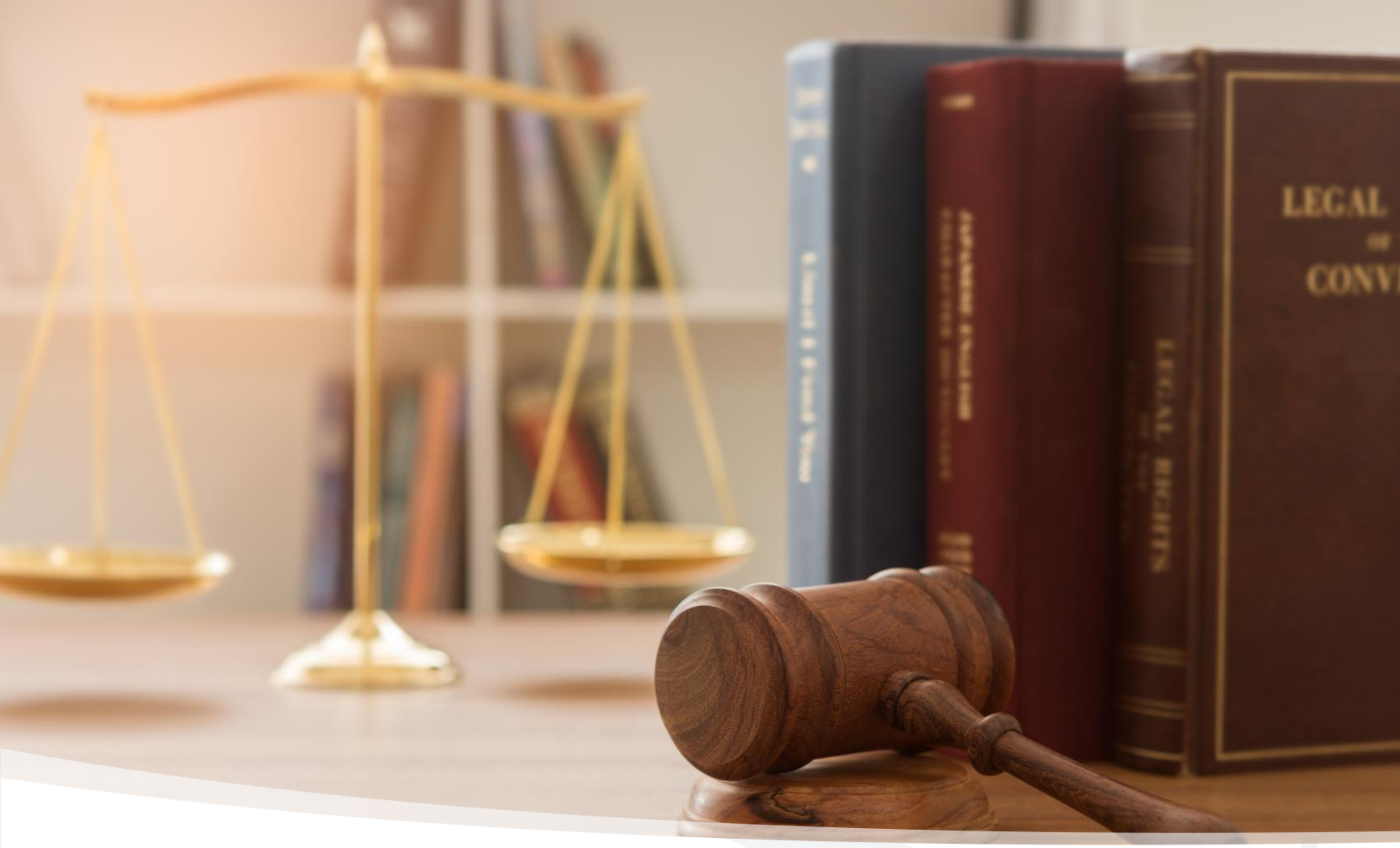

2026

HR COMPLIANCE
MARCH LEGAL UPDATES

Information on new updates and reminders on federal and state legal updates.

VensureHR

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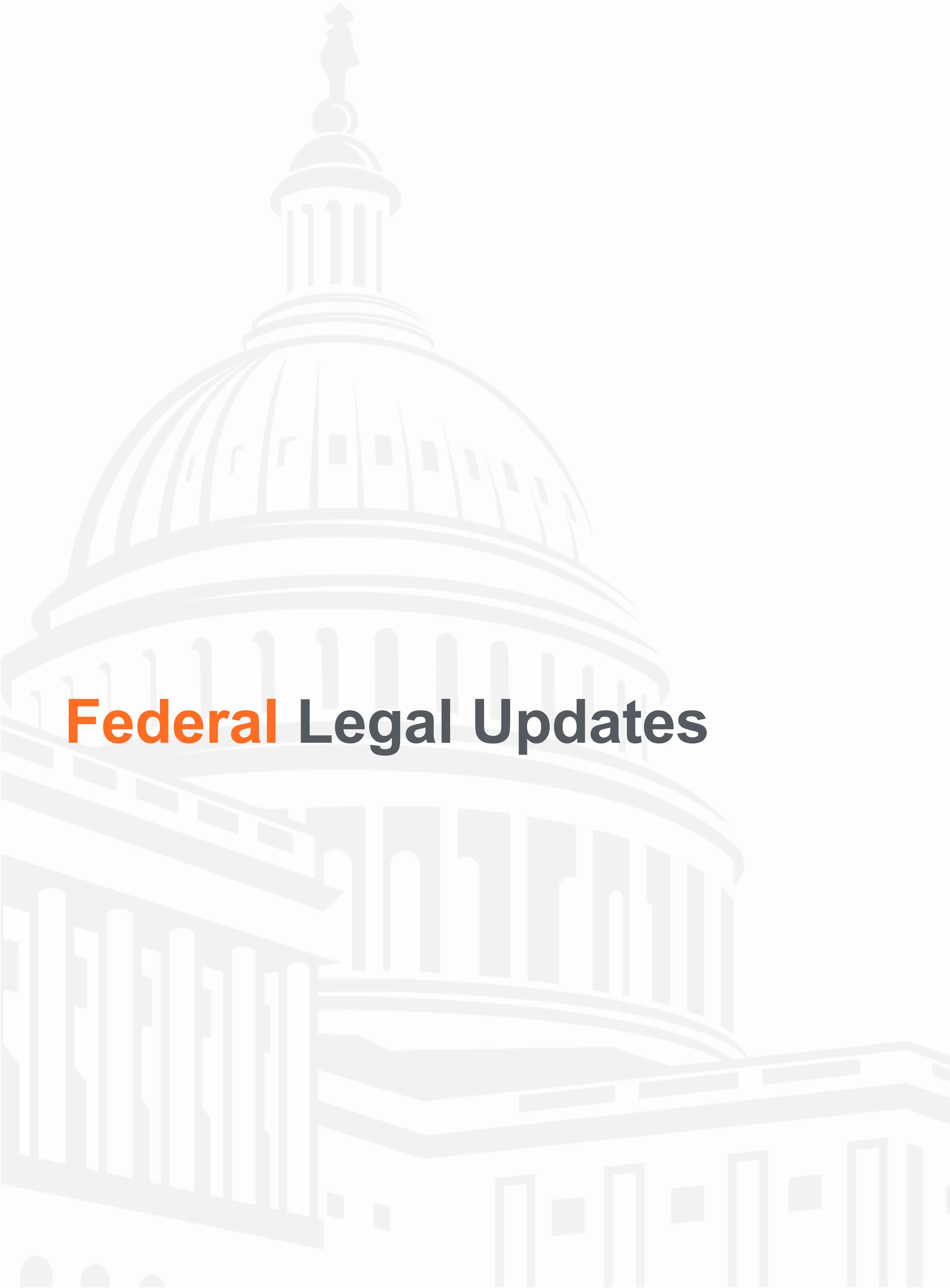

Federal Legal Updates

Federal Legal Update

2020 Joint Employer Standard Returns

On February 26, 2026, the National Labor Relations Board issued a final rule withdrawing its 2023 joint employer standard and reinstating the 2020 joint employer rule after a federal court vacated the 2023 rule as unlawful. The 2023 rule never took effect, so the 2020 “substantial direct and immediate control” standard continues to govern when two businesses are joint employers under federal labor law.

Relying on the Administrative Procedure Act’s “good cause” exception, the Board skipped notice and comment and made the rule effective immediately upon publication in the Federal Register on February 27, 2026.

This update is applicable to all businesses covered by the National Labor Relations Act (NLRA) when they may be treated as sharing responsibility for workers employed by another company, such as people supplied by staffing agencies, subcontractors, or franchisees.

Overview

Current Joint-Employer Standard

- The new final rule simply removes the vacated 2023 text from the regulations and restores the 2020 joint-employer rule found in the Code of Federal Regulations.
- Under the 2020 rule, a business is a joint-employer only if it possesses and actually exercises substantial direct and immediate control over at least one essential term or condition of employment, such as wages, benefits, hours, hiring, discharge, discipline, supervision, or direction.
- Indirect control, or control that is written into a contract but never used, can be considered supporting evidence, but it cannot, by itself, make a company a joint-employer.

Why This Matters

Narrower but still meaningful exposure:

- The 2020 standard is narrower than the blocked 2023 rule. It generally requires proof that a company is directly and regularly involved in day-to-day decisions about another employer’s workers (for example, directing their work or deciding on discipline), rather than merely having that power on paper.
- Even so, a joint-employer finding still brings significant consequences: shared duties to bargain with unions and shared liability for unfair labor practice claims involving those workers.

What Employers Need to Do

1. Map High Risk Relationships

- Identify where the organization relies on third-party labor (staffing agencies, subcontractors, franchisees, janitorial/security vendors, logistics partners, etc.).
- Flag any situations where the organization’s managers direct, schedule, hire, or discipline workers employed by another company.

2. Review Contracts and Practical Supervision

- **Contracts:** Businesses should review services, franchise, and project agreements for clauses that give the company direct control over another employer’s workers, and favor language focused on performance standards rather than day-to-day employment decisions.
- **Day-to-Day Supervision:** Businesses should instruct leaders not to directly manage non-employees; route instructions and performance concerns through the staffing firm, subcontractor, or franchisee so the direct employer handles scheduling, discipline, and discharge.

