

To:

# The HR Specialist

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2020 Election:  
Trump vs. Biden  
on key workplace  
issues ... see page 8

From: Business Management Daily

Subject: Practical HR strategies to boost your career

## In The News ...

**School's back: When can parents take FFCRA leave?** During the pandemic, some schools are closed, some are open and others are alternating in-class and remote days. This creates confusion about when employees can legally take paid leave under the Families First Coronavirus Response Act. *Example:* New federal rules say workers with students in hybrid-model schools can take paid FMLA leave on days their kids are slated for remote learning. For tips on managing school-related leave, go to [www.theHRSpecialist.com/FFCRAschool](http://www.theHRSpecialist.com/FFCRAschool).

**DOL unveils new rule making it easier to classify workers as independent contractors.** On Sept. 22, the U.S. Department of Labor proposed a new employer-friendly, simpler rule that makes it easier to classify your workers as independent contractors rather than employees.

Under the DOL plan, workers would be considered employees if they are "economically dependent" on the company for work. But workers who run an independent operation and have opportunity for profit and loss would be classified as contractors. The federal rule may override a growing number of employee-friendly state laws. The DOL aims to finalize it by yearend.

Learn the factors in the DOL's proposed "economic reality" test at [www.theHRSpecialist.com/IC-DOL](http://www.theHRSpecialist.com/IC-DOL).

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## The vaccine: Can you & should you require it?

As drug companies race to put the brakes on this worldwide pandemic, more than two dozen COVID-19 vaccines are in development.

With a vaccine expected by the yearend and full public rollout in the first half of 2021, HR needs to be ready to answer this question: When a vaccine becomes available, can your organization require employees get it as a condition of employment ... and should it?

There's no clear answer yet, and the key federal agencies (EEOC and OSHA) haven't specifically said either way. But past EEOC guidance on flu vaccines, which the agency reissued in March, give a hint. While the EEOC doesn't prohibit employers from requiring the shot—especially



Employees would be able to request exemptions from COVID-vaccine mandates for religious and ADA disability reasons.

when the flu is severe—it has advised employers to *encourage* vaccines rather than mandate them.

The EEOC has said that if organizations require vaccinations, employees must also be entitled to an exemption from the mandate based on two key factors:

- A reasonable accommodation for their ADA-covered disability, or
- They have a sincerely held religious belief or practice that prevents them from getting the vaccine.

*Continued on page 2*

## Voting leave: Know the law, rethink your policy

With Nov. 3 shaping up to be like no election we've ever seen, it's wise for employers to understand their legal requirements for that day ... and some growing trends.

For starters, know your state's requirements regarding giving employees time off to vote. Federal law doesn't address the issue, but most states do (*see box below*).

Pandemic fears are expected to result in a shortage of poll workers and the closing of thousands of polling places. An additional complication: worries about post office budget cuts and mail-in ballots may drive more people to polling places on Election Day.

All these factors may conspire to create delays and long lines for in-person voting.

**Voting leave laws.** Currently, 36 states require employers to grant time off so employees can vote. In most states, employers may determine which hours employees can take voting leave. Two-hour blocks are most common. Leave may be paid or unpaid, depending on the state.

Some states require employees to vote before or after work if sufficient time exists. Nebraska, for example, only requires employers to provide time off if two hours of open poll

*Continued on page 2*

**State leave laws** Find your state's requirements on employee leave for voting at [www.workplacefairness.org/votingrights-time-off-work](http://www.workplacefairness.org/votingrights-time-off-work).



## Require the vaccine?

(Cont. from page 1)

If an employee makes such a religious or medical accommodation request, you should engage that person in an interactive discussion to ensure the employee is making a legally protected request ... not a request based on a purely political or other personal reason.

Yet, just because an employer can require vaccines (while allowing for exemptions) doesn't necessarily mean it should. In addition to dealing with accommodation requests, employers that mandate vaccines must also decide who pays for the vaccine, how employees prove they received it, how frequently they'll need to get revaccinated and whether remote workers need to get the shot.

