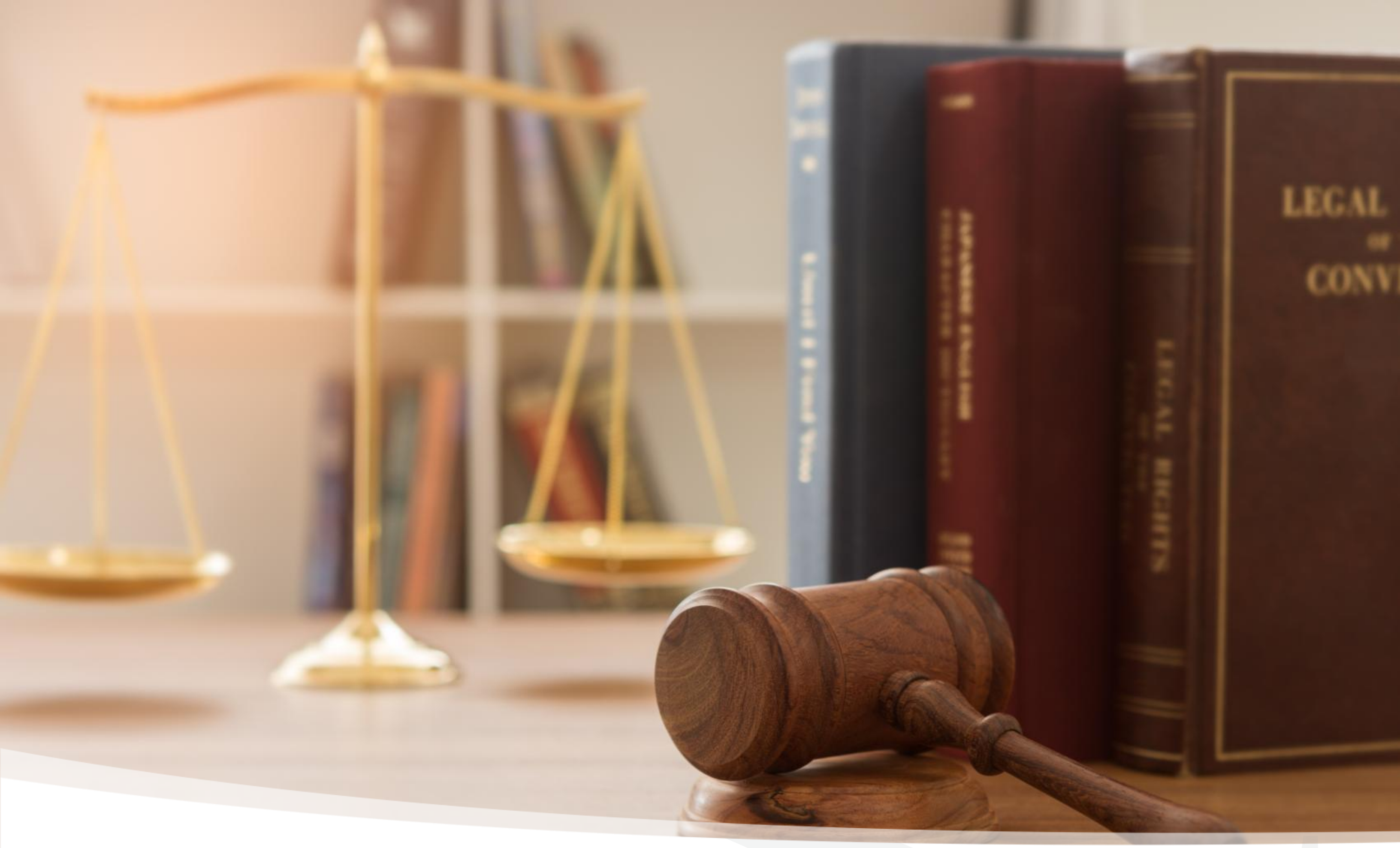

2026

HR COMPLIANCE
APRIL LEGAL UPDATES

Information on new laws and regulations, amendments to existing laws, and reminders of recent federal and state legal updates.

VensureHR

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Federal Legal Update

DOL Proposes Rule to Raise Minimum Pay for Sponsored Foreign Workers

On March 27, 2026, the U.S. Department of Labor (DOL) published a Notice of Proposed Rulemaking to revise how prevailing wages are computed for H-1B, H-1B1, E-3, and Permanent Labor Certification (PERM) cases.

The Department cites a need to align required wages with what similarly employed U.S. workers earn, strengthen program integrity, and reduce any incentive to substitute lower-paid foreign labor. The initiative follows Presidential Proclamation 10973 issued on September 19, 2025, which directed the DOL to update H-1B wage protections.

The proposal lifts each of the four wage levels to higher Occupational Employment and Wage Statistics percentiles and sets a 60-day public comment period ending May 26, 2026, under Docket ETA 2026 0001 on Regulations.gov.

Overview

- The DOL has proposed (not finalized yet) a rule to raise the four prevailing wage levels that employers must meet when they sponsor workers in H-1B, H-1B1, E-3, and PERM.
- The new method lifts each wage tier to a higher percentile of the Bureau of Labor Statistics' Occupational Employment and Wage Statistics (BLS OEWS) survey so that required pay is closer to what similarly employed U.S. workers make in the same job and location.
- Employers may still use private wage surveys in limited, monitored circumstances, and the DOL may review or reject surveys that do not meet methodological standards.
- **If Finalized, Prospective Only:** It would apply to prevailing wage determinations (PWDs) that are still pending on the effective date and to new PWD requests and Labor Condition Application (LCA) filed after that date; it would not reopen already certified PERMs, approved LCAs, or previously approved PERM PWDs.
- This proposal sits alongside the Department of Homeland Security's (DHS) final rule that weights the H-1B cap selection in favor of higher wage levels starting with FY 2027, meaning both wage floors and lottery odds are shifting upward at the same time.
- **New Wage Level Percentiles**
  - **Level I:** from about the 17th to the 34th percentile.
  - **Level II:** from about the 34th to the 52nd percentile.
  - **Level III:** from the 50th to the 70th percentile.
  - **Level IV:** from the 67th to the 88th percentile.

What Employers Need to Do

- Identify roles commonly filed at Level I or Level II and model offers under the proposed 34th/52nd/70th/88th structure.
- Inventory pending prevailing wage determinations and upcoming Labor Condition Applications (LCAs) to gauge which matters would be captured if a final rule takes effect.
- Review any reliance on private surveys and confirm methodological compliance given DOL's stated oversight.
- Align registration wage levels and LCA data with DHS's weighted selection framework for FY 2027.

Key Risks for Employers

- **Budget Shocks and Equity Pressure:** Upward shifts at Levels I and II may necessitate compensation adjustments and internal equity reviews across similarly situated roles.
- **Pipeline Timing:** Pending PWDs and planned LCAs could fall under the new levels depending on the final rule's effective date, affecting hiring start dates and offer validity.
- **Survey Scrutiny:** Greater monitoring of private wage surveys raises documentation and compliance risk if methodologies are weak or inconsistent.
- **Lottery Competitiveness:** With a wage-weighted H-1B selection in place, lower wage offers face diminished selection probabilities, especially at Level I.

