

Weekly Digest

• September 8, 2022 •

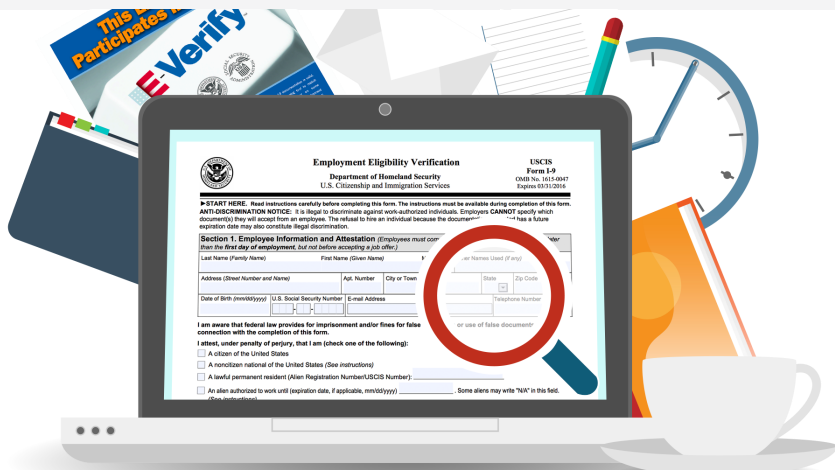
Human Resources

Do You Disclose Workforce Diversity Data? The OFCCP Might Do That For You

"Any employer required to collect EEO-1 workforce demographic data should be thinking about the issue of whether to publicly disclose that data, and consider what might happen to it once it's disclosed. This point is driven home by the OFCCP's recent notice in the Federal Register that it may disclose EEO-1 Reports filed by certain federal contractors from 2016–2020 (namely, Type 2 Consolidated Reports) in response to a FOIA request by a nonprofit news organization."

[Full Article](#)

Vinson & Elkins



Pandemic to Permanent? Proposed Changes to the I-9 Verification Process

"Welcome news for U.S. employers—the federal government has issued new proposed rules that may lead to further temporary or permanent changes to the I-9 verification process. As set forth in the Notice of Proposed Rulemaking published by the U.S. Immigration and Customs Enforcement ("ICE"), Department of Homeland Security ("DHS"), on August 18, 2022 (the "Proposed Rule"), alternate options for some or all employers are on the horizon." [Full Article](#)

Bowditch & Dewey

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NLRB Proposes New Joint-Employer Standard That Would Dramatically Expand Scope of “Joint Employment” Under The National Labor Relations Act

“The Board’s proposal largely reestablishes the broad Obama-era standard of joint employment, under which one company may be deemed the joint employer of a second company’s employees not only where it directly or immediately exercises control over the second company’s workforce, but where the first company’s putative control is indirect, or even simply reserved but not ever actually exercised.”

[Full Article](#)

Little Mendelson



DOL Plans to Release Proposed Overtime Rule in Fall 2022

“The U.S. Department of Labor (DOL) recently published its spring regulatory agenda containing a tentative date of October 2022 for a proposed overtime rule. The proposed rule will advise businesses on implementing the exemption of bona fide executive, administrative, and professional employees from the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA). Although the specifics of the proposed rule remain unknown, many advocates expect several changes to specific aspects of the existing rule.” [Full Article](#)

Hall Benefits Law

NLRB Overturns a Trump-Era Precedent; Employers Cannot Ban Union Insignia

“On August 29, 2022, the National Labor Relations Board (the “Board”) issued a precedent-shifting decision ruling that it was unlawful for Tesla Inc. to prohibit employees from wearing shirts bearing union insignia. Tesla Inc., 370 NLRB No. 131 (2022).” [Full Article](#)

Benesch Friedlander Coplan & Aronoff LLP



Employers Should Anticipate Significant Rise in Minimum Wage Rates Tied to Inflation

“Employers in approximately a dozen states and twice as many cities and counties should expect significant hikes in minimum wage rates for 2023. Many of these hikes are due to state and local laws which account for inflation by automatically tying increases in the Consumer Price Index (CPI) to minimum wage rates. This year’s unusually high inflation and resultant CPI growth, however, threatens to raise hourly wages by nearly \$1 or more in certain locales.” [Full Article](#)

Benesch Friedlander Coplan & Aronoff LLP

STATE & INTERNATIONAL COMPLIANCE

NEW JERSEY



Establishing Independent Contractor Status Continues to Challenge New Jersey Employers

"In *East Bay Drywall, LLC v. Department of Labor & Workforce Development*, decided on August 2, 2022, the New Jersey Supreme Court confirmed the difficulties employers face when trying to establish independent contractor status for their workers." [Full Article](#)

Cole Schotz

NEW YORK



New York City Will Soon Regulate Use of Artificial Intelligence in Employment Decisions

"On January 1, 2023, New York City employers will have to comply with a new law aimed at preventing bias in artificial intelligence hiring tools. These tools, which include algorithms and software geared towards finding ideal candidates, have come under fire in recent years for their potential to unlawfully discriminate against protected classes."

[Full Article](#)

Benesch Friedlander Coplan & Aronoff LLP

COLORADO



Colorado Expands Notice Requirements for Employees Upon Termination

"When a Colorado employee's employment terminates for any reason, employers are required to provide certain information to the employee regarding unemployment insurance benefits. Colorado expanded employers' notice requirements under Senate Bill 22-234, which was passed on May 25, 2022." [Full Article](#)

Cooley LLP

NEVADA

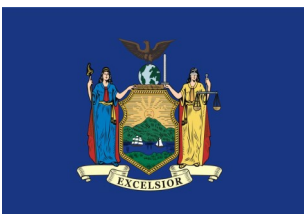


Nevada Supreme Court Affirms Termination for Off-Duty Recreational Marijuana Use

"Ending years of discussion about the scope of state law employment protections for individuals who use marijuana recreationally, the Nevada Supreme Court has upheld a lower court's decision to dismiss a complaint by an employee who was fired for testing positive for marijuana on a post-accident drug test." [Full Article](#)

Little Mendelson

NEW YORK



New York Adult Survivors Act: What Employers Should Know

"The Adult Survivors Act, a law recently signed by New York Governor Kathy Hochul, will go into effect on November 24 and provide a one-year window for individuals to bring certain previously time-barred sexual offense claims, regardless of when the alleged act occurred." [Full Article](#)

Morgan Lewis & Bockius