"Mandating what an employee does with his or her body feels too invasive and Big-Brotherly to me," says employment attorney Jon Hyman of Meyers Roman in Cleveland. "I would prefer that employers arm employees with the knowledge they need to make an informed choice about the benefits of inoculations, and then strongly encourage employees to make the scientifically and medically responsible choice."

## Voting leave

(Cont. from page 1)

time are not available before or after the employee's shift.

Most states make it illegal for employers to penalize employees for voting. And employers in some states may be *criminally* liable for refusing to give workers time off to vote.

**A full paid day off?** More than 600 companies have joined a movement called "Time to Vote," pledging to make it easier for employees to vote this fall. Participating employers like Best Buy, Nike, Twitter and Visa say they will either close on Election Day or allow flexible scheduling so employees have time to get to the polls.

Other employers are going beyond providing leave. *Example:* Old Navy will give its workers a full day's pay to work at the polls, regardless of their work schedule on Nov. 3.

# One easy way to avoid COVID liability: Document your safety & mitigation efforts

One consequence of the coronavirus crisis is a surge in lawsuits alleging employers did not do enough to prevent employees from becoming infected.

Employees who catch COVID-19 at work may ultimately be covered by workers' compensation. However, the same is not true for customers, clients, vendors, family and others who become sick or die. They can sue your organization directly, alleging negligence.

That's a powerful incentive for all employers to follow local, state and federal guidelines for preventing and controlling infections.

Just as importantly, be prepared to show exactly what your organization is doing to protect employees and others. Document how you're following the local, state and federal guidelines and keeping up with the changing guidance.

**Pending case 1:** A butcher at an Illinois packing plant contracted the virus in April but recovered. However, his wife also got sick and died. Her family has sued the pack-



Employees who catch COVID-19 at work may be covered by workers' comp. But customers, vendors and other visitors who get sick could sue you for negligence.

ing plant, claiming it "took no measures to mitigate the spread" among employees or outside the plant. The lawsuit alleges negligence. (*Iniguez v. Aurora Packing Co.*, Kane County)

**Pending case 2:** In Texas, the family of an assisted-living worker sued after the employee died. The family says the woman was directed to sit unprotected for hours with a resident who had COVID. The suit claims the facility knew the patient was infected but didn't warn the employee and, thus, was grossly negligent. (*Montgomery v. Prevarian Senior Living*, Texas)

**Bottom line:** Both cases could be decided based on the level of detail in the company's documentation of their COVID-19 mitigation efforts. It's important to make (and date) those notes in real time ... not after the employee filed the legal claim.

## Payroll tax deferral? Most employers say 'no'

Most U.S. employers have been hesitant to offer their employees a four-month suspension of Social Security payroll taxes, as offered under President Trump's controversial executive order.

A coalition of 34 major trade associations said most of their members refused to stop withholding payroll taxes, arguing that the deferral would hurt employees more than help because workers would likely be on the hook for all those taxes in early 2021 (unless Congress voted to forgive the deferred tax obligation).

The IRS recently confirmed that the payroll-tax pause is not mandatory, and there are no penalties for nonparticipation. Also, employers, not employees, have the choice of

whether to implement deferrals of the employee portion of Social Security tax.

"Given the numerous implementation challenges, remaining outstanding questions and the extremely short implementation period, employers are likely to continue withholding and remitting payroll taxes to the Treasury," said Caroline Harris, VP of tax policy at the U.S. Chamber of Commerce, in a recent SHRM report.

The National Retail Federation told SHRM that "practically all" retailers they've heard from on this issue have decided not to implement the deferral.

The executive order was meant to put extra cash in employees' wallets during the coronavirus crisis.



# When can 'vulnerable' staff demand telework?

If you have employees who don't want to return to the workplace because they fear their underlying condition could be deadly if they contract COVID, the safe move is to treat this as a request for reasonable accommodation under the ADA. Then begin a discussion to identify accommodations, which may include telecommuting.