Source References

- DOL Federal Register - Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States (March 27, 2026)
- DOL Press Release - proposed rule revising prevailing wage methodology for H-1B, PERM visa programs (March 26, 2026)

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- **Note on Levels II and III:** These two levels are still calculated arithmetically from Levels I and IV under INA section 212(p)(4) (the statutory formula divides the gap between I and IV into three equal steps to compute II and III).
- **Entry-level and Early Career Roles:** Sponsorship costs will rise because Level I moves to the 34th percentile, closer to today's Level II territory.
- **PERM Pipelines and H-1B Filings:** Prospective application—PWDs pending on the final rule's effective date, and all new LCAs or PWD requests after that date, would be priced at the new levels; already approved PERMs and LCAs remain unchanged.
- **H-1B Lottery Odds and Pay:** The DHS's wage-weighted selection favors higher wage levels beginning with FY 2027, so compensation choices affect both eligibility strategy and selection probability.

Why This Matters

- **Higher Wage Floors Across Programs:** The proposal moves Level I through Level IV to the 34th, 52nd, 70th, and 88th percentiles, respectively, materially raising minimum pay obligations, especially for entry and early career roles.
- **Interaction with Weighted H-1B Cap Selection:** The DHS finalized a wage-weighted H-1B selection process effective for the FY 2027 season, reinforcing a shift toward higher-paid roles across sponsorship pipelines.
- **Limited but Retained Flexibility:** Private or alternative wage surveys remain available in monitored, limited circumstances for specialized markets.
- **Near term Planning Window:** The NPRM is prospective and would apply to prevailing wage determinations pending on the effective date and to new filings thereafter; it does not reopen certified PERMs or approved LCAs.

Additional Information

- **Weighted H-1B Lottery:** The DHS finalized a wage-weighted selection process that gives higher wage level registrations greater odds, effective February 27, 2026, for the FY 2027 cap season.
- **Presidential Proclamation 10973 and Fee Mandate:** The September 19, 2025, proclamation directed the DOL to revise H-1B wages and imposed a $100,000 payment requirement on new H-1B petitions, which federal agencies have implemented while related litigation proceeds.
- **Prevailing Wage Background and Sources:** The DOL's Foreign Labor Certification page explains prevailing wage policy and OEWS data use; OEWS data and area delineations refresh annually on or about July 1st.
- **Current Regulations:** PERM prevailing wage rules at 20 CFR 656.40 and LCA wage requirements at 20 CFR 655.731 remain in force until a final rule takes effect.

Federal Legal Update

DOL Launches Center for Faith Website and Resources

On March 19, 2026, the U.S. Department of Labor (DOL) announced it had launched a new website for its Center for Faith, describing it as a resource hub for individuals who may have experienced religious discrimination at work and for faith organizations seeking information about potential grant opportunities and retirement plans.

The Department framed the launch as part of a broader federal initiative created by Executive Order (EO) 14205 (February 7, 2025), which established the White House Faith Office and updated prior federal "faith-based and community" framework terminology to "Center for Faith" across agencies.

This update applies to employers and organizations that interact with the U.S. Department of Labor's faith-based resources and took effect on March 19, 2026.

Overview

- **Launch:** The Department of Labor Center for Faith website launched on March 19, 2026.
- **Purpose:** Resources on workplace religious discrimination plus grant and retirement plan information for faith organizations.
- **Authority:** The Executive Order 14205 (February 7, 2025) established the White House Faith Office and "Centers for Faith" framework across agencies.
- **New Public Resource Hub:** The Department's launch announcement describes the Center for Faith webpage as providing workplace religious discrimination resources and information for faith organizations on grant opportunities and retirement plans.
- **Three Highlighted Original Resources:** The Department identified (1) an Interactive state-by-state map listing religious discrimination protections and the relevant state office, (2) a guide to navigate the federal grants guide, and (3) a guide on retirement benefits guide for faith organization employees.
- **Executive Branch Framework:** Executive Order 14205 established the White House Faith Office within the Executive Office of the President and amended earlier executive orders by replacing prior terminology with "Center for Faith," supporting a coordinated agency structure.
- **Interagency and Training Emphasis:** The White House fact sheet describes coordination across agencies on religious liberty training and identifying and promoting grant opportunities for eligible faith-based and community organizations.

What Employers Need to Do

- Review and refresh policies to clearly prohibit religious discrimination, harassment, and retaliation, consistent with existing complaint handling practices.
- Train supervisors and HR on recognizing and handling religion-based issues, including how to evaluate accommodation requests and escalate concerns.
- Confirm investigation protocols for religion-based complaints are prompt, consistent, and documented in the same manner as other protected category complaints.
- For organizations seeking federal funding, use the Department's grant navigation materials and monitor funding opportunity announcements that explicitly encourage faith organizations to apply where eligible.

Key Risks for Employers

- **Complaint Intake and Escalation Risk:** Easier access to state and federal complaint pathways through the map may increase employee awareness and reporting, raising the importance of timely and consistent internal response.
- **Manager Handling Risk:** Inconsistent handling of accommodation requests or religion-based complaints can elevate exposure, particularly if supervisors are not trained on escalation and documentation expectations.
- **Policy Clarity Risk:** Outdated handbook language or unclear anti-harassment language on religion can create inconsistency in investigations and corrective action.

Source References

- DOL - Press Release - Labor Department launches new Center for Faith website (March 19, 2026)
- DOL - Center of Faith Website

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Why This Matters

- The Department positioned the website as a tool to address workplace religious discrimination and to support access to federal resources for eligible faith-based organizations, signaling ongoing attention to religious discrimination topics.
- The site consolidates practical items such as an interactive state map for religious discrimination protections and agency contacts, which can affect how employees find complaint channels and information.
- The executive order framework emphasizes interagency coordination, including training and coordination related to religious liberty and grant participation across agencies.
- The launch should be treated as a compliance signal for employers to review policies, supervisor training, and investigations related to religion-based complaints and accommodation requests.

Additional Information

- At this time, the Department has not announced new enforcement standards, reporting requirements, or employer obligations tied specifically to the Center for Faith; existing religious-discrimination and accommodation requirements under Title VII and applicable state laws continue to apply.
- The Department's Center for Faith lists **Faith@dol.gov** as a contact email for questions about its work and resources.

- White House - EO 14205 - Establishment of The White House Faith Office (February 7, 2025)
- Federal Register - EO 14205 - Establishment of the White House Faith Office

Resources

- DOL - Center of Faith Interactive Map
- DOL - Center of Faith Guide for Retirement Benefits
- DOL Center of Faith - Guide for Federal Grant Process
- DOL - Center of Faith - Anti-Religious Bias in the Workplace

Federal Legal Update

DOL Issues AI Literacy Framework for Workforce Training

On February 13, 2026, the U.S. Department of Labor's Employment and Training Administration (ETA) issued Training and Employment Notice (TEN) No. 07 25, transmitting the Department's Artificial Intelligence (AI) Literacy Framework as a resource for program design and encouraging expanded AI literacy training.