3. Train Managers and HR on the Current Standard

- Provide a plain language briefing explaining that joint-employer findings now hinge on actual, substantial, direct control over essential terms, not just contractual rights.
- Use examples tailored to your environment (e.g., ‘Do not tell agency workers when and how to do their tasks—tell the agency supervisor instead’).

4. Align Union and Litigation Strategy

- For locations with union activity or multi-employer worksites, revisit your collective bargaining and unfair labor practice strategies to ensure they reflect the 2020 standard rather than the broader 2023 rule that never took effect.
- Monitor developments in any appeals or new rulemaking efforts so you can adjust your approach if the joint-employer standard shifts again.

Additional Information

Impact on Common Business Models

- Employers who rely heavily on staffing agencies, subcontractors, franchisees, or on-site vendors have lower joint-employer risk than under the 2023 rule, but they are not risk-free if they directly control core terms like scheduling, discipline, or pay for another company's employees.
- For construction and project-based operations, the decision temporarily eases concerns that almost every contractor–subcontractor relationship could be treated as joint-employment, but those employers still need to manage how supervisors interact with subcontractor staff.

Source References

- Federal Register - Withdrawal of 2023 Standard for Determining Joint Employer Status
- Federal Register Vol 91 - Rules and Regulations

Federal Legal Update

Labor Department Proposes New Contractor Test

On February 26, 2026, the Department of Labor's Wage and Hour Division (WHD) issued a notice of proposed rulemaking (NPRM) to rescind the 2024 independent-contractor rule and replace it with a streamlined 'economic reality' test that largely restores the 2021 framework with two core factors.

The proposal would apply a single, uniform analysis under the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

The public comment period runs through April 28, 2026 (11:59 p.m. ET) in Docket WHD-2026-0001 at Regulations.gov.

This update is applicable to all businesses that engage with independent contractors, and the comment deadline is April 28, 2026 (11:59 p.m. ET).

Overview

- **What Changes:** The NPRM centers the classification analysis on economic reality, whether the worker is in business for themselves (independent contractor) or economically dependent on the hiring entity (employee).
- **Two Core Factors (Which Carry Greater Weight):**
  - Nature and degree of control over the work; and
  - Opportunity for profit or loss based on initiative or investment (or both).
- **Additional Factors (When Needed):** The worker's skill, the permanence of the relationship, and whether the work is part of an integrated unit of production; other relevant facts may be considered.
- **Actual Practice vs. Contract:** Real-world conduct of the parties matters more than contractual or theoretical rights. The NPRM also provides eight examples showing how the factors apply.
- **Why DOL Says it is Doing This:** To improve compliance, reduce misclassification and litigation, and offer clearer, court-aligned guidance.

Who is Affected

Employers and vendors that engage independent contractors—including gig, fractional, and farm-labor arrangements—and FMLA-covered employers whose leave-related status questions may hinge on worker classification. The proposal applies one analysis across the FLSA, FMLA, and MSPA.

What Employers Need to Do

Confirm Current Rules and Align with WHD Guidance (Now)

- The 2024 independent contractor rule and existing WHD guidance still apply while the new proposal is under review, and the rule is in litigation.
- Use DOL's misclassification hub, Fact Sheet 13, and the 2024 small entity compliance guide to check that current classifications match the economic reality analysis WHD is enforcing.

Map Contractor Roles to the "Economic Reality" Framework

- The NPRM would apply a single economic reality test under the FLSA, FMLA, and MSPA, focusing on whether workers are economically dependent on the company or truly in business for themselves.
- Inventory all independent contractor relationships and, using DOL's descriptions of the test, identify where business units exercise meaningful control.

Use DOL's NPRM FAQ and Overview to Build an Internal Checklist

- The WHD NPRM overview and FAQs explain how the proposed "economic reality" analysis works and provide scenario style Q&As.
- Convert those explanations into a simple internal checklist that covers:
  - Is the worker economically dependent on the company for work?
  - Who controls key aspects of the work (schedule, methods, pricing)?

Compare "Today's Rule" with the Proposed Test and Document Decisions

- The Federal Register notice explains that the proposal would rescind the 2024 regulation at 29 CFR part 795 and replace it with a modified version of the 2021 analysis, while applying it uniformly under the FLSA, FMLA, and MSPA.

Federal Legal Update

How to Comment
Submit feedback by April 28, 2026 (11:59 p.m. ET) to Docket ID WHD-2026-0001 on Regulations.gov.

- For the most useful comments, cite specific factor language or examples, request clarifications, and (where possible) quantify training or compliance impacts.

Why This Matters

- **Clarity Across Three Federal Laws:** A single test would guide classification under FLSA, FMLA, and MSPA, giving HR, legal, and operations one common frame of reference.
- **Compliance Focus on Reality:** Policies and contracts that say 'independent contractor' will not control if the day-to-day relationship shows employer-type control or economic dependence.
- **Proposal Stage:** This NPRM does not change current regulations unless finalized; however, it signals the direction of federal enforcement and litigation risk.

Internally, Use a Dual Lens Review:

- Apply the analysis reflected in WHD's current Fact Sheet 13 and 2024 rule guidance. Then apply the NPRM's economic reality description from the overview and FAQs, noting where outcomes might change.
- Keep a short-written rationale in each file explaining why a role is treated as employee or contractor under both frameworks.

Re-train the People who Manage Contractors on "Economic Reality," Not Labels

- Provide targeted training to managers so they understand that:
  - Titles and contract labels ("independent contractor") do not control; day to day realities do. Requiring contractors to follow employee like schedules, methods, or policies may undermine contractor status under both the current rule and the proposed test.

Use the Comment Period to Address Real World Operational Concerns

- WHD's press release and NPRM invite employers, workers, and other stakeholders to submit comments through Regulations.gov under Docket WHD 2026 0001.
- Employers can strengthen the record—and anticipate compliance changes—by submitting comments that:
  - Describe practical impacts on small and mid sized businesses; and
  - Suggest clarifications that would make it easier to apply the test consistently across FLSA, FMLA, and MSPA contexts.

Source References

- DOL Press Release - proposes rule clarifying employee, independent contractor status under federal wage and hour laws (February 26, 2026)
- DOL - Wage and Hour Division - RIN 1235-AA46 - [Docket No. WHD-2026-0001] - Notice of proposed rule; request for comments

Federal Legal Update

New Guide on Telework as an ADA Accommodation

On February 11, 2026, the Equal Employment Opportunity Commission and the Office of Personnel Management issued a joint frequently asked questions document for federal employers on using telework as a disability accommodation.

The guidance supports the President's January 20, 2025, directive to return to in-person work consistent with the law. While aimed at federal agencies, the guidance offers practical direction that private employers can also consider.

This guidance applies to federal agencies effective February 11, 2026. For private employers, it is non-binding (optional) but may inform best practices.

Overview

- **What was Issued:** A joint, question-and-answer guidance for federal employers on telework as a disability accommodation, developed by the Equal Employment Opportunity Commission and the Office of Personnel Management.
- **Purpose:** Help agencies return employees to in-person work consistent with the law while honoring disability accommodation duties.
- **Key Definitions:** "Telework" means work done away from the employer's worksite—full-time, on a regular schedule, or temporarily for a specific situation.
- **Scope and Legal Status:** The guidance does not change the law and is not binding on courts; it signals how the agencies view these issues. State and local laws may be more protective.
- **Where to Find It:** FAQs.

Why This Matters

- **Effectiveness is the Test:** Telework is required only if it enables participation in hiring, performance of essential job duties, or equal access to benefits. It is not required for convenience or general symptom relief without a functional impact.
- **On-site Work Can be Essential:** In-person presence may be an essential function (for example, supervision, collaboration, or teamwork). Pandemic flexibility did not permanently redefine essential duties.
- **No Right to a Preferred Option:** Employees are entitled to an effective accommodation—not necessarily telework—if in-office options work.

What Employers Need to Do

- **Define the Job Clearly:** update job descriptions to reflect current essential functions and when in-person presence is required.
- **Standardize the Process:** use a consistent, interactive intake and decision workflow; allow trial or temporary accommodations to test effectiveness.
- **It is Recommended to Right-size Documentation:**
  - Confirm and rely on prior medical documentation if it is still accurate.
  - Request targeted updates when documentation is insufficient or outdated (including provider input on measures that enable in-office work).
  - It is recommended not to deny a request solely because an employee declines a particular treatment.
- **Evaluate Evidence Fairly:** consider reliable contradictory information and document why unreliable sources are discounted.
- **It is Recommended to Revisit Accommodations on a Cadence:** schedule annual reviews of significant accommodations and reassess upon material changes (role, operations, law, or condition).
- **Consider Alternatives First:** prioritize effective in-office adjustments before telework; if needed, use short-term telework to facilitate relocation or address temporary limitations.
- **Consider Training:** It is suggested to train managers on individualized analysis, non-retaliation, and documentation; consider centralized review for consistency.
- **Check the Legal Overlay:** map the approach to state and local requirements and maintain separate processes for pregnancy-related and religious accommodations.

- **Reevaluation is Expected:** Previously granted telework can be reviewed and modified when job duties, operations, laws, or health conditions change—while avoiding blanket rollbacks.
- **Courts May Not Defer to Agencies:** After the Supreme Court's Loper Bright decision, courts may give less deference to agency interpretations. Tread carefully and document decisions.

Key Risks for Employers

- **Blanket Decisions:** Categorical rescission or denial of telework without an individualized analysis.
- **Poor Documentation:** Missing or outdated job descriptions and weak records of essential functions and operational needs.
- **Over or Under-scrutiny:** Ignoring reliable contradictory evidence or engaging in a speculative investigation.
- **Misclassifying Conditions:** Treating common anxiety as automatically requiring telework or dismissing episodic flare-ups without analysis.
- **Commuting Errors:** Assuming that anxiety automatically requires telework or disregarding episodic flare-ups without evaluating how the condition affects essential job duties.
- **Compliance Gaps:** Overlooking state and local disability laws, the Pregnant Workers Fairness Act, or religious accommodation duties.