Remember, the CDC is urging employers to take steps to protect workers who may be vulnerable to COVID difficulties (diabetes, high blood pressure, etc.). When possible, the CDC says, vulnerable staff should be allowed to telecommute.

**Recent case:** When the pandemic hit, Yiyu, who is 55 and has high blood pressure, began doing his engineering job from home. In late spring, the company ordered everyone back to the office. Yiyu asked to continue teleworking but was denied. He was eventually fired for job abandonment.

In summer, the company had a rash of new COVID cases and sent all staff back home. But it didn't rehire Yiyu. He sued, alleging disability discrimination. The case now goes to trial.

The employer argue that having a risky condition alone shouldn't qualify as a disability. (*Lin v. CGIT*, DC MA)

# Racism isn't just about words: a \$1.2M lesson

Many racial harassment and hostile environment cases are based on harsh words used in the workplace, but it's HR's job to have a plan to respond to every type of racial harassment claim.

Regularly review your workplace for racist graffiti or other offensive displays. Remove them and punish violators as soon as possible. Make sure managers know that your organization won't tolerate any kind of racial bias or harassment.

**Recent case:** The EEOC sued a California electrical contractor work-

ing at Apple's headquarters, saying the construction site was racially hostile, with swastikas and racial slurs scrawled on the walls, a noose hanging at the workplace and graffiti threatening a lynching.



The suit claims two black workers who complained about this racism were ignored. The company eventually agreed to settle the EEOC case, paying \$1,250,000 to eight black employees. The company must also hire a consultant to provide anti-harassment training. (*EEOC v. Air Systems*, SD CA)

# After Ginsburg, Supreme Court could toss ACA

With the death of Justice Ruth Bader Ginsburg, the U.S. Supreme Court is more likely than ever to overturn the Affordable Care Act. Oral arguments in the case of *California v. Texas* are set for Nov. 10.

An ACA reversal could roil the employer-provided health insurance market, allowing carriers to alter coverage that's become standard since the law took effect 10 years ago. Ginsburg provided key votes in favor of the ACA in 2012 and 2015 when the court upheld the law by 5-4 margins.

With only eight Supreme Court justices now—five of them conservative—two of the likeliest outcomes in *California v. Texas* could result in the partial or complete gutting of the law.

A 4-4 tie would invalidate the ACA in the 5th Circuit (Louisiana, Mississippi and Texas). A 5-3 decision against the ACA could strike it down nationwide. The court could decide whether to invalidate the entire law or just the "individual mandate," a financial penalty the ACA imposes on people who don't have health insurance.

### Have HR review all manager firing recommendations

After Roddie was fired for poor performance, he sued for age discrimination, citing a new manager's comment about his age. The case was dismissed. **One reason:** Before the firing, HR OK'd the termination because documents showed that Roddie had been disciplined for several other mistakes before the new manager took over. (*Melvin v. FedEx*, 11th Cir.)

**The lesson:** Biased managers are the starting point for many employment lawsuits. HR can install a legal safety net by making sure HR first reviews any termination recommendations. Analyze past discipline to ensure this decision is being made with consistency and fairness.

### Remind bosses: Harassment can cause personal liability

A Jewish police officer sued his supervisor directly under the federal Civil Rights Act, saying the boss constantly made slurs about his religion. A jury awarded him \$540,000 in punitive damages. The supervisor appealed, saying this was excessive. But the court refused to reduce the award, saying the boss would have to pay up or file bankruptcy. (*Sommerfield v. Knasiak*, 7th Cir.)

**The lesson:** Pointing managers to cases like this will make them sit up and take your anti-harassment rules seriously. Some federal and state laws make personal liability possible.

### Track job applications every step of the way

After Andre was turned down for a promotion, he sued, alleging his age was the reason. But the company kept meticulous records. It was able to show the court that between his first and scheduled second interview, Andre said he wanted to withdraw his application. That killed the lawsuit. (*Gallegos v. Tompkins*, 2nd Cir.)