The Department of Labor (DOL) describes the framework as **voluntary guidance** *(not a new rule)* and defines AI literacy as "a foundational set of competencies" that enable individuals to use and evaluate AI technologies responsibly, with a primary focus on generative AI; the framework is organized into five Foundational Content Areas and seven Delivery Principles.

This update applies to private-sector employers and private education or training providers that use the Department of Labor's Artificial Intelligence Literacy Framework for workforce training and took effect on February 13, 2026.

Overview

- **What This Is:** The DOL's AI Literacy Framework (via TEN 07 25) is intended to guide AI literacy program design and support expanded AI education and training.
- **Legal Effect:** The framework is voluntary guidance and does not create new legal obligations for employers.
- **Definition:** The DOL defines AI literacy as competencies that enable individuals to use and evaluate AI responsibly, with a primary focus on generative AI.

Why This Matters

- **AI literacy is positioned as a baseline workforce capability:** The DOL states that in an AI-driven economy, workers will need baseline AI literacy skills regardless of industry or occupation, and the framework is intended to guide scalable training approaches.
- **It signals "what good looks like" for employer training:** Although voluntary, the framework provides a practical roadmap for what to teach and how to teach it as AI tools become part of everyday work.
- **It emphasizes human accountability and evaluation:** The DOL highlights responsible use and evaluation of outputs as core competencies, reinforcing that AI should support work—not replace human judgment.

Additional Information

- The DOL published TEN 07 25 with the complete framework and a framework graphic summarizing the five content areas and seven delivery principles.

What Employers Need to Do

- **Identify where AI is already showing up in the business operations** (e.g., drafting reports, analyzing data, customer responses) and pinpoint tasks where AI can augment work product and efficiency.
- **Define role-based AI literacy expectations** (baseline literacy for most roles; deeper proficiency for select roles) and align training to how AI is actually used in those jobs.
- **Publish clear internal guidance on appropriate AI use, including:**
  - What information cannot be entered into AI tools (confidential/sensitive data)
  - When human review is required, and
  - Who is accountable for AI-assisted outputs
- **Build Training Using the Framework's "What" and "How":**
  - Cover the five content areas (principles, uses, directing, evaluating, responsible use), and
  - Deliver training using the seven delivery principles (hands-on, job-contextual, human-skill complementary, prerequisites, pathways, enabling roles, agility).
- **Keep Training Agile:** Make content modular and refresh use cases regularly as tools evolve and workplace adoption patterns change.

Key Risks for Employers

- **Sensitive Data Exposure**: The framework explicitly treats privacy/security and protection of critical information as part of responsible AI use; weak guardrails increase confidentiality and data-handling risk.
- **Overreliance on AI Outputs:** The DOL identifies "evaluate AI outputs" as a foundational competency (verify accuracy, relevance, and fit-for-purpose); failing to train this increases error propagation and business decision risk.

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- The DOL notes the framework is intended to evolve over time based on stakeholder input, advances in AI capabilities, and labor market changes.

The Framework: 5 Content Areas and 7 Delivery Principles (Summary)

Section 1: Five Foundational Content Areas (the "what")

(1) **Understand AI Principles**: Build a baseline understanding of how AI works (core concepts, capabilities, and limits) so workers can use AI confidently and appropriately without needing technical mastery.

(2) **Explore AI Uses**: Gain exposure to practical workplace use cases to recognize where AI can support tasks and where human expertise and judgment remain essential.

(3) **Direct AI Effectively**: Learn how to interact with AI effectively by providing clear instructions, sufficient context, and iterative refinements to produce useful outputs.

(4) **Evaluate AI Outputs**: Critically assess AI-generated results for accuracy, completeness, logic, and fit-for-purpose rather than treating AI as the final authority.

(5) **Using AI Responsibly**: Use AI in ethical and secure ways by protecting sensitive information, following policies, and maintaining accountability for AI-assisted work outcomes.

Section 2: Seven Delivery Principles (the "How")

- **Enable Experiential Learning**: Teach AI literacy through hands-on practice using realistic tasks so learners can apply skills, compare outputs, and improve through feedback and iteration.
- **Embed Learning in Context**: Make training job- and industry-relevant by integrating AI learning into real workflows or existing programs so it is immediately actionable.
- **Build Complementary Human Skills**: Emphasize that AI augments human capabilities by reinforcing judgment, communication, creativity, problem-solving, and domain expertise alongside AI use.
- **Address Prerequisites to AI Literacy**: Reduce barriers to participation and success by accounting for prerequisites such as digital literacy and access to devices and connectivity.
- **Create Pathways for Continued Learning**: Treat AI literacy as a starting point and provide structured routes to more advanced or role-specific skills and AI-related career pathways.

- **Inconsistent Adoption and Manager-driven Drift:** The DOL's delivery principles emphasize enabling roles (including managers/trainers) and contextual training; without this, teams adopt AI unevenly and may create inconsistent practices.
- **Training That is Too Generic to be Usable:** The DOL stresses embedding learning in context and experiential learning; purely generic training may not translate to actual job tasks, reducing effectiveness and increasing misuse.
- **Access and Prerequisite Gaps Affecting Participation:** The framework flags prerequisites such as digital literacy and access to devices and connectivity; ignoring these gaps can limit workforce participation and create uneven capability across teams.

Source References

- DOL - Press Release - AI literacy framework providing foundational content areas, delivery principles to guide nationwide efforts (February 13, 2026)
- DOL - Attachment I - The Department of Labor's Artificial Intelligence Literacy Framework

Resources

- DOL TEN 07-25 - Training and Employment Notice No. 07-25
- DOL TEN 03-25 - Training and Employment Guidance Letter No. 03-25

Federal Legal Update

Treasury Releases AI Lexicon and AI Risk Framework

On February 19, 2026, the U.S. Department of the Treasury released two voluntary resources for Artificial Intelligence (AI) use in financial services: (1) a Shared AI Lexicon and (2) the Financial Services AI Risk Management Framework (FS AI RMF).

Treasury frames both items as practical, non-binding guidance intended to strengthen shared terminology and risk-based AI governance as financial institutions expand their use of AI for decision making, customer engagement, and operations.

This update applies to employers in the financial services sector that develop, procure, or deploy AI systems (including through third-party providers), and the update took effect on February 19, 2026.

Overview

- **Voluntary Guidance ("Soft Law"):** Treasury released these as non-binding tools to guide AI use and strengthen AI risk management practices (not as regulations).
- **AI Lexicon (Shared Vocabulary):** Establishes common definitions for key AI concepts, capabilities, and risk categories to improve clarity across legal, technical, and business teams.
- **FS AI RMF (Operational Framework):** A sector-specific adaptation of the National Institute of Standards and Technology (NIST) AI RMF, intended to translate high-level principles into practical, scalable controls for AI governance across the AI lifecycle.
- **FS AI RMF Components:** Includes an AI Adoption Stage Questionnaire and a scalable risk and control structure with more than 200 control objectives that organizations can tailor based on AI maturity and risk.
- **Development Model:** Produced through the Artificial Intelligence Executive Oversight Group (AIEOG) public-private collaboration coordinated with the FBIIC and FSSCC.
- **Part of a Larger Series:** Treasury announced a set of six AI deliverables for the sector, with the Lexicon and FS AI RMF as the first two.