Source References

- EEOC - Press Release - Joint Technical Assistance Document (02-11-2026)
- EEOC - FAQs about Telework Accommodations for Disabilities
- Presidential Memorandum, "Return to In-Person Work" (January 20, 2025)

Federal Legal Update

Hazard Communication Deadlines Extended

As a reminder for all employers nationwide, the Occupational Safety and Health Administration (OSHA) published a final rule on January 15, 2026, that extends hazard communication deadlines under the updated Hazard Communication Standard (HCS) by four (4) months. This short extension is intended to give OSHA time to issue guidance and to allow employers sufficient time to implement changes.

Overview

- **Background:** The 2024 update to OSHA's Hazard Communication Standard (HCS) aligned primarily with the *Globally Harmonized System of Classification and Labelling of Chemicals* (GHS), Revision 7. The update also refined hazard-classification criteria, labeling requirements, and Safety Data Sheet (SDS) content.
- **What Changed:** OSHA moved each HCS compliance date forward by four months and kept the tiered schedule:
  - Substances first, then mixtures
  - Manufacturers/importers/distributors first, then employer workplace updates.

New Deadlines:

- Substances: Manufacturers/importers/distributors: **May 19, 2026.**
- Substances: Employer workplace updates (labels/program/training): **November 20, 2026.**
- Mixtures: Manufacturers/importers/distributors: **November 19, 2027.**
- Mixtures: Employer workplace updates (labels/program/training): **May 19, 2028.**

Transitional Compliance Option: Until the applicable date arrives, employers may comply with the 2012 HCS, the 2024 HCS, or a combination of both.

Why This Matters

The extension reduces the risk of rushed changes and gives employers time to update classifications, labels, Safety Data Sheets (SDSs), written programs, and training in an orderly manner, without changing the substance of the 2024 rule. OSHA also invoked a "good cause" justification to make the extension effective immediately, minimizing confusion about near-term obligations.

What Employers Need to Do

- **Confirm which chemicals and workplaces are in scope:** Employers should review their chemical inventory and Safety Data Sheet (SDS) list and confirm which substances and mixtures are covered by the updated Hazard Communication Standard, then coordinate with suppliers to obtain reclassified substance SDSs and updated labels as they become available.
- **Build a compliance timeline using the new dates:** Employers should work backward from the extended deadlines—substances (manufacturers/importers/distributors by May 19, 2026; employer workplace updates by November 20, 2026) and mixtures (manufacturers/importers/distributors by November 19, 2027; employer workplace updates by May 19, 2028)—to schedule when they will update hazard classifications, workplace labels, written hazard communication programs, and employee training.
- **Plan and deliver "what changed" training:** Employers should prepare and deliver targeted training to affected employees that explains what has changed under the revised Hazard Communication Standard (for example, any new or refined hazard classes, small-container labeling rules, and SDS content updates) and incorporate these topics into onboarding and refresher training before each applicable deadline.
- **Use the Transitional Option Consistently and Document the Approach:** Until the new dates apply, employers may follow the 2012 HCS, the 2024 updated HCS, or a combination of both; they should decide which approach they will use for each site or business unit, apply it consistently, and document the rationale so employees are not confused by mixed labeling or SDS formats during the transition.

Additional Information

- **Confirm Scope and Inventory:** Ask suppliers for reclassified substance SDSs and labels and compare your chemical list to the updated criteria.
- **Build a Timeline:** Work backward from the substance deadlines (May 19 and November 20, 2026) and the mixture deadlines (November 19, 2027, and May 19, 2028) to ensure labels, written programs, and training are updated on time.
- **Update Training and Materials:** Consider preparing a "training about what has changed" (e.g., revised hazard classes, small-container labeling, SDS content updates).
- **Monitor OSHA Guidance:** Then incorporate those updates into your program as they are issued.
- **Watch for New OSHA Guidance:** Then make sure to update your labels, training, and paperwork once those instructions come out.
- **Use the Transitional Option:** Where helpful, continue under 2012 HCS, adopt 2024 HCS, or use both during the transition.
- **Monitor OSHA guidance and adjust programs accordingly:** Employers should monitor OSHA's Hazard Communication webpages and future guidance documents related to the 2024 HCS revisions and the 2026 extension, and then update their hazard communication programs, labels, SDS management practices, and training content as OSHA issues clarifications or examples.

Key Risks for Employers

- Last-minute updates can create labeling errors or training gaps that lead to compliance findings.
- Supplier delays on SDSs/labels may cascade into missed internal deadlines.
- Inconsistent use of the transitional option can confuse employees.

Source References

- OSHA - HCS 2024 Compliance date extension notice (January 15, 2026)
- Federal Register - Hazard Communication Standard
- OSHA - Hazard Communication
- OSHA - OSHA's Final Rule to Amend the Hazard Communication Standard

State Legal Updates

State Legal Update

California Proposes New Rules for Workplace Inspections

On February 13, 2026, the California Division of Occupational Safety and Health (Cal/OSHA) published a proposed rule update on how employer and employee representatives may participate in workplace inspections.

The proposal would expand who may accompany inspectors and clarify the role of third-party representatives. It would also align California's rules with recent federal updates while adding new, state-specific requirements that exceed the federal standard.

This update applies to all California employers subject to Cal/OSHA workplace inspections, and written comments are due by 11:59 p.m. PT on April 1, 2026.

Overview

Cal/OSHA has proposed a new rule (Section 331.8) to clarify who may accompany inspectors during on-site workplace inspections. The proposal is intended to keep California's state-plan program 'at least as effective' as federal OSHA's 2024 walkaround rule, while also expanding employee representative rights and inspector authority beyond the federal standard.

- The rule would allow employees, unions, and qualified third parties to join inspections. Qualified third parties may include experts, community organizations, or interpreters when their participation is reasonably necessary for an effective inspection.

Cal/OSHA would also gain broader authority to manage representatives and maintain order during inspections, including the ability to limit interactions and remove participants whose conduct interferes with the inspection.

Why This Matters

- Differences between the state and federal rules could raise legal and procedural challenges, as California's proposal goes beyond the federal walkaround rule in several key areas.
- The timing of the proposal (released late on Friday, February 13, 2026) has raised concerns about transparency and urgency, especially as the federal walkaround rule remains under litigation and could be modified or rescinded.

What Employers Need to Do

While the Rule Is Still Proposed (Pre-April 1, 2026)

- **Submit written comments before April 1, 2026.** The public hearing will be held on April 1, 2026, at 10:00 a.m. PT, and ***written comments are due by 11:59 p.m. that same day***.
- **Prepare comments internally or through an industry group.**
  - Gather concerns about third-party representatives, trade-secret exposure, union access at nonunion sites, and inspector authority. Consolidate employer experiences with past inspections.
- **Submit comments to Cal/OSHA** by email to walkaroundrule@dir.ca.gov, or by mail to Cal/OSHA's Oakland office, as listed in the notice.

While Waiting for the Final Rule

- **Review and update your Cal/OSHA inspection procedures** to anticipate:
  - Union reps accessing nonunion worksites.
  - Community groups or outside advocates accompanying inspectors.
  - Broader inspector authority to control conduct and remove disruptive reps.
- **Identify areas with trade secrets or proprietary processes.** California's proposal includes minimal trade-secret protection, so employers must proactively prepare.
- **Create a site map identifying restricted or sensitive areas** and establish a protocol for how third-party reps will be handled in those zones.

State Legal Update

Key Risks for Employers

- The rule significantly broadens those who may participate in Cal/OSHA inspections, including unions, community groups, worker advocacy organizations, and outside experts, even at nonunion worksites.
- Union representatives are automatically presumed qualified, giving them easier access to both union and nonunion workplaces without having to show they are ‘reasonably necessary’ for a particular inspection.
- Inspectors gain stronger authority to control the inspection process, limit disruptive conversations, and remove participants—including employer and employee representatives—whose conduct interferes with a fair and orderly inspection.
- Employers who refuse access due to disputes over representatives may face an increased risk of Cal/OSHA seeking a search warrant, potentially escalating routine inspection disputes into formal enforcement proceedings.

Source References

- DIR - Employer Representative and Representative Authorized by Employees During Workplace Inspections (Walkaround Rule)
- DIR -Proposed Rule - Title 8. Industrial Relations - Adding Article 2.5: Inspections

- **Designate internal employee representatives** who can accompany inspectors where third-party access may be inappropriate.
- **Train supervisors on managing inspections**, including:
  - How to interact with multiple representatives.
  - What to do if an inspector restricts side conversations.
- **Prepare Quick-reference Materials** (checklists, scripts, procedures) that your managers can use when an inspector arrives.

Once the Final Rule is Implemented
The final California rule will likely mirror the federal walkaround rule but with added access rights and broader inspector authority.

- **Adopt updated written Cal/OSHA inspection policies** that reflect conditions under which third-party experts are “reasonably necessary”
- **Train all frontline leaders, safety teams, and HR** on the finalized procedures.
- **Implement a representative verification process** to document who accompanied inspections and why.
- **Revise onboarding and refresher training** for supervisors to include:
  - How to host an inspection under the new rules.
- **Develop communication templates** for when inspectors arrive, so managers know:
  - Who to call.
  - What documents to prepare.
  - How to document the inspection in real time.

State Legal Update

California Proposes Rules for the Private Attorneys General Act

On February 6, 2026, California proposed rules for the Private Attorneys General Act (PAGA). The California Labor and Workforce Development Agency (LWDA) issued a notice of proposed rulemaking to adopt the first comprehensive regulations for the Private Attorneys General Act. When a notice of proposed rulemaking is issued, the next step is an open public comment period; a set window during which anyone can submit written feedback that the agency must review before finalizing the rule. The public comment period closes on March 23, 2026, and a public hearing will be held only if requested at least 15 days in advance of the hearing.

California's Private Attorneys General Act (PAGA) is a state law that allows employees to sue their employer on behalf of the state for Labor Code violations and recover civil penalties as if they were acting as state enforcement agents.

This update is applicable to all employers, and the comment period began on February 6, 2026, and ends on March 23, 2026 (45 days).