**The lesson:** Using software or an old-school alternative, have a system in place to track applications throughout the hiring process. Be especially careful to note any applicant calls and emails.



## DOL tweaks rules on new COVID-leave law

In response to a court ruling that found portions of the rules invalid, the U.S. Department of Labor published a handful of business-friendly regulations affecting the paid sick leave and FMLA provisions of the Families First Coronavirus Response Act.

Among the revisions, the DOL said workers must provide their employees with documentation about their reason for their FFCRA leave “as soon as practicable,” and not simply prior to taking the leave. The DOL also tightened the overly broad definition of “health care provider” regarding which type of medical workers could be exempted from FFCRA leave rights. Learn more about these changes at [www.tinyurl.com/FFCRAchanges](http://www.tinyurl.com/FFCRAchanges).

## NLRB: It’s OK to put limits on employee blog

While employers can’t forbid workers from posting negative comments about their company on social media

and personal blogs, the National Labor Relations Board recently did draw one line: It said employers can prohibit workers from posting links to the company’s website on their own personal blogs.

An employee of a food company argued that he should be allowed to put links to his employers’ site on his personal blog. But the NLRB sided with the employer, saying the company could ban such links because it wanted to prevent being associated with personal blog content that was racially hostile or otherwise offensive. (*Shamrock Foods*, NLRB)

## Virtual verification of I-9s extended to Nov. 19

The U.S. Immigration and Customs Enforcement (ICE) says employers can continue for another 60 days (until Nov. 19) using the loosened rules that let you remotely review (through email, video, etc.) your new hires’ identity and work authorization documents for I-9 purposes. The relaxed rules also let you use an authorized representative—even a new hire’s family member—to conduct in-person verification on your behalf. Learn more at [www.tinyurl.com/I-9november](http://www.tinyurl.com/I-9november).

## HR Q&A

### Fear of a co-workers’ infection: Is that a legal reason for FFCRA leave?

**Q.** An employee decided to leave work one day when she learned a co-worker had been around a friend who may have COVID-19. (The friend’s results haven’t come back yet.) The employee, who was six feet away from the co-worker at all times and hasn’t shown any symptoms, has requested emergency paid sick leave. Must we give it?

**A.** No. Unless your employee has been advised to seek testing or otherwise been told to self-isolate, her fear of three-degrees-of-separation infection isn’t covered as a reason for emergency leave.

### Our company is better off smaller; can we keep it that way?

**Q.** Due to the coronavirus, we reduced our workforce to better adhere to social distancing guidelines. Our company is small and went from 15 employees to 10. Our plan was to recall those laid-off employees. However, we found that the company in fact performs more efficiently with the reduced staff. How can we legally terminate our employment relationship with these people?

— *Susan, Wisconsin*

**A.** Your company is too small to be covered by the federal Worker Adjustment and Retraining Notification

(WARN) Act or your state’s similar “mini-WARN” statute that requires notice of an impending termination. You must have at least 50 employees to be covered by either law.

Assuming further that your workers are employed at-will, with no contract or promises of continued employment, you should be able to simply tell those who have been furloughed (or furloughed and returned) that you have decided to convert the temporary lay-off to a formal separation, or to reduce staff size, thus ending their employment. If the remaining 10 workers—who are likely anxious about their economic prospects—become overwhelmed by performing all the work that 15 people performed in the past, you can begin recruiting again at that time.



### Does the 3-day rule for I-9s still apply in emergency situations?

**Q.** The I-9 rules say we have to fill out the form within three days of hire. But is there any flexibility in the case of emergencies like extreme weather or destruction of property?

**A.** In general, the USCIS will give instructions in such cases; there is no blanket policy regarding emergencies or disasters. If you find that certain I-9 forms are missing, complete new forms and attach a memo of what was done.