Why This Matters

- **Benchmarking Pressure:** Even though the Treasury characterizes these resources as voluntary, a similar framework often becomes an informal benchmark used in audits, vendor oversight, and governance discussions.

What Employers Need to Do

- **Inventory and Scope AI Use Cases:** Identify where AI is used (or planned) in products, operations, compliance, and customer engagement, and map those use cases across the AI lifecycle that the framework is designed to cover.
- **Adopt a Shared Internal Vocabulary (without "hard-coding" it into Legal Obligations):** Use the Lexicon to align terminology across legal, risk, security, and business teams, but avoid treating Lexicon definitions as legally dispositive or contract-controlling.
- **Run the FS AI RMF Adoption Stage Questionnaire:** Use the questionnaire to determine your AI adoption stage and prioritize controls proportionate to current maturity and business impact.
- **Map Controls to AI Systems and Vendors:** Use the FS AI RMF's control objectives and lifecycle approach to assess gaps for internal AI systems and third-party AI providers, including governance, monitoring, and change management.
- **Document "Audit-ready" Evidence:** Build centralized documentation for key decisions (who approved, what testing occurred, monitoring processes, drift/changes, and incident handling) so governance can be evidenced consistently over time.
- **Prepare Contracting Playbooks for AI Vendors:** Use the Lexicon and FS AI RMF as a baseline to tighten vendor diligence and contract clauses (e.g., incident coordination, updates, audit rights) while clearly stating what is binding versus reference material.
- **Inventory Current AI-enabled Tools and Vendor Relationships**, run the FS AI RMF Adoption Stage Questionnaire to gauge maturity, and use that output to ask AI vendors targeted governance questions (auditability, explainability, and lifecycle accountability).

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- **Operational Specificity (Not Just Principles):** The FS AI RMF is designed to be implementable and assessable, translating AI risk governance into concrete controls and evidence expectations across the AI lifecycle.
- **Contracting and Vendor Oversight Implications:** Treasury's shared vocabulary and sector-specific control objectives can influence how firms structure AI procurement, vendor diligence, incident reporting expectations, and audit rights—while still requiring careful legal framing.

Additional Information

- **Treasury Announcement (Official):** Treasury's press release describes both resources and the problem statement (inconsistent terminology + uneven risk practices) the tools are intended to address.
- **Lexicon Caveat (Important):** The AI Lexicon states it is optional and does not represent official Treasury views, and it is not intended for legal interpretation or private contracts.
- **Six-workstream Roadmap:** Treasury announced the six AIEOG workstreams and the FSSCC guide lists them as: AI Lexicon & Taxonomy; FS AI RMF; Explainability; Data Nutrition Labeling; AI Enhanced Fraud; Identity & Authentication.
- **Where to Access (Official/Primary):** Treasury's release page and the associated sector materials are available through Treasury and the AIEOG and FSSCC hubs.

Key Risks for Employers

- **Treating "Voluntary" as Optional in Practice:** Even though Treasury frames these as non-binding, they are positioned as practical tools for scalable AI governance and can become a benchmark in audits and oversight discussions.
- **Misusing Lexicon Definitions in Contracts:** The Lexicon explicitly cautions that it is an optional tool and not intended for private contracts; treating it as legally dispositive can create disputes and unintended obligations.
- **Control-evidence Gaps:** The FS AI RMF emphasizes implementable controls and evidence artifacts; weak documentation of decisions, testing, monitoring, and change control can create audit and governance exposure.
- **AI Maturity Misclassification:** Underestimating your adoption stage can lead to under-implementing controls for higher-impact AI deployments (or building the wrong controls in the wrong order).
- **Third-party Risk Cannot be Outsourced:** The FS AI RMF is designed for institutions and their third-party providers; gaps in vendor diligence, monitoring, and supply-chain governance can undermine "responsible AI" claims.
- **Cybersecurity and Operational Resilience Drift:** Treasury's stated goal includes stronger AI cybersecurity and operational resilience; AI deployments that scale faster than security, monitoring, and lifecycle controls increase disruption and incident risk.

Source References

- Department of Treasury - Press Release - Treasury Releases Two New Resources to Guide AI Use in the Financial Sector (February 19, 2026)

Resources

- FSSCC - Publish Documents

Federal Legal Update

White House Releases National AI Legislative Framework

In response to President Trump's December 11, 2025, Executive Order, "Ensuring a National Policy Framework for Artificial Intelligence," ("National Policy") which directed the development of legislative recommendations for a uniform federal AI policy, the White House released a legislative blueprint on March 20, 2026 (the "Framework").

The Framework outlines Congressional policy recommendations and promotes a uniform national approach to AI, rather than establishing new legal requirements.

This update applies to private-sector employers that develop, procure, or use AI systems. The Framework was issued on March 20, 2026, and does not impose new compliance obligations at this time.

Overview

- **What was Issued:** A White House document titled "A National Policy Framework for Artificial Intelligence: Legislative Recommendations" (March 2026), presented as recommendations for Congress rather than a new rule.
- **Core Positioning:** AI is framed as a national priority tied to economic competitiveness, national security, and broad public benefit, with the stated need for "commonsense" federal leadership to build public trust.
- **Structural Message:** The Framework stresses the need for a single national policy and argues that a patchwork of state AI laws would be harmful to innovation and competitiveness.
- **Six Headline Objectives (As Described in the White House Release):**
  1. Protect children and empower parents.
  2. Safeguard and strengthen communities.
  3. Respect IP and support creators.
  4. Prevent censorship and protect free speech.
  5. Enable innovation and ensure U.S. AI dominance.
  6. Educate Americans and build an AI-ready workforce.
- **How the PDF is Organized:** The PDF presents seven sections (I–VII), with a standalone section addressing the federal framework and preemption theme.

Why This Matters

- **No immediate compliance change—but directionally important:** The Framework is not law, so employers must continue complying with existing requirements unless/until Congress acts, but it signals where federal policy may go.

What Employers Need to Do

- **Do Not Change Compliance Strategy Based on the Framework Alone:** Treat it as directional guidance; continue meeting current obligations under existing federal/state rules while monitoring Congressional activity.
- **Strengthen AI Governance Controls (Baseline Readiness):**
  - Implement transparency and internal approval rules for AI tools.
  - Train users on safe/appropriate use,.
  - Monitor outcomes for accuracy, consistency, and foreseeable risk.
- **Plan for Patchwork Conditions Until/Unless Preemption Occurs:** Use controlled rollouts (pilots/sandboxes) and operational segmentation where appropriate to manage cross-jurisdiction friction.
- **Prepare for Jurisdiction-specific Requirements That May Remain or Emerge:** Where applicable, maintain readiness for documentation and reporting expectations tied to AI deployments (especially in high-impact functions like hiring).
- **Build Workforce AI Skills Intentionally:** Align AI training to job roles and operational needs, consistent with the Framework's workforce-development objective.