Overview

- **Purpose and Context:** The proposed rules carry out the administrative changes required by the 2024 PAGA reform package. They create consistent notice requirements, explain the steps employers must follow to cure (fix) violations, and improve the information submitted to the LWDA after a claim is filed.
- **Rule Structure:** The LWDA would add new sections 17400–17463 to Title 8 of the California Code of Regulations, covering definitions, filing and service, time calculations, certifications, cure (correction) communications, investigations, and settlement submissions.
- **Filing and Privacy:** Most submissions must be filed through the online PAGA portal. The proposal confirms the $75 filing fee, provides waiver options, and requires redaction of specified personal identifiers.
- **Notice Content (Standardization):** Notices must use an LWDA form and provide short, plain, claimant-specific facts and theories for each alleged violation. Bare legal conclusions or boilerplate are insufficient. Litigation and settlements cannot expand beyond what is stated.

What Employers Need to Do

- **Set up a Notice-intake Playbook:** Create a centralized workflow for portal-delivered notices and a rapid process to pull claimant-specific facts (role, location, duties, pay practices).
- **Decide Now on the 'Under 100' Cure Track:** Pre-draft a cure-statement template, evidence plan, and timelines that satisfy the proposed content and confidentiality rules.
- **Plan for Settlement Lead Time:** Budget for fulfilling packages (motions, declarations, exhibits), a 45-day LWDA review, and notice to other employees with pending actions.
- **Tighten Wage-statement and Records Controls:** Run a preventive audit; stage corrective actions knowing cure communications are protected under the California Evidence Code § 1152.

State Legal Update

- **Cure (Correction) Procedures for Smaller Employers:** Employers with fewer than 100 employees receive a detailed process for correcting alleged violations. The rules explain who qualifies, what a cure plan must include, how conferences work, timelines, and how appeals are handled. All correction-related communications are confidential under the California Evidence Code § 1152.

Why This Matters

- **Clearer, Higher-quality Notices:** Expect fewer vague “assembly-line” notices and earlier clarity on what is actually alleged.
- **Earlier Resolution Opportunities:** Small employers gain a clearer path to cure alleged violations before litigation proceeds.
- **More Rigorous Settlement Review:** Approvals will likely take longer and require broader coordination when multiple employees have overlapping claims.
- **Potential Impact on Current Cases:** If applied to existing matters, current strategies may need to adjust midstream.

Source References

- California LWDA - Notice of Proposed Rulemaking PAGA (02/06/2026)

Resources

- Private Attorneys General Act (PAGA) Resource Page

State Legal Update

San Francisco, CA, Employer Annual Reporting Due May 1, 2026

As a reminder to all San Francisco employers that, if a business is covered by the San Francisco Health Care Security Ordinance (HCSO) and/or the Fair Chance Ordinance (FCO), the business must submit the 2025 Employer Annual Reporting Form (ARF) no later than Friday, May 1, 2026, or be subject to a penalty of $500 per quarter.

Overview

Important Dates

- **Form Available:** April 1, 2026 (online via SF.gov).
- **Deadline to File:** May 1, 2026; late or missing filings can trigger $500 per quarter penalties.
- **Help From OLSE:** A live ARF webinar will guide employers through the process (recording posted afterward) - Webinar Registration Link: FCO & HCSO Annual Reporting Form (ARF) Webinar.

Who Must File

- Employers must file if they were covered by either ordinance for any part of 2025.
- **HCSO Coverage:** For-profit employers with 20 or more workers (anywhere) or nonprofits with 50 or more, who hold a San Francisco business registration and have at least one worker in San Francisco. Covered employees include those employed over 90 days and working eight (8) or more hours/week in San Francisco (with specific exemptions).
- **FCO Coverage:** Employers with five (5) or more employees located in or doing business in San Francisco; applies to positions that work eight (8) or more hours/week in San Francisco, including temporary, seasonal, contract/agency work, and paid or unpaid training.

What is Reported (Single, Combined ARF)

- **HCSO (2025 Data):** Headcount by quarter; number of HCSO-covered employees by quarter; total employer health care expenditures and types of spending (e.g., insurance contributions, San Francisco City Option, qualifying HRA/HSA).
- **FCO (2025 Data):** Number of employees hired to work in San Francisco; whether background checks were performed; whether individuals with conviction histories were hired.

What Employers Need to Do

- **Confirm Coverage (Any 2025 Quarter):** Coverage depends on workforce size, San Francisco business registration, and having at least one employee working eight (8) or more hours per week in San Francisco.
- **Assemble Data (by Quarter)** before starting—the online form may not save in progress:
  - Total headcount.
  - Number of HCSO-covered employees.
  - Employer health care expenditures by type (e.g., insurance contributions, San Francisco City Option, HRA/HSA).
  - Number of employees hired to work in San Francisco.
  - Whether background checks were conducted for San Francisco–based roles.
  - Whether any candidates with conviction histories were hired.
- **Locate or Obtain** the seven (7)-digit Business Account Number (BAN) and register or update with the San Francisco Treasurer and Tax Collector if needed.
- **If Self-funded** or using nonstandard coverage, verify 2025 HCSO top-off calculations, and ensure payments due March 2, 2026, are reflected in totals.
- **File Online Between April 1 and May 1, 2026.** The portal closes at the deadline, and late electronic submissions are not accepted.
- **Optional Training:** Attend OLSE's ARF filing webinar or watch the recording.
- **Official Resources:** consider attending OLSE's ARF webinar (or watching the recording).

How to File

- **Where:** Online ARF on SF.gov (linked from OLSE's HCSO page when live).
- **Business Account Number:** A seven (7) -digit San Francisco Business Account Number (BAN) is required; if absent, employers must register with the San Francisco Treasurer & Tax Collector before filing. Because the form may not allow saving progress mid-session, employers should gather all required data before beginning.
- **After the Deadline:** Once the portal closes, there is no late electronic submission. Plan internal cutoffs ahead of time.

Why This Matters

Submitting the ARF confirms compliance with both HCSO and FCO in one filing and avoids per-quarter penalties. For employers with self-funded plans, any 2025 "top-off" owed for minimum spending (due March 2, 2026) affects final HCSO totals—this should be reconciled before filing.

Key Risks for Employers

- **Misjudging Coverage:** Multi-state employers must count all employees worldwide to determine HCSO coverage, but spending/reporting apply only to hours worked in San Francisco.
- **Portal Timing:** Relying on late filing after portal closure can result in no electronic submission path and automatic penalties.
- **Data Readiness:** Starting the ARF without complete data can derail submission because the form does not allow saving a draft.

Source References

- San Francisco - Health Care Security Ordinance
- San Francisco - Fair Chance Ordinance

State Legal Update

New Reporting Requirements for California Talent Industry

As a reminder for all employers with employees in California, the state expanded the list of who must report suspected child abuse or neglect. Assembly Bill 653 (effective January 1, 2026) adds individuals employed as a talent agent, talent manager, or talent coach who provide services to minors to the list of state-mandated reporters under the Child Abuse and Neglect Reporting Act. Covered individuals must make an immediate phone report and a written follow-up within 36 hours; failure to report can be a misdemeanor.

The update is applicable to anyone employed as a talent agent, talent manager, or talent coach who provides services to minors, and took effect on January 1, 2026.

Overview

- **Reporting Basics, Two steps:**
  (1) Call law enforcement (police or sheriff), the county child welfare agency, or county probation (if designated) immediately or as soon as practicable; then

  (2) File the written report within 36 hours (Form SS 8572).
- **Penalties and Protections:** Failure to report is a misdemeanor (up to six months in jail and/or a $1,000 fine); higher penalties can apply if willful non-reporting contributes to death or great bodily injury. Good faith reporters have civil and criminal immunity, and the reporter's identity is confidential with limited statutory exceptions.
- **Licensing Touchpoints:** The Labor Commissioner (DLSE) will include mandated reporter statements with talent agency licenses and Child Performer Services permits, aligned with Penal Code § 11166.5 acknowledgments.
- **Training Resource:** The state's Mandated Reporter Training (Office of Child Abuse Prevention) offers a general course and modules; several are available in Spanish. While AB 653 does not add a new training mandate for these roles, training is strongly encouraged, and the absence of training does not excuse reporting duties.

Why This Matters

- Employers who employ or engage individuals who represent, manage, or coach performers under 18 should treat this as a workplace compliance update (not merely a licensing change) and update policies, acknowledgments, and onboarding.
- Operational readiness reduces legal exposure and reputational risk, and supports timely, lawful reporting that protects minors.

What Employers Need to Do

- **Identify Covered Roles:** Confirm which employees serve as talent agents, managers, or coaches who provide services to minors in California. These individuals are mandated under AB 653.
- **Update Policies and Acknowledgments:** Add these roles to your mandated reporter policy and ensure they sign a mandated reporter acknowledgment consistent with California's Child Abuse and Neglect Reporting Act (Penal Code § 11165.7 / § 11166.5).
- **Give Clear Reporting Instructions:**
  - Provide simple, written instructions on the two-step reporting process:
    - Call law enforcement, county child welfare, or designated probation immediately or as soon as practicable, and
    - Submit the written report within 36 hours using Form SS 8572.
  - Make it clear that reporting to authorities is mandatory and individual; internal reporting does not replace it.
- **Encourage and Document Training:** Direct covered staff to California's Mandated Reporter Training (including Spanish versions where helpful) and record completion, so they know what to look for and how to report, even though AB 653 does ***not*** add a new training mandate.

Key Risks for Employers

- **Legal Exposure for No-reporting/Impeding:** Failure to report (or impeding a report) can trigger criminal penalties.
- **Licensing/Permitting Friction:** Missing mandated reporter statements in license or permit files can delay approvals or renewals.
- **Process Gaps:** Lack of clear two step reporting instructions (who to call, how to file the 36-hour form) slows responses and heightens risk.
- **Training Gaps:** Even though training is not newly mandated for these roles, the absence of training is not a defense; untrained staff may miss or mishandle reportable situations.