*Do you have a question? If so, you can email it to The HR Specialist at [HR.Seditor@BusinessManagementDaily.com](mailto:HR.Seditor@BusinessManagementDaily.com).*

## Make sure your pay policy requires workers to report hours & request OK for overtime

With so many people working at home, employers are having trouble tracking (and paying for) working time for their nonexempt remote workers.

While you can have remote workers sign agreements detailing their regular work hours, the agreement won't save you if it fails to spell out the procedure those hourly workers must use to request overtime.

The U.S. Department of Labor just issued a new bulletin that clarifies employers' overtime obligations, with specific guidance on what to do if nonexempt employees work unauthorized overtime hours.

### What you don't know *can* hurt.

Under the Fair Labor Standards Act, if managers actually knew employees worked overtime, you're on the hook to pay it. The FLSA imposes another standard: constructive knowledge. If you *should have known* the person worked overtime, you're on the hook.

But the flip side is also true. The FLSA stops short of requiring you to pay for work you didn't know about and had no reason to know about.



New DOL guidance says employers are on the hook if they knew or "should have known" the employee was working those hours.

The DOL says you bear the initial burden of setting up a system for staff to report overtime work, whether or not that OT work is authorized. Once the system is in place, you won't be on the hook for unpaid overtime if they don't use your system.

The DOL doesn't suggest any particular system, only that you set a "reasonable" OT request process and make sure staff know how to use it.

*Advice:* Amend your telecommuting agreement to specify that non-exempts must seek their manager's written approval before working overtime. Include a form they can email to request it. Ensure staff understand the request procedure with repeated trainings. Put a reminder on time sheets.

**Online resource** Read the DOL's bulletin at [www.tinyurl.com/DOL-remote-OT](http://www.tinyurl.com/DOL-remote-OT).

## Consider hazard pay to fill essential positions

In pre-pandemic times, hazard pay was an incentive to entice workers to perform jobs that were themselves dangerous—think firefighting or defusing explosives. In the coronavirus era, hazard pay is being granted to delivery drivers, grocery cashiers and other jobs now deemed "essential."

With a few exceptions, the decision to offer hazard pay is up to individual employers. Two states (Pennsylvania and Vermont) recently passed laws to provide extra pay for essential workers during the pandemic. Seattle now requires food delivery companies like Grubhub to pay drivers a \$2.50 premium per order.

Many employers have begun offering hazard pay on their own to entice employees and applicants to take positions that carry coronavirus exposure risks. As you weigh your options, follow these tips:

**Ask if local or state governments can help you** cover the additional wages. Your attorney may be able to steer you toward unexpected sources of funding.

**Determine which jobs will be eligible** for hazard pay. Generally, these should be essential positions as determined by government. Eligible jobs should require on-site work featuring employee interaction with customers, vendors or co-workers.

**Set an end point.** A reasonable cut-off might be when certain public health metrics are met. Rely on a measure set by your local or state government—for example, a specific reduction in the number of new coronavirus infections.

## Pandemic wreaks havoc on salesperson compensation

While many white-collar workers have adapted during the pandemic, professionals who sell for a living are facing more financial pain, says new WorldatWork research. A full 39% of companies say that less than a quarter of their salespeople will achieve their sales quotas in 2020. That's double from 19% of companies last year.

Some employers are responding to this tough sales environment by simplifying their compensation systems. Past surveys have found that companies use an average of three sales compensation performance measures. But the percentage of companies using just one performance measure has increased by 71% this year. Total revenue remains the top performance measure, used by about three out of four companies.

## When claim Social Security? Point workers to new report

Many older workers are confused about whether they should (or even can) start claiming Social Security benefits while still working. Although it is possible to start receiving benefits at age 62, the longer someone waits (up to age 70), the larger the monthly income. Benefits claimed at age 70 can be as much as 75% higher than those claimed at age 62.