Key Risks for Employers

- **Mistaking the Blueprint for a New Law:** The framework is a set of legislative recommendations, not a regulation or statute. Treating it as immediately binding could lead employers to make unnecessary or incorrect compliance changes or to overlook state requirements that are still in effect.

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- **Potential Reshaping of Multi-state Compliance:** A central theme is federal preemption of certain state AI laws, which—if enacted—could materially change how employers manage multi-jurisdiction AI compliance while leaving generally applicable consumer/anti-fraud/child protection enforcement intact.
- **Liability Allocation Pressure May Shift to Deployers:** The Framework recommends limiting states' ability to penalize AI developers for third-party misuse, which could increase practical focus on deployers' governance, documentation, and monitoring—including employers using AI in HR and operations.
- **Workforce Training Remains a stated federal priority:** The Framework calls for expanding AI education and workforce development, so employers should expect continued emphasis on AI skill-building and workforce readiness.

Additional Information

- **Origin and Directive:** The December 11, 2025, Executive Order frames the Administration's policy preference for a minimally burdensome national AI framework and explicitly cites concerns about state-by-state regulation, including claims about ideological bias and "truthful outputs."

- **Compliance Whiplash if Federal Action Advances:** If Congress acts, organizations may need to re-map compliance quickly—especially where state AI statutes are more prescriptive than generally applicable consumer protection and fraud rules.
- **Governance and Accountability Gaps for Deployed AI:** The Framework emphasizes limiting developer liability for third-party misuse; employers that deploy AI without strong governance may bear greater practical scrutiny for outputs and impacts.
- **Reputational/Employee Relations Risk:** The Framework highlights sensitive public concerns (children's wellbeing, electricity costs, censorship/free speech); employer AI use that appears careless can trigger internal and external backlash even absent new legal mandates.

Source References

- White House - National Policy Framework AI - (March 20, 2026)
- White House - Press Release - President Donald J. Trump Unveils National AI Legislative Framework (March 20, 2026)
- Federal: AI Executive Order: Push Toward One National Standard (VensureHR)

Federal Legal Update

Pay Increase for Legacy Federal Contracts on May 11, 2026

On February 9, 2026, the U.S. Department of Labor's Wage and Hour Division (WHD) announced new minimum wage rates under Executive Order 13658 for a limited set of legacy federal contracts. Beginning May 11, 2026, covered workers must be paid at least $13.65 per hour, or $9.55 per hour in cash wages where a valid tip credit applies. The Department of Labor will continue enforcing Executive Order (EO) 13658 for these legacy contracts, despite revoking the enforcement of EO 14026.

This update applies to federal contractors and subcontractors performing on or in connection with covered legacy federal contracts and takes effect on May 11, 2026.

Overview

- **Rates and Effective Date:** $13.65 non tipped, $9.55 tipped cash wage; beginning May 11, 2026.
- **Who is Covered:** Legacy contracts entered into January 1, 2015, through January 29, 2022, and not renewed or extended on or after January 30, 2022; commonly, Davis Bacon Act and Service Contract Act instruments and certain service contracts tied to federal property or lands.
- **Policy Context:** EO 14236 (March 14, 2025) revoked EO 14026; DOL ceased enforcing EO 14026 and continues annual EO 13658 updates for legacy contracts.
- **Seasonal Recreation:** Exempt under EO 13838.

Summary of Changes

- **Mid-year Effective Date:** Unlike prior January 1 effective dates, the 2026 EO 13658 rates take effect May 11, 2026.
- **Methodology:** EO 13658 uses the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI W) year-over-year change and rounds to the nearest $0.05. For 2026, WHD calculated 2.490% based on July 2024 through June 2025 compared with July 2023 through June 2024, producing $13.631, which rounds to $13.65, and a tipped cash wage equal to 70% of that amount ($9.55).
- **Legacy Only Scope:** Applies to contracts entered into any time between January 1, 2015, through January 29, 2022, that were not renewed or extended on or after January 30, 2022; WHD's notice expressly ties coverage to these legacy instruments.
- **Poster Update:** WHD indicates a poster reflecting the 2026 rate will be posted on its website; employers should use the current poster until then.

What Employers Need to Do

- **Identify Covered Agreements:** Pull all federal contracts executed January 1, 2015, through January 29, 2022, that have not been renewed or extended on or after January 30, 2022; flag those still active after May 11, 2026.
- **Update Wage Floors:** Ensure any covered workers earn at least $13.65 per hour, or at least $9.55 in cash wages with a compliant tip credit, starting May 11, 2026.
- **Posting:** Continue using WHD's EO 13658 poster, replace it once the 2026 version is posted, and update internal pay communications.
- **Coordinate with Procurement:** Because EO 14026 is not enforced, but some FAR text still references it, confirm any class deviation or guidance with your contracting officer and document any equitable adjustment discussions.
- **Maintain Records:** Keep wage and tip credit documentation consistent with 29 CFR part 10.

Key Risks for Employers

- **Mis-scoping Coverage:** Applying or ignoring the EO 13658 increase outside its legacy scope may create pricing and contract administration issues, including disputes over equitable adjustments.
- **Poster and Records:** Missing or outdated posters and incomplete tip credit records increase audit risk under 29 CFR part 10.
- **Clause Confusion:** FAR still references EO 14026 in places, which can conflict with DOL's non-enforcement posture; misalignment can cause inconsistent application.
- **Higher Local Floors:** Many states and localities exceed $13.65; contractors must pay the highest applicable minimum.

Federal Legal Update

Why This Matters

- **New Floor for Legacy Contracts:** Beginning May 11, 2026, covered workers on legacy contracts must be paid at least $13.65 per hour, or $9.55 per hour in cash wages where a valid tip credit applies.
- **Scope is Narrow:** The update applies only to contracts entered into any time between January 1, 2015, and January 29, 2022, that were not renewed or extended on or after January 30, 2022.
- **Poster and Annual Updates Continue:** WHD will continue EO 13658 annual updates and maintain an official contractor minimum wage poster that will be refreshed for 2026.
- **Seasonal Recreation Exemption Remains:** Seasonal recreational services on federal lands are exempt under EO 13838.

Additional Information

Readiness Checklist

- **Contract Inventory:** Confirm which agreements are legacy EO 13658 and remain active beyond May 11, 2026.
- **Payroll Updates:** Configure wage floors to $13.65 and $9.55 (with compliant tip credits) effective May 11, 2026.
- **Poster Refresh:** Monitor WHD and replace the EO 13658 poster when the 2026 version is posted.
- **CO Coordination:** Align with your contracting officer on any class deviations and how to handle legacy vs non-legacy instruments; capture file memos.
- **Recordkeeping:** Maintain wage and tip credit documentation per 29 CFR part 10 for audit readiness.