Source References

- California AB 653 - Child abuse: mandated reporters: talent agents, managers, and coaches
- California DIR - Child Performer Services Permit
- California DIR - Talent Agency License and Fee-Related Talent Services
- California Department of Social Services (CDSS) - Child Abuse Mandated Reporter Training
- California Mandated Reporter Training

State Legal Update

Maine 2026 Withholding Tables and Supplemental Wage Changes

As a reminder for employers, Maine Revenue Services (MRS) has updated the state income tax withholding tables for wages paid on or after January 1, 2026. The update refreshes both the wage bracket and percentage method tables and confirms that when supplemental wages (such as bonuses or commissions) are paid separately from regular pay, employers may withhold a flat 5%. If supplemental pay is combined with regular wages, withholding must be calculated using the regular tables as a single combined payment.

This update is applicable to all employers with employees in Maine and applies to pay dates on or after January 1, 2026.

Overview

- **What Changed in 2026:**
  - Tables refreshed to reflect 2026 parameters for exemptions and deductions.
  - **Supplemental Wages:** 5% flat when paid separately; otherwise combine with regular wages and use the tables.
- **Amounts Used in 2026 Withholding:**
  - **Personal Exemption: $5,300 per Allowance.**
  - **Standard Deduction (for Withholding Calculations):**
    - **For a single person:** the standard deduction is $12,450 when annualized wages are at or below $102,250. As income rises above that level, the deduction gradually decreases and becomes $0 once annualized wages reach $177,250.
    - **For Someone Who is Married:** the standard deduction is $27,750 when annualized wages are at or below $204,550. It gradually decreases and becomes $0 once annualized wages reach $354,550.
- Standard deduction amounts used for filing 2026 tax returns (not for paycheck withholding)
  - Single or Married Filing Separately: $15,300
  - Head of Household: $22,950
  - Married Filing Jointly: $30,600

Why This Matters

- Ensures accurate withholding on day one of 2026, preventing under or over withholding for employees.
- Reduces manual overrides and rework for supplemental payments.
- Helps avoid notices, penalties, and interest tied to incorrect setups or missed updates.

What Employers Need to Do

- **Implement and Validate the 2026 Maine Tables:** Confirm your payroll system is using the 2026 Maine wage-bracket and percentage-method tables (with correct exemption and standard deduction settings, including phase-outs), and run a few test calculations at different wage levels and filing statuses before the first 2026 payroll, saving the test results as part of your audit trail.
- **Set up Supplemental Wage and Deduction Handling Correctly:** Configure supplemental wages so that separate bonus/commission checks use the 5% flat Maine withholding rate, while combined paychecks use the regular 2026 tables on total taxable wages, and verify that your percentage-method formulas apply the 2026 personal exemption and standard deduction logic as described in the state instructions.
- **Update Procedures and Resources with 2026 Maine Materials (Click Here):** Refresh internal payroll/HR procedures, job aids, and checklists to reference 2026 Maine forms (such as Form 941ME and W-4ME) and the 2026 withholding tables booklet, remove 2025 references, and ensure staff can easily access these resources via shared drives or links.
- **Train Staff and Monitor Initial 2026 Pay Runs:** Provide a short briefing for payroll and HR on the 2026 changes (new tables, 5% supplemental rule, and standard deduction phase-out), then spot-check Maine withholding on the first few 2026 payrolls—including employees with supplemental pay—to confirm calculations match the 2026 tables and correct any configuration issues promptly.

Source References

- Maine Revenue Services - Employment Tax Returns - 2026
- Maine Revenue Services (Booklet) - Withholding Tables for Individual Income Tax 2026 - (Rev October 2025)

State Legal Update

Key Risks for Employers

- **Delayed Table Updates:** If the 2026 tables are not loaded before the first 2026 payroll, the system calculates state withholding incorrectly and triggers corrections.
- **Misuse of the Five Percent Rule:** Applying the five percent rate when supplemental pay is combined with regular wages is wrong; it applies only when supplemental pay is issued separately.
- **Ignoring the Phaseout:** Skipping the standard deduction phaseout in the percentage method produces inaccurate withholding.
- **Outdated Procedures:** Internal guides that still reference 2025 tables or old bonus rules can lead staff to apply incorrect methods.
- **Training Gaps:** Insufficient training causes inconsistent treatment across pay runs and locations.

State Legal Update

Minnesota Updated Workers' Compensation Poster

As a reminder for all employers with employees in Minnesota, the Department of Labor and Industry (DLI) released an updated workers' compensation poster. The update highlights that certain mental health injuries may be compensable under state law.

Required posters must be physically posted in a space where employees frequent, and are available to print or order free of charge from the DLI's poster hub here: Link

This update applies to employers with employees in Minnesota and was last updated in January 2026.

Overview

What the poster includes:

- What to do if injured (report promptly; some deadlines are as short as 14 days);
- What benefits are available;
- Insurer obligations (e.g., issue payment or a denial within 14 days after the employer becomes aware that the worker has been disabled for more than three calendar days, and pay benefits at regular payroll intervals); and
- The anti-fraud hotline (1.888.372.8366).

Why This Matters

- **Law Requirements:** Failure to post the updated poster with the required insurer information may result in a $500 penalty.
- **Proper Placement is Critical:** The DLI guidance emphasizes physical posting in a conspicuous, accessible area—binders or intranet alone are not sufficient.
- Clarity on mental health claims helps supervisors and employees understand that some mental injuries, especially PTSD, may be covered, reducing errors and delays.

What Employers Need to Do

- Download or order the January 2026 workers' compensation poster (and, if helpful, the full poster pack) from the DLI, selecting languages used by your workforce.
- Fill in the insurer's name and contact information (or indicate self-insured status).
- Physically post the poster in a high-visibility location at every Minnesota worksite and replace older versions.
- Brief supervisors on reporting deadlines, insurer timelines, and the fraud hotline.
- Document compliance (e.g., a photo of the posting and a central log) to show timely adoption if requested.

Key Risks for Employers

- Using Outdated posters (risk of fines).
- Posting online only (the law requires physical posting).
- Not completing insurer information (required field).
- Supervisors missing required reporting timelines.
- Uncertainty about when mental health conditions, especially PTSD, are covered.

Source References

- Minnesota L&I - Workplace Notices and Posters
- Minnesota L&I - Workers' Compensation Poster (Multiple Languages)
- Minnesota Statutes - Labor, Industry - 176.139 NOTICE OF RIGHTS POSTED.

State Legal Update

Missouri Unemployment Insurance Wage Base 2026

As a reminder for all employers in Missouri, the Missouri Department of Labor (MDOL) has updated the unemployment insurance (UI) taxable wage base for wages paid on or after January 1, 2026. The base decreases to $9,000 from $9,500, and this change is reflected on the state's Tax Rates page.

This update is applicable to all employers with employees in Missouri and is in effect as of January 1, 2026.

Overview

- **New Wage Base for 2026:** $9,000 per employee.
- **Previous Wage Base (2025):** $9,500 per employee.
- **Effective Period:** Applies to wages paid January 1 through December 31, 2026.

Background: Missouri may adjust the wage base down by $500 or up by $1,000 each year based on the average balance of the Unemployment Compensation Trust Fund; the base cannot fall below $7,000 or exceed $13,000. The 2026 reduction follows this rule (RSMo § 288.036(2)).

Why This Matters

- An employer's maximum Missouri unemployment insurance (UI) tax per employee is now calculated on $9,000, not $9,500, reducing potential UI tax exposure by $500 multiplied by the employer's assigned 2026 rate.
  - For example, at the new employer rate of 2.376%, the maximum per employee contribution drops by approximately $11.88.

Key Risks for Employers

- **System Mismatch:** If Payroll systems are not updated to the $9,000 base on January 1, 2026, employers may overpay Missouri UI contributions.
- **Documentation Gaps:** Internal references (e.g., wage-base matrices or manuals) that still show $9,500 can cause downstream errors in audits or rate projections. Using the state's tax rates page ensures alignment (See Tax Rates page here: LINK).

What Employers Need to Do

- **Update Missouri UI Wage Base Settings to $9,000 for 2026:** Employers should ensure their payroll and HR systems use a $9,000 Missouri unemployment insurance taxable wage base per employee for wages paid between January 1 and December 31, 2026. In their payroll systems, they should confirm that the Missouri SUI/SUTA wage limit (often labeled "MO UI limit" or "MO SUTA wage base") is set to $9,000, and, if a third-party payroll provider is used, obtain written confirmation that this base is active for all 2026 pay dates.
- **Confirm Taxable vs. Excess Wages Use The New Base:** Employers should review Missouri quarterly unemployment wage reports to confirm that wages up to $9,000 per employee are treated as taxable wages and wages above that amount are reported as excess wages. They should spot check employees who will exceed $9,000 in annual wages to verify that, once the cap is reached, additional wages are no longer subject to Missouri UI tax and are correctly reported as excess wages.
- Align documentation and budgeting with the $9,000 base: Employers should update internal wage base matrices, UI tax guides, standard operating procedures, and budgeting models so they reflect the 2026 wage base of $9,000 (instead of the 2025 base of $9,500). They should also recalculate maximum Missouri UI cost per employee using the new base and their assigned 2026 Missouri UI tax rate.

Source References

- Missouri DOL - Tax Rates 2026
- Missouri DOL - Taxable and Excess Wage Calculations

State Legal Update

New Jersey Expands Employment Rights for Cannabis Workers

On January 12, 2026, the Assembly Bill (AB) 4182 was signed into law as Public Law (P.L.) 2025, c.244. The law becomes effective on May 12, 2026, and establishes state-level labor protections for cannabis employees who are not covered under federal labor law and assigns enforcement authority to the New Jersey State Board of Mediation.

This update is applicable to all private cannabis employers licensed or authorized to operate cultivation, manufacturing, distribution, wholesale, retail, or delivery activities in New Jersey, and it will be effective on May 12, 2026 (takes effect on the 120th day following enactment).