To help workers make that decision, HR can point them to a new report from the nonprofit Bipartisan Policy Center, "How to Help Americans Claim Social Security at the Right Age." Download the report at [www.bipartisanpolicy.org/report/how-to-help-americans-claim-social-security-at-the-right-age](http://www.bipartisanpolicy.org/report/how-to-help-americans-claim-social-security-at-the-right-age).

## COVID forces changes to employer sick leave policies

Nearly half of employers—49%—are altering how they handle sick leave in response to coronavirus-related absences, according to the Mercer consulting firm. About 12% of U.S. employers report that they now grant additional time off, but 92% have decided to let employees manage leave themselves by allowing greater latitude to work remotely.

To: \_\_\_\_\_  
From: \_\_\_\_\_

Date: October 2020  
Re: Terminating legally

## Terminations

# 6 degrees of separation: Avoid lawsuits when firing

Terminations are the most legally dangerous part of an employee's life cycle. Here are the six main flavors of employee departures, plus steps managers can take to stay out of legal trouble—and provide a solid defense if the termination is challenged in court:

### New hires

**1** When recently hired employees are dismissed, their legal claims typically assert they didn't know about performance expectations or didn't receive enough training to succeed. Or, they may claim that other employees who performed poorly were able to keep their jobs anyway.

#### What managers should do:

Completely document the training new hires receive. Document their failure to meet expectations, while showing that you uniformly applied the performance standards and work rules.

### Absenteeism

**2** It's surprisingly common for employees to sue even when they have been fired for something as basic as failing to show up for work or for habitually arriving late.

**What managers should do:** Again, documentation is critical. Document that you notified the employee of the attendance policy and instances when the employee failed to comply. Details are important. Note the date of each infraction. Record how tardy the employee was. Document when and how you counseled the employee. Also be able to show that you uniformly applied the policy. Never use protected absences (FMLA, jury duty, etc.) as the basis for termination.

### Misconduct

**3** Employees terminated for violating conduct rules often try to blame a rogue manager's quick response. It's too late to get the work-

er's side after termination. That's why it is critical to show that the employee knew about the rule in question, and that she was in trouble for violating it.

#### What managers should do:

Work with HR to make sure a thorough investigation of the alleged misconduct occurs. Always get the employee to provide an explanation before a termination decision is made. Document that conversation.

### Suddenly declining performance

**4** Maybe a stressful family situation may distract the employee. Or a new supervisor or different job duties may lead to a different judgment.

**What managers should do:** In these cases, it's prudent to go slowly. Early on, initiate conversations to explain recent performance shortfalls and reiterate performance expectations. Suggest ways to improve. Document those discussions. If performance doesn't improve, you will want to be able to show you made a reasonable effort to help the employee keep his job.

If you decide performance has remained so low that termination is the only option, be sure you can show exactly when and how you came to that determination.

### Resignations

**5** Yes, employees who quit can sue for wrongful termination. It's called a "constructive discharge" claim. If the former employee can show that conditions were so intolerable that a reasonable person would feel there was no alternative but to resign, then the resignation is equivalent to a termination.

**What managers should do:** When employees quit, first ask why they are resigning. If they cite conditions they consider intolerable, ask them to reconsider, while expressing your willingness to find solutions.

### The dangerous 'no reason' firing

**6** In "at-will" states, employers generally don't need a good reason (or any reason at all) to fire workers. However, employers rely on this rule at their peril. Everyone expects some reasonable explanation for a termination, especially if the employee is a member of a protected class (e.g., race, gender, age, religion, disability).

#### What managers should do:

To defend against a discrimination claim, always be able to articulate a legitimate, nondiscriminatory reason. Document that reason, and make sure HR has copies of all pertinent records.

## Good tips for any termination

- **Avoid surprises.** When supervisors document problems and give regular feedback, firings shouldn't take anyone by surprise.
- **Keep your cool.** Never holler "You're fired!" Remain calm. If employees ask for reasons, stick to concrete, documented facts.
- **Don't be too kind.** Offering compliments to soften the blow will make it appear the firing is without cause, which can spark a wrongful-termination lawsuit.
- **Play by the rules.** Follow the organization's established discipline policy, and don't stray from your past practices. Courts will pick apart inconsistencies.
- **Keep it private and quiet.** Discharge employees in closed-door meetings and have HR present. Don't discuss your reasons with other employees.