Source References

- DOL Wage and Hour Division - Press Release - Executive Order 13658, Establishing a Minimum Wage for Contractors: Annual Update (February 9, 2026)
- FAR - 22.1002-5 Executive Orders 13658 and 14026 (03/16/2026)
- Federal Register - Minimum Wage for Federal Contracts Covered by Executive Order 13658, Notice of Rate Change in Effect (February 9, 2026)

Resources

- DOL EO 13658 Resources

Federal Legal Update

ICE Raises Risk for Common Form I-9 Errors

On March 16, 2026, the U.S. Immigration and Customs Enforcement (ICE) updated its Form I-9 Inspection fact sheet issued under the Immigration and Nationality Act (INA) § 274A. The update explains how ICE reviews Form I-9 during an inspection and clarifies which errors ICE now considers serious paperwork violations.

While the law itself did not change, the update has real consequences for employers. ICE is now treating several common Form I-9 mistakes, including errors that were often correctable in the past, as violations that may result in penalties without an opportunity to fix them during an inspection.

This update applies to all U.S. employers that complete, store, and produce Forms I-9, including employers using electronic I-9 systems or authorized remote document examination procedures, and took effect on March 16, 2026.

Overview

- **Inspection Start and Production Deadline:** An ICE inspection begins when the agency serves a Notice of Inspection (NOI). Employers are typically given at least three business days to provide the requested Forms I-9.
- **Cure Window Remains for Technical/Procedural Failures:** If ICE finds technical or procedural failures, the employer receives at least 10 business days to correct them. Errors that are not corrected within that period may result in penalties.
- **Limited Opportunity to Correct Errors After a Notice of Inspection:** If ICE identifies technical or procedural errors, employers have at least 10 business days to correct them. Other Form I-9 errors do not allow a correction period, and errors that are not fixed within the cure window can result in immediate monetary penalties.
- **Common High-risk Form I-9 Errors Highlighted by ICE Include:** Failure to prepare or present Forms I-9, untimely completion, use of the Spanish-language Form I-9 outside Puerto Rico, failure to meet electronic I-9 system requirements, incomplete Section 1 or Section 2 fields, and reverification or rehire errors (Supplement B).
- **Internal Audits:** ICE guidance recognizes internal Form I-9 audits as optional but helpful when conducted using neutral, non-discriminatory criteria and proper correction procedures.

Why This Matters

- **Less Ability to "Fix it After the NOI":** While some technical errors still allow a limited correction period, other Form I-9 errors do not. As a result, inspections are now more likely to lead to penalties rather than an opportunity to correct mistakes.

What Employers Need to Do

1) Conduct a Targeted Internal Form I-9 Audit Carefully:

- An employer should conduct a targeted internal Form I-9 audit using a neutral scope, such as reviewing all Forms I-9 or a neutrally selected sample; document the purpose and scope of the audit; and ensure the audit is not based on citizenship status or national origin.
- The employer should plan employee communications in advance, apply consistent standards when deficiencies are identified, notify affected employees privately, and provide copies of relevant materials when issues are found.

2) Retrain Personnel Involved in Form I-9 Completion on Newly High-risk Fields: An employer should retrain all personnel who complete, review, or maintain Forms I-9, with specific emphasis on timeliness and completeness across Section 1, Section 2, Supplement A, and Supplement B, including required dates, signatures, and mandatory document information fields.

3) Validate Electronic Form I-9 System Compliance: If an employer uses an electronic Form I-9 system, the employer should confirm that the system meets the DHS requirements for completion, retention, security, reproduction, and electronic signatures, and that the system can generate legible copies for inspection.

4) Strengthen Controls for Remote or Alternative Document Examination Procedures: When a remote or alternative document examination procedure is used, the employer should confirm that the alternative procedure box is properly checked where required and that all eligibility prerequisites, such as active participation in the applicable program, are satisfied at the time the procedure is used.

5) Treat Document Retention as Separate From Proper Form Completion: An employer should not rely on retaining copies of identity or work-authorization documents as a substitute for properly completing required Form I-9 fields, particularly required document title, issuing authority, document number, expiration date entries, and employer certification information.

- **The Form I-9 Must Stand Alone:** ICE's fact sheet makes clear that missing required entries in several core areas, particularly Section 2 document information and certification fields, can lead to penalties. Retained document copies are not a reliable fallback for incomplete Form I-9 entries.
- **Electronic and Remote Procedures are Higher-Stakes:** ICE lists failures to meet electronic Form I-9 system standards and errors tied to Department of Homeland Security (DHS)-authorized remote procedures as violations, which increases exposure for employers relying on technology or remote review.
- **Audit Activity Can Scale Penalties Quickly:** Civil penalty amounts are inflation-adjusted, and DHS's 2024 final rule reflects Form I-9 paperwork penalties that can range from $281 to $2,789 per violation. This makes employers with large Form I-9 populations particularly sensitive to routine errors.

Additional Information

Quick "Top Risk" Spot Check (5-minute Triage): When an employer needs a fast screen across a large Form I-9 population, the employer should prioritize review of the following items first.

- **Section 1:** The employer should confirm that the employee's legal name and date of birth are completed, that only one work authorization status box is selected, and that Section 1 is signed and dated by the employee.
- **Section 2:** The employer should confirm that all required document information is fully recorded, including document title, issuing authority, document number, and expiration date if applicable, and that the employer or authorized representative printed their name and title, signed and dated the certification, and recorded the employee's date of hire.
- **Remote Alternative Procedure:** If a remote or alternative document examination procedure was used, the employer should confirm that the alternative procedure box is checked and that the employer was eligible to use the procedure, such as being an active E-Verify participant or enrolled in another authorized program, at the time it was used.
- **Supplement A (Preparer or Translator):** If a preparer or translator assisted the employee, the employer should confirm that the preparer or translator's full name, address, signature, and date are completed.
- **Supplement B (Reverification or Rehire):** When reverification or rehire applies, the employer should confirm that the rehire date or reverification timing is recorded as required, that the employer representative signed and dated the supplement, and that the alternative procedure box is checked if a remote procedure was used.

Key Risks for Employers

- **Immediate Penalty Exposure for Reclassified Errors:** Certain violations can be fined without a correction period. This raises the cost of routine administrative mistakes at inspection time.
- **Incomplete Section 2 Document Data:** ICE flags failure to properly record required document details, including document title, issuing authority, document number, and expiration date if applicable, as a high-risk issue. As a result, completeness of Section 2 remains a top audit risk.
- **Signature/Date and Stand-alone Form Risk:** Missing signatures or dates, the hire date, or representative title information can trigger enforcement exposure where ICE treats the Form I-9 as the primary compliance record.
- **Remote/Alternative Procedure Missteps:** Failure to correctly document a remote document review, such as properly checking the required box, or failure to meet eligibility prerequisites, can increase enforcement risk during an ICE inspection.
- **Electronic I-9 System Gaps:** Inadequate audit trails, e-signature controls, security documentation, or the ability to reproduce Form I-9 can increase enforcement risk during an ICE inspection under the agency's electronic system standards.
- **Discrimination or Retaliation Risk During Internal Audits:** Internal audits that are selective, poorly timed, or perceived as targeting protected groups can create separate exposure under federal anti-discrimination rules. ICE and the Department of Justice (DOJ) guidance stress neutrality and consistent standards.