Overview

- This law creates a comprehensive framework ensuring that cannabis employees, many of whom, are excluded from federal labor protections under the National Labor Relations Act, receive similar rights to those of other workers in New Jersey.
- Defines “cannabis employees” and “cannabis employers” and places cannabis workplaces under the jurisdiction of the New Jersey State Board of Mediation.
- Prohibits specific unfair labor practices by employers, including interfering with employees’ rights, dominating employee organizations, discriminating against workers for exercising protected rights, or refusing to bargain in good faith.
- Labor organizations representing cannabis workers are prohibited from engaging in coercion, bad faith bargaining, or violating board regulations.
- The State Board of Mediation is authorized to investigate disputes, enforce compliance, prevent unfair labor practices, and issue remedial orders such as reinstatement, back pay, damages, and cease and desist directives.

Why This Matters

- For employers, the law establishes clear expectations around labor relations, workplace conduct, and good faith negotiation requirements, reducing the risk of disputes or enforcement actions.
- Cannabis employees not covered under federal labor law now have access to structured representation, protections against retaliation, and state supervised collective bargaining processes.

What Employers Need to Do

- Review and update workplace policies to align with prohibited and permitted labor practices under the new statute.
- Train supervisors and managers on employee rights, union-related conduct, and limits on employer involvement in employee organization activities.
- Prepare for potential oversight or investigations by the New Jersey State Board of Mediation.
- Establish internal procedures for responding to labor inquiries, card check authorizations, and collective bargaining requests.
- Ensure no retaliatory actions occur against employees exercising rights protected under this law.

Source References

- NJ A4182 - Concerns conditions of employment of certain cannabis employees

State Legal Update

New Jersey Family Leave Now Covers Smaller Employers

On January 17, 2026, the governor signed Assembly Bill (AB) 3451 (P.L.2025, c.279). The law revised the New Jersey Family Leave Act (NJFLA) to broaden employer coverage and expand employee eligibility for job protected family leave.

This update is applicable to all private employers with 15 or more employees in New Jersey, and the effective date is July 17, 2026 (Six Months Following Enactment).

Overview

The law expands the New Jersey Family Leave Act by lowering the employer coverage threshold from 30 to 15 employees, bringing many small and midsize employers within its scope.

It also reduces employee eligibility requirements to three months of employment, and 250 base hours worked in the preceding 12 months. In addition, the law adds a job restoration requirement for employees who use Temporary Disability Insurance (TDI) or Family Leave Insurance (FLI), requiring reinstatement to the same or an equivalent position with comparable pay, benefits, and seniority.

These changes are in addition to existing NJFLA obligations, including up to 12 weeks of job-protected family leave in a 24-month period and anti-retaliation protections.

Why This Matters

- Employers with 15 or more employees that were previously outside NJFLA coverage must comply by July 17, 2026. This requires updated policies, manager training, and systems that track the new 250-hour eligibility standard and honor job-restoration after TDI/FLI use.
- Employees gain earlier access to job-protected family leave and clearer return-to-work rights linked to state disability and family leave insurance benefits. This is expected to increase leave utilization and heighten reinstatement and anti-retaliation enforcement risks if employers do not update practices.

What Employers Need to Do

- Update policies, handbooks, notices, and postings.
- Train managers and emphasize eligibility changes, the interactive process for scheduling leave, recordkeeping for base hours, and reinstatement obligations.
- Map how earned sick leave, TDI, FLI, FMLA (when applicable), and New Jersey family leave interact so you avoid overlapping paid benefits and follow the correct order when employees choose how to use their leave.

Key Risks for Employers

- **Failure to Update Eligibility Tracking Systems:** Not monitoring the new threshold (250 base hours and 3 months employment) could result in wrongful denial of leave and compliance violations.
- **Missed Policy or Handbook Updates:** Outdated policies may confuse managers or employees, increasing the risk of anti-retaliation claims and missed leave requests.
- **Insufficient Manager Training:** Managers unfamiliar with expanded NJFLA coverage or job restoration requirements could inadvertently violate reinstatement obligations or retaliate against employees.
- **Improper Sequencing of Leave Benefits:** Overlapping use of TDI, FLI, earned sick leave, NJFLA, and FMLA could lead to duplicative paid benefits, incorrect leave administration, or disputes over job protection.
- **Failure to Reinstate Employees Properly:** Not restoring employees to the same or equivalent position after TDI/FLI may trigger enforcement actions or employee complaints.
- **Increased Enforcement and Litigation Risk:** Heightened utilization of leave and clearer protections raise the chance of audits, investigations, or lawsuits if employers do not adapt practices promptly.

- **Increased Enforcement and Litigation Risk:** Heightened utilization of leave and clearer protections raise the chance of audits, investigations, or lawsuits if employers do not adapt practices promptly.

Source References

- NJ A3451 - Revises law concerning family leave to extend protection by reducing employee threshold from 30 employees to 15 employees in definition of employer

State Legal Update

New Mexico Withholding Rules Change for 2026

As a reminder for all employers with employees in New Mexico, the Taxation and Revenue Department announced that effective January 1, 2026, all employers must electronically file and pay state withholding and workers' compensation fees.

The quarterly due date moves to the 25th day of the month after each quarter, and annual withholding statements must also be filed electronically.

Overview

- **Electronic Filing and Payment Required for Everyone:** All employers must e-file and e-pay wage withholding, non-wage withholding, and workers' compensation fees (no 25-employee threshold).
- **Earlier Quarterly Deadline:** Quarterly wage-withholding and workers' compensation returns are due on the 25th (not the last day) of the month following quarter-end, aligned with Gross Receipts Tax timing.
- **Annual Statements Must be e-filed:** W-2, W-2G, and 1099-R must be filed electronically with the Department by January 31, 2026.
- **Combined Quarterly Report:** New Form TRD-41431 (Workers' Compensation Fee Return and Employees Quarterly Wage & Withholding Report) replaces TRD-31109 and WC-1; the first filing (Q1 2026) is due April 25, 2026.
- **How to Pay:** Accepted e-payment methods include credit card, ACH debit, ACH credit, and Fedwire via the Taxpayer Access Point (TAP).
- **Where to File:** Use the Taxpayer Access Point (TAP) portal (Click Here).

Why This Matters

- The earlier deadline and universal e file/e pay requirement means payroll calendars, systems, and third-party access must be updated to avoid late filings and payment errors.
- The new TRD 41431 is in addition to the existing payment returns (TRD 41414 for wage and TRD 41409 for non-wage withholding), so workflows should reflect both the quarterly report and the payment returns.

What Employers Need to Do

- **Adjust Filing Calendars to the New Deadlines:** Employers should update payroll calendars and reminder systems so that New Mexico quarterly withholding and workers' compensation returns are scheduled by the 25th day of the month following each quarter (e.g., Q1 due April 25, Q2 July 25, Q3 October 25, Q4 January 25 of the following year) and ensure annual W-2, W-2G, and 1099-R statements are filed electronically with the Department by January 31.
- **Fully Transition to Electronic Filing and Payment via TAP:** Employers should move all New Mexico wage and non-wage withholding and workers' compensation filings and payments to electronic formats through the Taxpayer Access Point (TAP) portal, since paper filings will no longer be accepted for any employer. They should confirm acceptable e-payment methods (credit card, ACH debit, ACH credit, Fedwire) are enabled and that ACH credit addenda use the required New Mexico Business Tax Identification Number (NM BTIN) for workers' compensation payments.
- **Ensure TAP Access and System Readiness:** Employers should register or verify TAP access for all payroll and tax staff and confirm that any third-party payroll providers have current credentials and proper authority to file and pay on the employer's behalf. They should also update payroll software, bulk file upload processes, and vendor instructions to use the correct file schemas (available mid-January 2026 in TAP) and support electronic submissions without errors.
- **Incorporate the New Combined Quarterly Report into Workflows:** Employers should familiarize payroll and tax teams with Form TRD 41431 (Workers' Compensation Fee Return and Employees Quarterly Wage & Withholding Report) and ensure internal workflows treat this form as a required combined quarterly report in addition to existing payment returns (TRD 41414 for wage and TRD 41409 for non-wage withholding), so neither piece is missed.

State Legal Update

Key Risks for Employers

- Missing the 25th day deadline (For 2026, Q1 is due on April 25, Q2 on July 25, Q3 on October 25, and Q4 on January 25 of the following year).
- Not e-filing annual statements by January 31, 2026.
- Submitting only payment returns without TRD 41431 (or vice versa). Both are required.
- Payment formatting errors (e.g., using NM BTIN instead of FEIN for WKC ACH credit addenda).
- Bulk file readiness if you rely on file uploads; schemas are available mid-January 2026 in TAP.

- **Communicate changes and monitor official guidance:** Employers should communicate these changes to finance, HR, and payroll teams and provide training as needed to prevent missed filings or payment errors. They should also monitor the New Mexico Taxation and Revenue Department website and TAP portal for any updates, file schema releases, or technical guidance ahead of and during the 2026 transition.

Source References

- New Mexico Tax Revenue Press Release (October 9, 2025)

State Legal Update

New York Now Required Naloxone in First Aid Kit

On December 12, 2025, Senate Bill S5922/A2725 was signed into law.

The law becomes enforceable on June 10, 2026, and requires private employers that must keep first aid supplies under federal rules to maintain an opioid antagonist (e.g., naloxone/Narcan) in the workplace.

The New York Department of Labor will issue rules on training and quantities, and chapter amendments clarify that the antagonist must be on site, not in every individual first aid kit.

This update is applicable to all employers that are required under federal law to keep first aid supplies available and takes effect on June 10, 2026.

Overview

- **Scope:** Applies to private New York employers already required by OSHA to have first aid supplies available *(e.g., where a clinic or hospital is not in close proximity).*
- **Products:** Over-the-counter (OTC) naloxone options include Narcan 4 mg and RiVive 3 mg, plus OTC generics; higher dose sprays (e.g., Kloxxado 8 mg) and auto-injectors remain prescription only.
- **Protections:** Public Health Law § 3309 grants civil, criminal, and professional immunity for good faith administration; New York's 911 Good Samaritan Law protects those who call for emergency help during a suspected overdose.

Why This Matters

- **Life-saving Readiness:** Naloxone rapidly reverses opioid overdoses, including those involving fentanyl; repeat doses may be needed every two to three minutes until Emergency Medical Services (EMS) arrives.
- **Compliance Clarity:** Ties directly to existing federal first aid obligations, reducing guesswork while state rules on training and quantities are finalized.
- **Liability Assurance:** Good faith responders and employers have statutory protection, encouraging timely intervention without fear of legal exposure.