# Your workplace posters: Beware 3 common legal pitfalls

Employers are often surprised to learn about their lesser-known legal obligations surrounding labor law postings. Here are the top three missteps that result in noncompliance:

## 1. Not giving remote employees access to the posters

More employees are working from home due to COVID-19. This presents a dilemma for employers when it comes to sharing mandatory employment law information with workers.

All U.S. businesses are required by law to display certain postings in the workplace to inform employees of their legal rights and responsibilities. But many employers don't realize they must provide telecommuters with the same information.

If your remote workers report to your physical location at least three times a month, you're likely in compliance with government posting requirements, as long as you prominently display up-to-date labor law postings where they are accessible to all employees.

If your remote workers visit the office less frequently, however, traditional postings at the office won't be enough. Postings should be provided electronically as an alternative.

## 2. Not providing posters in foreign languages

Many employers mistakenly believe that they are not required to display foreign-language translations of labor law postings because they only have English-speaking employees on staff. However:

- Nearly half of all states require businesses to display certain labor law postings in both English and Spanish, regardless of workforce demographics.

**Unless remote employees report to your physical workplace at least three times a month, you should also provide those teleworkers with labor-law postings electronically.**

- Employers with a significant number of Spanish-speaking employees who aren't proficient in English must display the federal FMLA posting in both English and Spanish.
- A growing number of state posters must be translated and posted in foreign languages based on the "primary languages" of the workforce.

Check your local laws to see if you have additional foreign language posting requirements.

## 3. Not distributing mandatory handouts to staff

This is a fairly new compliance burden affecting employers of all sizes. In addition to labor law postings, many state and local laws now require employers to personally distribute certain notices, or handouts, to their workers about their employment rights.

These notices cover many of the same laws addressed in the posters, and they change frequently. Some notices must be distributed to all employees, and others only for events such as change in pay, leave of absence, pregnancy or termination.

These notice requirements apply to all employees, including remote workers. To make matters more confusing, there are as many as 15 required handouts on a federal level, up to 30 additional handouts by state, and several more depending on your city/county. Many of the new employee handout laws are allowing electronic delivery.

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## Make sure COVID app protects worker privacy

Before your organization deploys any technology to gather sensitive employee medical information, have your attorney ensure it complies with federal, state and local laws governing privacy and data use.

*Case in point:* A union filed an unfair labor practice charge against a New York museum, saying it forced workers to input their temperatures and other health information daily into the ProtectWell smartphone app as a way to screen workers for COVID. The complaint called mandating the apps usage an invasion of privacy.

## Americans' approval of unions highest since 2003

Nearly two-thirds (65%) of Americans responding to a Gallup poll say they favor organized labor, the highest level since 2003. Public support for labor unions has generally risen since hitting a low point of 48% in 2009 during the Great Recession. Union support is the most politically polarized it's ever been, with 83% of Democrats saying they support unions, compared with 64% of independents and 45% of Republicans.

## Survey: Workers blame managers for job stress

A new survey affirms the workplace adage that employees leave managers, not companies. Fully 84% of U.S. workers polled by the Society for Human Resource Management said poorly trained managers create a lot of unnecessary work and stress. Fifty-seven percent said their managers could benefit from more training. Asked where there was the most room for improvement, 41% cited communication skills, followed by developing teams (38%), delegating (37%), cultivating a positive and inclusive culture (35%) and managing team performance (35%).

## Trump vs. Biden: How they compare on key workplace issues



President Trump and Democratic presidential nominee Joe Biden disagree on most issues affecting America's workplaces. Here is a quick summary of where they stand on six key issues:

### 1. Workplace flexibility and leave

**Trump:** Supports allowing families the option of advancing up to \$5,000 of the Child Tax Credit to fund unpaid leave and pay for care and other costs associated with a new child. Supports more paid leave for federal workers.

