues the EEOC feels are important to clarify.” [Full Article](#)

*Sidley Austin*



## DOL Announces Revisions to FFCRA That Will Seriously Impact Healthcare Providers

“On September 11, 2020, the U.S. Department of Labor's Wage and Hour Division (WHD) announced revisions to regulations that implement the paid sick leave and expanded family and medical leave provisions of the Families First Coronavirus Response Act (FFCRA). Most significantly, the revised rule will require healthcare providers to provide FFCRA protected/paid leave to a broader range of employees than previously believed. The revisions also clarify other employers' responsibilities regarding FFCRA paid leave.” [Full Article](#)

*Breazeale, Sachse & Wilson*

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## Ministerial Exemption Does Not Bar Hostile Work Environment Claim For Gay Church Employee

“Can an employee sue his church employer after his supervisor, a priest, created a hostile work environment claim because of the employee’s sexual orientation once the priest learned of the employee’s plans to marry his long-term partner? Yes, yes it can, according to the United States Court of Appeals for the Seventh Circuit in *Demkovich v. St. Andrew The Apostle Parish*, No. 19-2142 (7th Cir. 2020), decided on August 31, 2020.” [Full Article](#)

*Fisher Broyles*



## Federal Judge Strikes Down Department of Labor Joint Employer Rule

“On September 8, 2020, Judge Gregory Woods of the U.S. District Court for the Southern District of New York struck down the heart of the U.S. Department of Labor’s (DOL) final rule revising DOL regulations on joint employer status under the Fair Labor Standards Act (FLSA). The government has not yet announced whether it will appeal the ruling. However, a group of trade associations intervened in the district court case and may advocate for the government to challenge the ruling.” [Full Article](#)

*K&L Gates*

## OSHA Updates Rule on Medical Records Access



“The Occupational Safety & Health Administration (OSHA) has issued a final rule revising its procedures for accessing employee medical records, with specific requirements for safeguarding electronic medical records that are more consistent with current medical recordkeeping practices. The revisions also shift authority to manage the procedures from the OSHA Assistant Secretary to an OSHA Medical Records Officer (MRO), which OSHA views as a more “efficient” process. As a result of these revisions, employers may learn

at an earlier point in the inspection process whether OSHA personnel will be authorized to review medical records and should have greater clarity about the protocols OSHA will follow when reviewing that information.” [Full Article](#)

*Beveridge & Diamond*

## 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

## CALIFORNIA



### California Requires New COVID-19 Supplemental Paid Sick Leave

“On September 9, 2020, Governor Newsom signed Assembly Bill (AB) 1867 into law, adding section 248.1 to the Labor Code. Under this new section, “hiring entities” are required to provide supplemental COVID-19 paid sick leave (CPSL) to “covered workers.” This is in addition to any paid sick leave that may be available to the covered workers under California’s Healthy Workplace Healthy Family Act of 2014 (HWHFA).” [Full Article](#)

*Reed Smith*

## OHIO



### Anxious About Tort Liability? Ohio Enacts House Bill 606, ‘Good Samaritan Expansion Bill,’ to Limit Employer Liability for COVID-19 Exposure

“Ohio Gov. Mike DeWine signed HB 606 into law on Monday, Sept. 16, 2020. Known as the “Good Samaritan Expansion Bill,” the law protects employers, both private and public, from civil action lawsuits for damages stemming from COVID-19 exposure, except in reckless or wanton exposure cases.” [Full Article](#)

*Baker Hostetler*

## NEW JERSEY



### New Jersey Enacts COVID-19 Workers’ Compensation Presumption Bill for Essential Workers

“On September 14, 2020, New Jersey Governor Phil Murphy signed Senate Bill (SB) 2380 into law. SB 2380 creates a rebuttable presumption of workers’ compensation coverage for COVID-19 cases contracted by “essential employees” during a public health emergency declared by an executive order of the governor. The law is effective immediately and retroactive to March 9, 2020.” [Full Article](#)

*Ogletree Deakins*

## PENNSYLVANIA



### Philadelphia Mandates Two Weeks of Paid Sick Leave for Workers Impacted by COVID-19

“Continuing a national trend that has seen many cities and municipalities enact strong worker-protection laws, Philadelphia’s City Council has passed a sweeping new ordinance that makes two weeks of paid sick leave available to thousands of Philadelphia workers impacted by COVID-19.” [Full Article](#)

*Cozen O’Connor*

## NEW YORK



### Reminder to New York Employers: Sick-Leave Law Compliant Policy due September 30, 2020

“New York recently enacted a permanent sick leave policy requiring all employers in New York State, regardless of size, to provide sick leave to their employees. Although employers are not required to allow employees to use sick leave until January 1, 2021, employees may begin accruing the sick leave on September 30, 2020.” [Full Article](#)

*Patterson Belknap Webb & Tyler*