What Employers Need to Do

- **Confirm Coverage:** Identify New York worksites where OSHA 1910.151 requires first aid supplies.
- **Select Product(s):** Choose over-the-counter (OTC) intranasal naloxone (e.g., Narcan 4 mg, RiVive 3 mg, or OTC generics).
- **Place and Stock:** Until NY DOL issues rules, co-locate at least two (2), two-dose cartons at primary response points (e.g., near AEDs, reception, guard stations) and post clear signage.
- **Train Responders:** Provide a brief, skills-based training on recognition, 911 activation, administration, repeat dosing, and post-incident steps, using CDC/NIOSH/SAMHSA/OOPP materials.
- **Adopt Policy and SOPs:** Add an Overdose Response Policy covering locations, roles, steps to respond, documentation, restocking, privacy, and references to the New York Public Health Law (PHL) § 3309 and the 911 Good Samaritan Law."
- **Track Inventory:** Maintain a log of kit locations, lot numbers, and expiration dates; document each use and restock promptly.
- **Monitor Rulemaking:** Watch for NY DOL guidance on required training and minimum quantities; update your plan accordingly.

Source References

- New York - Senate Bill S5922A - Requires employers to include an opioid antagonist where first aid kits are required by federal law

Resources

- New York - Public Health Law Section 3309

State Legal Update

New York Delays Trapped at Work Act Amended

On February 13, 2026, New York Governor Kathy Hochul signed chapter amendments to the Trapped at Work Act, which restricts repayment agreements tied to leaving a job. The amendments delay the law's start and clarify which repayment agreements remain lawful, including a narrow path for tuition tied to transferable credentials.

This update, applicable to all New York employers, covers only agreements with employees (excluding independent contractors, interns and volunteers), and the amended law takes effect on February 13, 2027.

Overview

- The law voids "employment promissory notes "requiring employees to repay the employer (often for training costs) if they leave before a set period. There are some exceptions to this.
- **Clarified Carve-outs:** Certain agreements remain permitted if strict conditions are met (tuition for a transferable credential, voluntary property arrangements, non-performance bonus/relocation clawbacks, sabbatical terms for educational staff, and union-negotiated programs).

What Changed and When

- **December 19, 2025:** Law signed, initially effective immediately.
- **February 13, 2026:** Chapter amendments (A9452/S8822) signed; the effective date moved to February 13, 2027, and key terms were clarified.
- **Act Amendment Reason:** To resolve gray areas (tuition programs, sign-on bonuses, relocation) and to give employers time to adjust.

Who is Covered

- The law applies only to employees. The law no longer covers independent contractors, interns, or volunteers.
- The employer definition is aligned with New York Labor Law (any person/entity employing individuals, including the state and its political subdivisions).

What is Prohibited

- **Banned:** Any agreement requiring an employee to pay the employer if the employment ends before a stated period, for any reason.
- Such provisions are unconscionable, against public policy, and unenforceable in New York.

What Employers Need to Do

- Review all templates including offer letters, sign-on/relocation, tuition, reimbursement, and any payback provisions.
- Segregate tuition agreements into a stand-alone contract that meets all five statutory conditions.
- Retool bonus/relocation clawbacks by removing performance triggers; adding clear misconduct and misrepresentation clauses; and defining "misconduct" carefully.
- Exclude employer-specific or mandatory safety/compliance training from any repayment obligation.
- Set a timeline by using 2026 to review and update agreements, policies, and templates so they are compliant by February 2027.

Key Risks for Employers

- Bundling tuition terms into offer letters (must be a separate contract).
- Requiring tuition-supported credential for employment. Participation must be optional.
- Using acceleration clauses or flat payback schedules (must be prorated with no acceleration).
- Performance-tied clawbacks for bonuses/relocation (not allowed - keep them non-performance).
- Applying terms to contractors or interns (scope is employees only).

Source References

- New York A9452 - Relates to the prohibition of the use of employment promissory notes and other similar provisions; defines transferable credential; relates to the effectiveness of such provisions.
- New York Enacts Trapped at Work Act: Ban on Stay-or-Pay Clauses (VensureHR)

Remaining Allowances and Permissions

A) Tuition for a "Transferable Credential": Defined as a degree, license, certificate, or documented skill widely recognized in the industry (not employer-specific). Mandated safety/compliance training is not transferable. This is allowed only if all the following are true:

1. There is a separate written contract (not part of the employment agreement).
2. The credential is not a condition of employment.
3. Repayment is pre-set and capped at the employer's actual cost.
4. Repayment is prorated, with no acceleration if the employee leaves.
5. No repayment is required if the employee is terminated, except for misconduct.

B) Employer Property: Repayment is permitted for voluntarily purchased or leased employer property.

C) Non-performance Incentives: Clawbacks are allowed for sign-on/financial bonuses, relocation, or other non-educational incentives not tied to job performance, unless (i) the employee was terminated for a reason other than misconduct, or (ii) the job was misrepresented.

D) Sabbaticals and Union Programs: Sabbatical terms for educational personnel and collectively bargained programs remain permitted.

Why This Matters

- Employers retain tools to protect investments in hiring and mobility (e.g., sign-on bonuses and relocation) while avoiding unlawful "stay-or-pay" structures.
- Tuition support remains viable when structured under the transferable-credential framework with all statutory conditions.
- The one-year delay provides time to repaper agreements and train HR and Talent Acquisition teams.

Oregon 2026 Agricultural Overtime Credit Notice

As a reminder for all employers with employees in Oregon, the Department of Revenue is continuing the Agricultural Employer Overtime Tax Credit program. For overtime paid in 2026, the credit percentages step down by employer size and industry. Agricultural overtime remains owed after 48 hours in a workweek. Applications are filed online only each year January 1–31 (the 2026 cycle accepted filings through February 2, 2026).

Overview

What the Credit Covers: A refundable credit on income or excise tax equal to a statutory percentage of the overtime premium (the amount above base pay) for overtime hours worked in Oregon. Statewide credits are capped at $55 million per year (prorated if oversubscribed).

- **2026 Percentages (by Size/Type):**
  - **Nondairy (Large):** If an employer has more than 50 full-time equivalent (FTE) employees, the credit is 30% (ORS 315.135(2)(c)).
  - **Mid-sized or Dairy (Larger):** If an employer has more than 25 FTE employees, but no more than 50 FTE employees, or is a dairy employer with more than 25 FTE employees (of any size), the credit is 50% (ORS 315.135(3)(c)).
  - **Nondairy (Small):** If an employer has 25 or fewer FTE employees, the credit is 60% (ORS 315.135(4)(c)).
  - **Dairy (Small):** If a dairy employer has 25 or fewer FTE employees, the credit is 100% (ORS 315.135(5)).
- **Overtime Threshold in 2026:** Overtime is owed after 48 hours in a workweek (time and a half); scheduled to drop to 40 hours starting January 1, 2027.

Why This Matters

- **Budgeting and Cash Flow:** Knowing the reduced 2026 percentages helps to forecast labor costs and expected refunds.
- **Refundable Benefit:** If the credit exceeds tax, the excess is refunded, improving cash timing for seasonal operations.
- **Competition for Dollars:** The $55M annual cap means timely, accurate applications reduce the risk of pro-rata reductions.

What Employers Need to Do

- **Review FTE Calculation Guidelines:** Accurately calculate full-time equivalent (FTE) employees by adding all hours worked by all employees—including exempt staff, out-of-state hours, and hours worked through farm labor contractors—then divide the total by 2,080. Double-check totals to ensure correct credit tiering.
- **Track Oregon Overtime Hours:** Only the overtime premium wages on Oregon hours (after 48 hours/week in 2026) qualify for the credit. Maintain clear records separating Oregon overtime from any other locations.
- **Confirm Eligibility and Gather Supporting Documents:** Ensure your business qualifies and that you have payroll records and overtime details ready for submission. Farm labor contractors cannot claim the credit; the farm employer must document and claim.
- **Forecast Credit Amounts and Impact on Cash Flow:** Use the published credit percentages (based on employer size/type) to estimate refund values and plan for seasonal operations.
- **Prepare and Submit the Application Early:** Apply online through Revenue Online between January 1–31 (extended to February 2 in 2026). Early and accurate filing reduces the risk of pro rata reductions if credits exceed the annual $55 million cap.
- **Use Official Resources for Guidance:** Reference Oregon Department of Revenue FAQs and Oregon BOLI overtime rules (Oregon BOLI overtime rules) to clarify eligibility, documentation, and deadlines.
- **Train Payroll and HR Staff:** Educate teams on overtime thresholds (48 hours/week in 2026, dropping to 40 in 2027), application requirements, and relevant deadlines.
- **Monitor for program updates:** Stay alert to changes in thresholds, cap amounts, or filing instructions for future cycles to ensure compliance and maximize benefit.

Key Risks for Employers

- **FTE Calculation (Why Errors Matter):** The credit percentage depends on full-time equivalents. Oregon determines FTE by adding all hours worked by every employee (including exempt staff, out-of-state hours, and hours worked through farm labor contractors) and dividing the total by 2,080. An incorrect total can place an employer in the wrong tier.
- **Claiming Non-Oregon Overtime:** Only Oregon overtime wages generate the credit, even though all hours count toward FTE.
- **Contract Labor Pitfalls:** Farm labor contractors cannot claim the credit; the farm employer must claim and document allocations.
- **Late or Incomplete Filings:** Applications are online only through Revenue Online; late, paper, or incomplete submissions risk denial or reduction.

Source References

- Oregon Department of Revenue - Revenue Online (Log In Portal)
- Oregon - Business - FAQs
- Oregon BOLI - Minimum Wage and Overtime in Agriculture

State Legal Update

Washington New Health Care Violence Prevention Law

As a reminder for all healthcare employers with employees in Washington, the Legislature enacted a law to strengthen workplace-violence prevention in health care. The law amends chapter 49.19 of the Revised Code of Washington, requires timely investigations of every incident, and mandates regular summaries to safety committees.

The law applies to all healthcare employers in Washington and took effect on January 1, 2026.

