



HUMAN RESOURCES UPDATE

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NURSING MOTHERS AT WORK

The Department of Labor requires that nursing mothers be provided a place and reasonable time for expressing milk and/or nursing as frequently as necessary and that is free from public intrusion for other employees and the public. A bathroom will not suffice. This applies to mothers with babies from birth to one year (some states have longer time frames). This applies to non-exempt employees. However, this is an easy benefit to offer exempt and non-exempt employees alike. Only companies with 50 or more employees are required to comply, however; it may make the difference between a valuable employee who is a new mother returning to work or electing to stay at home.

I-9s – THE SAGA CONTINUES

Our friends at ICE (Immigration and Customs Enforcement) have given a ruling on electronic storage of I-9 documents. While electronic storage is allowed, there are some requirements for that process. Firstly, the electronic storage system must allow a printed copy to be produced on request (so much for paperless – guess we'll settle for less paper!) You may also have a combination of paperless and electronic storage systems. You may also update your electronic system as long as the new system meets ICE requirements.

Some things have not changed, such as: you must still complete the document within 3 (business) days of date of hire. Complete really means complete. The I-9 must contain all the required signatures and the complete information on the documents presented (title of document, ID number, expiration date). You are not required to keep a copy of the presented documents, but if you elect to do so, be very consistent. Reminder: DO NOT tell the new employee what documents to present for eligibility to work. You must provide them the instructions and the page of the I-9 that lists acceptable documents and allow the employee to select which documents he/she will present. If you are a federal contractor, you must use e-Verify to check for eligibility to work in the US.

DEPARTMENT OF LABOR CALLING

The Department of Labor (DOL) continues to step up audits and enforcement on companies of all sizes – even small companies. They are looking for violations of the Fair Labor Standards Act (FLSA) in how employees are classified (exempt or non-exempt). Your best defense is a well-written job description for each position that determines the essential job duties and requirements supporting that position's classification. If the company's documentation is not sufficient to support the position's classification, the burden of proof from the employee is pretty shallow – the DOL will ask the employee "about how many hours would you say you work on average in a week?" Back pay will be based on that number. The back pay, fines and penalties are steep – not to mention the cost of defending the company. Proactive companies will perform a thorough review of existing job descriptions and classifications – remember: an ounce of prevention is worth a pound of cure!

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REMEMBER, THE COBRA SUBSIDY WAS NOT EXTENDED BEYOND MAY 31, 2010.

WHAT'S THE STATE OF YOUR STATE?

There has been a significant increase in employees filing wage payment claims at the state level. In addition to the Federal laws regarding wages, each state has requirements as well. Employees appear to be very well informed of these state requirements and are not hesitant to file claims based on those state laws, according to an article from the Society for Human Resource Management. These state requirements include the following items:

Acceptable length of payroll cycles: In Texas for instance, non-exempt employees must be paid at least once each 15 days.

Acceptable methods of payment: Can your company mandate electronic payment, even for those employees who are non-banked? Can you pay employees in goods instead of money?

Final paycheck for terminated employees: Some states require the same day, others within a few business days, and still others by next regular payroll.

Permitted payroll offsets: Can you deduct for insurance premiums or lost/damaged property?

Vacation or Paid Time Off (PTO): Do you have to pay employees for this?

As usual, states vary in their requirements. Are your payroll practices in compliance with state law? If you have employees in multiple states, make sure you are complying with those state's requirements. The cost of non-compliance is steep.

WHAT ARE YOUR HR CONCERNS?

HR pros have a lot to worry about these days. But new research indicates they're most worried about two very specific issues.

Slightly more than three of ten HR managers say morale and employee productivity is their biggest concern over the next six months, according to a survey from ComPsych Corporation, a provider of employee assistance programs.

HR managers were asked: What do you expect to be your biggest challenge in the next six months? Their list, in order of finish:

- Maintaining employee productivity and morale (31%)
- Dealing with healthcare costs and new legislation (26%)
- Finding qualified candidates (16%)
- Handling organizational change (14%)
- Retaining top performers (13%).

ComPsych didn't say how many HR managers were polled or when the poll was completed.

What's the morale situation in your organization? Is that your key concern for the coming months?

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THE HOPKINS GROUP, LLC
214-597-2444

WWW.HOPKINSHR.COM

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