

Weekly Digest

• October 4, 2024 •

Human Resources

Election Season: Key Reminders for Employers

"With the 2024 election in full swing in the U.S., employers should anticipate political discussions and activity in the workplace. From employees taking time off from work to vote to expressing their political opinions during work, employers should remember a few key points related to their employees' rights to eliminate potential issues in the workplace." [Full Article](#)

Reed Smith LLP



Fifth Circuit Affirms DOL's Authority to Set Salary Thresholds For FLSA Exemptions

"On September 11, 2024, in *Mayfield v. Department of Labor*, the U.S. Court of Appeals for the Fifth Circuit upheld the Department of Labor's (DOL) authority to set minimum salary thresholds for overtime exemptions under the Fair Labor Standards Act (FLSA). This decision reinforces the DOL's ability to require a minimum salary for executive, administrative, and professional (EAP) exemptions, known as "white-collar" exemptions." [Full Article](#)

Ford Harrison

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AI and HR: Navigating Legal Challenges in Recruiting and Hiring

"Hiring executives are asking if the compliance costs and discrimination risks outweigh the anticipated benefits of using artificial intelligence (AI) tools for hiring and employment-related activities.... This alert provides an overview of the types of AI-specific considerations that are in play, highlighting the potentially wide-ranging compliance obligations attendant to using AI-related tools in employment-related processing." [Full Article](#)

Troutman Pepper Hamilton Sanders LLP



SCOTUS to Clarify Employers' Burden of Proof for FLSA Exemptions

"Employers may get a clear answer on the evidence needed for Fair Labor Standards Act exemptions when the U.S. Supreme Court starts its term in October. The Supreme Court will take up *E.M.D. Sales, Inc. v. Carrera*, a case that asks the court to determine which evidentiary standard employers must meet to show that an employee is exempt from the FLSA." [Full Article](#)

Phelps Dunbar LLP

OSHA's Walkaround Rule Showdown in Court: Will the Agency Be Allowed to Tread on Employers' Rights?

"The Occupational Safety and Health Administration's (OSHA's) Walkaround Rule has sparked a legal showdown between business associations and OSHA in a U.S. District Court in Texas. The agency's rulemaking powers and businesses' civil liberties are at stake." [Full Article](#)

Jackson Lewis P.C.



Sixth Circuit Affirms NLRB's Expansive Interpretation of Protected Concerted Activity (US)

"We first reported in February 2023 on a surprising and alarming decision by the U.S. National Labor Relations Board (NLRB or "the Board")—*In re McLaren Macomb*—which concluded that the mere proffer of a severance agreement with broad confidentiality and/or non-disparagement provisions could violate Section 7 of the National Labor Relations Act (NLRA), which protects the right of employees to engage in concerted activity for their mutual aid and protection." [Full Article](#)

Squire Patton Boggs

STATE COMPLIANCE UPDATES

ILLINOIS

Employer Zero-Tolerance Marijuana Policy Justified Termination, Federal District Court Agrees



"Zero-tolerance marijuana policies are not unlawful in Illinois, a federal district court has determined, providing greater clarity for employers." [Full Article](#)

Little Mendelson P.C.

WASHINGTON

The WA Employee Free Choice Act – Washington's Prohibition on Mandatory Employer Meetings about Religious, Political, and Union Matters

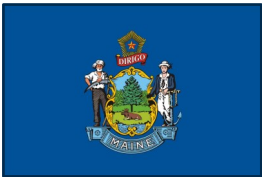


"Washington is one of eight states with a law prohibiting employers from holding mandatory meetings addressing their position on religion, politics, and union organizing." [Full Article](#)

Seyfarth Shaw LLP

MAINE

Maine Paid Family and Medical Leave Program Update: Labor Department Releases Revised Proposed Rules



"The Maine Department of Labor (DOL) announced revised proposed rulemaking for the Maine Paid Family and Medical Leave Program. This comes on the heels of the first draft of proposed rules issued on May 20, 2024. Public comment is open through Sept. 30, 2024." [Full Article](#)

Jackson Lewis P.C.

MARYLAND

Maryland WARN Act Does Not Provide a Private Right of Action to Workers Terminated in Violation of the Law



"On August 26, 2024, the U.S. District Court for the District of Maryland decided in *Teamsters Local Union No. 355 v. Total Distribution Services, Inc.*, that the Maryland Economic Stabilization Act ("Maryland WARN Act" or "Act") does not provide individuals with the right to file suit in their personal capacity to enforce a legal claim under the Act. The Maryland WARN Act still may be enforced by the Maryland Department of Labor." [Full Article](#)

Little Mendelson P.C.

MASSACHUSETTS

Massachusetts SJC Issues Important Decision on Paid Family and Medical Leave



"Last week, the Massachusetts Supreme Judicial Court (the "SJC") issued its first decision interpreting language in the state Paid Family and Medical Leave ("PFML") law. The SJC was called upon to answer an important question: whether certain employer-provided benefits, such as vacation and sick time, continue to accrue while an employee is out of work on PFML? As we expected, the Court sided with the employer and ruled that a policy denying the accrual of vacation, sick time and similar benefits while an employee is out on PFML leave does not violate the law." [Full Article](#)

Skoler Abbott