Overview

Scope: House Bill 1162 (Chapter 303, Laws of 2025) amends RCW 49.19.020 and adds a new section to chapter 49.19 for healthcare settings.

Who is Covered: Each healthcare setting must maintain a workplace violence prevention plan and comply with the new investigation and reporting requirements.

Plan Requirements:

- Physical security and emergency response;
- Staffing patterns and mitigation of time worked alone in high-risk areas;
- Job design, equipment, and facilities;
- First aid;
- Incident reporting;
- Training and implementation;
- Risks in areas with uncontrolled access; late-night/early-morning shifts, and employee parking; and
- Processes to support employees affected by violence.
- When developing or updating the plan, consider guidance from the Washington State Department of Health (WDOH), the Washington State Department of Social and Health Services (WSDHS), the Washington State Department of Labor and Industries (WL&I), the U.S. Occupational Safety and Health Administration (OSHA), Medicare, and health care accrediting organizations, along with the findings from your incident summaries.

What Employers Need to Do

1. Keep a Compliant, Annually Updated Workplace Violence Plan

- **What to Do:** Maintain a written workplace violence prevention plan for each covered health care setting that meets RCW 49.19 requirements and update it at least annually using current guidance and incident findings.
- **How to Implement:** Consolidate existing policies into a single plan that addresses all required risk areas (e.g., physical security, staffing, lone work, parking, employee support) and put an annual review/update on your safety or committee calendar tied to incident trends.

2. Use Your Committee to Own and Monitor the Plan

- **What to Do:** Have your safety committee—or a workplace violence committee with the required employee representation—develop, implement, and monitor the workplace violence prevention plan.
- **How to Implement:** Confirm the committee's structure meets legal requirements, then update its charter and agendas so workplace violence prevention, plan review, and follow-up on recommendations are standing items.

State Legal Update

Committee Governance: If an employers has a safety committee (or a workplace violence committee with employee-elected members equal to or exceeding employer-selected members), that committee must develop, implement, and monitor the plan.

Annual Update Cadence: Conduct a comprehensive review and update of the plan at least annually.

Investigate Every Incident: Perform a timely investigation of each workplace violence incident, covering:
(a) incident details;
(b) the response and remediation; and
(c) if applicable, actual versus planned staffing at the time of the incident.

Internal Summaries to the Committee (Frequency Rules): Provide de-identified summaries with incident data and investigation findings, analysis of systemic or common-causes, and recommendations to adjust the plan or practices. Submit on the following schedule:

- At least twice per year for critical access hospitals, hospitals with fewer than 25 acute-care beds, certain sole community hospitals outside multi-hospital systems, and a hospital on an island within a Skagit County public hospital district.
- At least quarterly for all other health-care settings.

Privacy Safeguard: These summaries must be de-identified and may not override any law that limits disclosure of personally identifiable information.

Why This Matters

- The law adds specific, recurring duties (timely investigations, annual plan updates, scheduled committee summaries) that require operational discipline and documentation.
- It expects root-cause analysis (systemic or common causes) and plan adjustments based on findings, not just recordkeeping.
- Leadership and committees now have clear accountability for maintaining safe environments and supporting affected employees.

3. Investigate Every Incident and Report De-identified Trends on a Set Schedule

- **What to Do:** Timely investigate every workplace violence incident and provide de-identified summaries with data, findings, systemic/common cause analysis, and recommendations to the committee at least twice a year for certain small/critical-access hospitals and at least quarterly for all other health care settings.
- **How to Implement:** Use a standard investigation form and tracking log, then generate scheduled de-identified summary reports for the committee, ensuring personally identifiable information is removed and any plan changes are documented.

Source References

- Washington HB 1162 - Concerning workplace violence in health care settings

State Legal Update

Washington Paid Sick Leave and Personnel Records Update

As a reminder for all employers with employees working in the state of Washington, the Department of Labor and Industries (L&I) updated its rules on paid sick leave and personnel records. The changes expand the qualifying reasons for using paid sick leave, including immigration related proceedings effective July 27, 2025, and protections connected to the impacts of hate crimes.

The updated rules also prohibit immigration related threats or retaliation and include new guidance for construction employers and transportation network companies. In addition, employers must now provide personnel files within 21 calendar days when an employee or former employee requests them.

Overview

- **Paid Sick Leave:** New covered reasons, anti-retaliation protections, and industry clarifications for construction and transportation network companies.
- **Personnel Files:** Clear 21-day deadline to provide a free copy to employees, former employees (within three years), or their authorized de signees; and a written termination statement due within 21 days upon request.
- **Recordkeeping:** Maintain all required non-agricultural payroll records for at least three years and ensure all paid sick leave balances, carryover amounts, and statements are accurate and provided on time.

Why This Matters

- **Compliance Risk:** Missed deadlines or incomplete files can lead to statutory damages and legal fees.
- **Consistent Practices:** Clear rules reduce disputes and speed responses to employees and regulators.
- **Manager Readiness:** Helps managers avoid unlawful document requests and supports employees who use protected leave.

Key Risks for Employers

- Failing to update paid sick leave policies and notices for the new covered reasons.
- Retaliation (or behavior that appears retaliatory) against employees who use protected leave.
- Missing the 21-day turnaround for personnel files or termination statements.
- Gaps in payroll record content, retention, or monthly sick leave reporting.
- Overlooking construction-specific sick leave payout rules or transportation network company standards.

What Employers Need to Do

1. Update Washington Paid Sick Leave Rights and Records

- **What to Do:** Add Washington's new qualifying reasons for paid sick leave (immigration-related proceedings, hate crime impacts, and the updated "family member" definition), and ensure your sick leave practices and records align with L&I's latest guidance and FAQs.
- **How to Implement:** Update WA sick leave policies, handbook, and onboarding materials to reflect all covered reasons and the current "family member" definition, reissue updated notices and verify payroll/HRIS, and employee statements accurately show sick leave accrual, usage, balances, carryover, and are retained for at least three years.

2. Strengthen Protections: Anti-retaliation, Immigration, and Records Access

- **What to Do:** Prohibit immigration-related threats, unnecessary document demands, and any retaliation when employees use paid sick leave or request access to personnel or payroll records and meet Washington's 21-day response obligations.
- **How to Implement:** Revise anti-retaliation, leave, records access, and personnel file procedures to:
  - Explicitly ban immigration-related threats and adverse actions tied to protected leave or records requests,
  - Provide free personnel file copies and termination statements within 21 days via a central HR intake and tracking process, and
  - Train managers using a brief briefing or job aid with clear "do/don't" examples.

3. Apply Sector-specific Rules (Construction and TNCs, if Applicable)

- **What to Do:** For construction employers and transportation network companies (TNCs), ensure paid sick leave practices follow L&I's current sector-specific rules.
- **How to Implement:** For construction, review policies and end-of-employment processes for short-term workers, including any required sick leave payout under L&I rules; for TNCs, align driver accrual, usage rules, platform messaging, and payout practices with L&I's paid sick leave guidance.

Source References

- Washington L&I - Press Release (02/06/2026)
- Washington L&I - Paid Sick Leave
- Washington L&I - Payroll & Personnel Records
- WA L&I - Employee Access to Personnel File (Rev. 1/21/2026)
- WA L&I - PAID SICK LEAVE – FAQs
- Washington Expands Paid Sick Leave Benefits to Include Immigration Proceedings (VensureHR)
- Washington Extends Leave and Accommodations to Hate Crime Victims (VensureHR)
- Washington Expands Protections by Banning Immigration Status Coercion (VensureHR)
- Washington Replaces Personnel File Access Law with New Rules for Employers (VensureHR)

Scheduled
Regulatory Changes

Scheduled Regulatory Changes

State	Original Update Link	Effective Date
Federal	Federal: OSHA Extends Heat Hazard Emphasis Program Through April 2026	April 8, 2026
California	Montana Passed Comprehensive Consumer Privacy Legislation	April 1, 2026
California	Los Angeles County Enacts Hotel Worker Protection Ordinance	April 1, 2026
Maryland	Reminder Maryland: Online Data Privacy Act Effective October 1, 2025; Enforcement Begins April 2026	April 1, 2026

Posting Updates

March 2026

Posting Updates March 2026

State	Updated Posting
Louisiana	Louisiana has updated its *Unemployment Benefits* posting in English and Spanish with changes to its work search requirements section.
Michigan	Michigan has updated its *Information about Unemployment Benefits* posting with changes to its "Claimant Roadmap" section and added a QR code.
Minnesota	Minnesota has updated its Workers' Compensation Notice to include new language clarifying that certain work-related psychological injuries, including PTSD diagnosed by a licensed psychologist or psychiatrist, may qualify for benefits. The notice also updates Department of Labor contact information.
Nevada	Nevada has updated its *Job Training/Employment Programs* posting in English and Spanish with a new revision date and added a *No Smoking* posting in Spanish to its offering.
New Hampshire	New Hampshire has added a *No Smoking* posting to its offering.
New Jersey	New Jersey has updated its *Conscientious Employee Protection Act (Captive Audience)* posting to its offering.
New York	On February 19, 2026, the New York City Department of Consumer and Worker Protection (DCWP) released an updated Notice of Employee Rights under the Earned Safe and Sick Time Act, now referred to in the notice as the Protected Time Off Law. The revised notice reflects structural updates, including 32 hours of unpaid Protected Time Off that are immediately available at the start of the employer's calendar year, continued accrual at 1 hour for every 30 hours worked, and a separate 20 hours of paid prenatal leave annually. Whether accrued leave is paid or unpaid depends on employer size and income thresholds. All NYC employers must post the updated notice and provide it to employees in their primary language at hire and whenever rights change.
County	**Updated Posting**
Prince George's County, MD	Prince George's County, MD, has updated its *Prince George's County Minimum Wage* posting in English and Spanish with a new minimum wage rate.
City	**Updated Posting**
Portland, ME	Portland, ME, has updated its *Portland Minimum Wage Ordinance* posting with a new minimum wage rate.
Tacoma, WA	Tacoma, WA, has updated its *Tacoma Paid Leave* posting in English and Spanish with changes to its Filing a Complaint section and contact information.