Source References

- USCIS - ICE Factsheet - Form I-9 Inspection Under Immigration and Nationality Act § 274A (March 16, 2026)
- ICE Guidance 1997 - Memorandum (HQIRT 50/5.12)
- USCIS - Worksite Enforcement - Guide to Administrative Form I-9 Inspections and Civil Monetary Penalties (November 25, 2008)
- USCIS - Remote Examination of Documents (Optional Alternative Procedure to Physical Document Examination)

Federal Legal Update

DOJ Moves Medical Marijuana Categories to Schedule III

On April 22, 2026, the Department of Justice (DOJ) issued a final order that places only limited categories of marijuana-related products into Schedule III under the Controlled Substances Act: (1) Food and Drug Administration (FDA)-approved drug products containing marijuana and (2) marijuana (and certain related materials) that are subject to a qualifying state-issued medical marijuana license.

This is a meaningful compliance and business shift for state medical marijuana programs and FDA-approved products.

It is not full legalization; marijuana outside those categories (including adult-use or recreational) remains Schedule I under federal law.

This update applies to businesses operating under a state medical marijuana licensing framework and to entities handling FDA-approved marijuana drug products.

Employers outside the cannabis industry should note that most marijuana activity remains illegal under federal law, including for workplace and safety-sensitive positions. The final order is effective April 22, 2026.

Overview

1) What Changed (Scope is Narrow): The final order moves limited categories of marijuana into Schedule III under federal law, but only within tightly controlled medical channels:

- FDA-approved marijuana drug products; and
- Marijuana regulated under a qualifying state medical marijuana license, including certain extracts and naturally derived delta-9 THC, only to the extent tied to those two channels.

2) How DOJ/DEA Moved Quickly (Treaty-based Authority): The Department of Justice (DOJ), acting through the Drug Enforcement Administration (DEA), proceeded under 21 U.S.C. § 811(d)(1), which allows expedited scheduling actions when necessary to meet U.S. obligations under international treaties, including the 1961 U.N. Single Convention on Narcotic Drugs.

3) What Did not Change

- Adult-use/recreational marijuana is not covered and remains Schedule I, as do other non-covered forms outside FDA approval and a qualifying state medical license.
- Analyses of the order also note synthetically derived THC is excluded from the change and remains Schedule I.

4) What's Next Procedurally (Broader Rescheduling Remains Pending)

- DOJ/DEA announced a new administrative hearing beginning June 29, 2026, to consider broader rescheduling of marijuana from Schedule I to Schedule III.

What Employers Need to Do

- **1) Determine Whether the Organization is in Scope of the Final Order:** Confirm whether any activity involves FDA-approved marijuana drug products or is conducted under a qualifying state medical marijuana license, because only those channels are covered by the Schedule III change.
- **2) Prepare for Tax Guidance and Update the Tax Workplan:** Engage tax counsel to assess how Treasury/IRS's forthcoming guidance may affect deductions/credits, including how IRC § 280E applies to multi-activity operations and any required allocation methods.
- **3) Monitor the Broader Rescheduling Hearing and Participation Requirements:** Track the June 29, 2026, hearing and related participation deadlines if the business plans to participate; follow the hearing notice instructions and reference Docket No. DEA-1362 in submissions.
- **4) Review Workplace Policies for Medical-use Disclosures and Safety-sensitive Roles:** Evaluate whether HR and safety procedures appropriately address employee disclosures and job-related safety assessments, given that federal scheduling has shifted for certain medical channels while adult-use remains Schedule I.
- **5) For Department of Transportation (DOT) Regulated Positions:** Maintain Part 40 compliance and monitor the Office of Drug and Alcohol Policy and Compliance (ODAPC): Continue operating the DOT drug and alcohol testing program under 49 CFR Part 40 and monitor ODAPC for any updated direction related to rescheduling.

Key Risks for Employers

- **Scope Risk:** Many marijuana-related activities remain Schedule I, including adult-use, and are not affected by the final order, so federal risk exposure may remain unchanged for non-covered operations.

Federal Legal Update

- The hearing notice states the proceeding will begin June 29, 2026, and is scheduled to conclude no later than July 15, 2026, with participation instructions tied to Docket No. DEA-1362.

5) Federal Tax Follow-on (Treasury/IRS Guidance Forthcoming)

- Treasury and the IRS announced they plan to issue guidance addressing federal tax consequences and emphasized that IRC § 280E generally applies to Schedule I or II trafficking, so rescheduling can remove 280E as a bar for activities that no longer involve Schedule I or II substances under the final order.
- Treasury also signaled expected guidance on multi-activity businesses (e.g., apportioning expenses where some activities remain Schedule I/II) and a transition approach tied to the taxable year that includes the effective date of the final order.

Why This Matters

- For qualifying state medical and FDA-approved channels, Schedule III status can shift how stakeholders approach federal compliance, research access, and operational planning—while leaving a large portion of the broader cannabis market unchanged at Schedule I.
- Treasury/IRS has indicated the change is expected to produce significant tax consequences because 280E is tied to Schedule I/II trafficking, and guidance is forthcoming on how it applies (including for mixed operations).

- **Tax Compliance Uncertainty (Near Term):** Treasury/IRS guidance is still pending; businesses with multiple lines of activity may need careful segmentation and expense apportionment consistent with forthcoming guidance.
- **Safety-sensitive Workforce Risk (DOT-regulated Roles):** DOT's drug and alcohol testing program is governed by 49 CFR Part 40; employers must continue complying with the current DOT framework and monitor ODAPC for post-rescheduling updates.
- **Regulatory Uncertainty:** Broader rescheduling is still pending through a separate administrative hearing process, and the outcome could further change compliance expectations.

Source References

- DOJ - Final Order - Rescheduling of Food and Drug Administration Approved Products Containing Marijuana and Products Containing Marijuana Subject to a Qualifying State-issued License From Schedule I to Schedule III; Corresponding Change to Permit Requirements
- Federal Register - Schedules of Controlled Substances: Rescheduling of Marijuana (Docket No. DEA-1362)

Federal Legal Update

DOL Proposes Unified Joint Employer Standard

On April 22, 2026, the U.S. Department of Labor's Wage and Hour Division (WHD) announced a proposed rule to clarify how joint employer status is determined under the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

This is a Notice of Proposed Rulemaking (NPRM) and does not change employer obligations unless and until a final rule is issued.

This update applies to employers with multi-entity staffing or contracting arrangements. Comments may be filed on Regulations.gov (Docket WHD–2026–0067; RIN 1235–AA48) from April 23, 2026, to June 22, 2026, by 11:59 p.m. ET.