**Biden:** Proposes 12 weeks of paid leave so all workers can care for their own needs and their family's health needs, and care for children during school shutdowns.

### 2. Health care reform

**Trump:** Seeks to rescind the Affordable Care Act. Opposes efforts to create a public option for individuals who lack health insurance through their jobs. Wants to expand use of health savings accounts as an alternative to traditional job-based health benefits.

**Biden:** Backs incremental improvements to fine-tune the ACA. Supports continuing employer-provided health insurance while taking steps toward a public option. Stops short of supporting "Medicare for all" but pledges to achieve a goal of "universal health care."

### 3. Immigration reform

**Trump:** Has made restricting immigration a centerpiece of his policy and campaign. Supports "merit-based" immigration that prioritizes immigrants with skills in short supply.

**Biden:** Supports legislation to overhaul the nation's temporary work visa system. Would increase the number of visas available for permanent work-based immigration.

### 4. Workplace equity

**Trump:** Has not offered specific plans to promote workplace equity for women or minority groups.

**Biden:** Backs legislation to strengthen protections against discrimination and harassment. Supports the Paycheck Fairness Act to close the pay gap between men and women.

### 5. Minimum wage

**Trump:** Opposes efforts to raise the federal minimum wage.

**Biden:** Supports raising federal minimum to \$15 per hour.

### 6. Labor relations

**Trump:** Has promised to veto the Protecting the Right to Organize (PRO) Act because it would make it more difficult to classify workers as independent contractors and abolish right-to-work laws. Supports the National Labor Relations Board's recent trend of issuing employer-friendly decisions.

**Biden:** Favors efforts to encourage union membership, penalize employers that interfere with union organizing and steer the National Labor Relations Board in a more worker-friendly direction. Supports passage of the PRO Act. Supports "card check" rules that would permit union representation even without holding a formal election.

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# *Payroll Compliance Handbook*

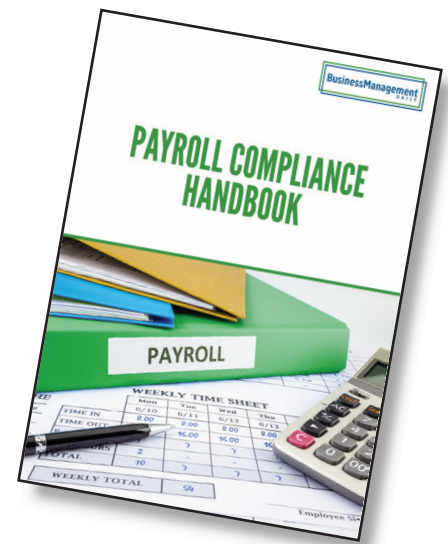
Once upon a time, payroll used to be easy: the employee's gross pay minus federal, state and local taxes. Then along came health premium and 401(k) deductions. Still simple, but...

Today, payroll managers deal with direct deposit, health spending accounts, vehicle allowances, phone expenses, earned income credits, garnishments and more. Payroll is now a confusing and time-consuming task prone to error.

Don't let a simple mistake unleash the full and frightening power of the IRS and wipe out your business... and you personally.

With our newly updated *Payroll Compliance Handbook*, you'll quickly and easily find answers to all of your nagging payroll questions. This handy reference is written in plain English - no legal gobbledygook here - so you can quickly understand what you need to do to stay in compliance, improve efficiencies and avoid costly payroll errors.

Each chapter focuses on a specific aspect of payroll management and compliance... and every issue of payroll compliance you need to know is addressed.



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- And dozens more critical topics!

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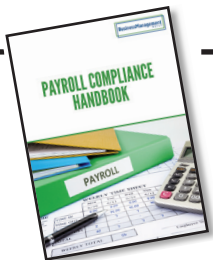
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