Overview

1) Align the Joint-employer Approach Across Three Statutes: The Department frames the NPRM as creating a single nationwide standard grounded in federal court precedent to improve clarity and consistency in an area where tests can vary across jurisdictions. The NPRM would align the joint-employer analysis in the FMLA and MSPA regulations with the Department's FLSA analysis, as both statutes incorporate the FLSA's statutory employment definitions.

2) Where the Guidance Would Appear in the Regulations: The NPRM proposes to clarify joint-employer status under the Fair Labor Standards Act at 29 C.F.R. Part 791 and proposes related amendments in 29 C.F.R. Parts 500, 780, and 825.

3) Two Frameworks: "horizontal" vs. "vertical" joint employment: The proposed rule separates analysis into horizontal and vertical scenarios.

- **Horizontal Joint Employment** focuses on whether employers are sufficiently associated with respect to the same employee's employment.
- **Vertical Joint Employment** focuses on whether, as a matter of economic reality, more than one entity jointly employs the same worker in a vertically structured relationship (e.g., staffing, subcontracting, franchising).

4) Horizontal Joint Employment: "sufficiently associated," with boundary lines: The NPRM states that certain relationships alone—such as sharing a vendor or being franchisees of the same franchisor—are insufficient by themselves to establish horizontal joint employment when the relationship has little to do with employing the specific employees at issue.

What Employers Need to Do

1) Decide Whether to Submit a Comment (and Plan for Internal Review): The NPRM was published in the Federal Register on April 23, 2026, which is when the formal comment period begins.

- Comments must be received by June 22, 2026.
- The Wage and Hour Division's NPRM page states the deadline as 11:59 p.m. ET on June 22, 2026.

2) Submit Comments Correctly (RIN and Docket Identifiers): Employers (and any interested party) should identify submissions with RIN 1235–AA48 and Docket No. WHD–2026–0067

3) How to Submit Comments (Electronic and Mail Options): The Federal Register provides two submission methods:

- **Electronic Submission**
  - Submit comments through https://www.regulations.gov
  - Follow the instructions in the docket and include the identifiers above.
- **Mail Submission**
  - Address written submissions to: Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210

4) Protect Confidentiality Because Comments Become Public: the WHD warns that any comment submitted—including duplicates—will be posted publicly on Regulations.gov without change, and any personal information included will be publicly visible.

It also notes that comments collected and submitted by a third-party organization may be posted as a group under a single document ID on Regulations.gov (including any personal information provided).

5) Vertical Joint Employment: The Four-factor Analysis: For vertical joint employment, the NPRM proposes a four-factor analysis examining whether the potential joint employer: (1) hires or fires the employee; (2) substantially supervises or controls the employee's schedule or conditions of employment; (3) determines the employee's rate and method of pay; and (4) maintains the employee's employment records.

The NPRM also states that a unanimous finding on the four factors in either direction would establish a "substantial likelihood" regarding whether joint-employer status exists.

6) Reserved vs. Exercised Control: The NPRM explains that reserved control may be considered, but exercised control is more indicative than a merely reserved right that is never used in practice.

7) Factors and Practices the NPRM Says Should Not Drive the Determination (Standing Alone): The NPRM excludes factors relevant only to employee-versus-independent-contractor analysis (e.g., special skill, opportunity for profit/loss, investment in equipment/helpers). It also identifies certain common business practices that, standing alone, do not make joint employment more or less likely (e.g., compliance-related contractual requirements such as safety and anti-harassment protocols; providing sample handbooks/forms; association benefit plans; joint apprenticeship participation; franchising/brand agreements; and quality control standards).

8) Liability Consequences (Including Explicit Family and Medical Leave Act Exposure): The Department explains that when joint employment exists, employers may be jointly and severally liable for wages, damages, and other relief under the FLSA, including overtime calculations based on total hours worked for all joint employers in a workweek. The WHD Q&A also explains how joint employment affects FMLA coverage and employee eligibility counting and outlines "primary employer" responsibilities for notices, leave, and benefits (with job restoration potentially implicating a secondary employer in some circumstances).

9) Scope Limitation (Not the National Labor Relations Act Standard): The WHD Q&A states that this rulemaking affects only the FLSA, the FMLA, and MSPA and has no effect on the National Labor Relations Act (NLRA), which is interpreted and enforced by the National Labor Relations Board (NLRB).

Why This Matters

- **Joint Employment Can Expand Liability:** When joint employment exists, all joint employers may be responsible for ensuring workers receive the correct wages and protections owed, and hours worked across joint employers can be combined for overtime.

5) Make Comments Easier to Process (Practical Formatting Tip): The Department advises that uploading text-recognized attachments can help the Department search and retrieve content during review.

6) After the Comment Period Closes: After June 22, 2026, the WHD will review comments before deciding whether and how to issue a final rule.

Key Risks for Employers

- **Overtime and Back-pay Exposure Through Hour Aggregation:** If joint employment is found, total hours worked for all joint employers in a workweek can be used to determine overtime entitlement.
- **Family and Medical Leave Act Exposure:** The WHD Q&A states joint employment affects coverage and eligibility counting and assigns core responsibilities to the primary employer, with job restoration potentially involving a secondary employer in some situations.
- **Contract language and "Reserved Control" Can Still Create Risk:** The NPRM states that reserved control is relevant (though less indicative than exercised control), meaning reserved authority in contracts may still contribute to joint-employer risk depending on the overall facts.
- **Operational Practices are the Main Risk Driver in Vertical Relationships:** The NPRM's four-factor vertical test concentrates on hiring/firing, substantial supervision/schedule control, pay determination, and recordkeeping—areas where businesses may unintentionally step into joint-employer territory.
- **Public Disclosure Risk From Submitted Comments:** WHD warns that comments are posted publicly on Regulations.gov without change (including any personal information), and third-party "campaign" submissions may be posted as a group under a single ID.
- **Uncertainty Until a Final Rule is Issued:** This is a proposed rule; it may change after comment review and will not be binding unless a final rule is published.

Federal Legal Update

- **This NPRM Aims to Reduce Inconsistency:** The Department states the proposal is intended to provide a clearer nationwide standard informed by federal court precedent in an area where standards vary across circuits.
- **It Affects More Than Wage-and-hour Issues:** The WHD Q&A explains that joint employment has consequences under the FMLA and MSPA, which can matter to employers operating in multi-entity arrangements beyond wage and overtime questions.

Source References

- DOL - Press Release (April 22, 2026)
- Rulemaking Docket - ID WHD-2026-0067 - RIN 1235-AA48 - Joint Employer Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act
- DOL NPRM - Notice of Proposed Rule: Joint Employer Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act, RIN 1235-AA48 (Aprill 22, 2026)
- Federal Register (April 23, 2026) - Docket No. WHD-2026-0067 - RIN 1235-AA48 - Notice of proposed rulemaking (DOL)

Resources

- DOL FAQs - NPRM: Joint Employer Status Under the FLSA, FMLA, and MSPA (April 22, 2026)

U.S. Territories Legal Update

Virgin Islands Minimum Wage Rises Starting April 2026

The Virgin Islands Department of Labor (VIDOL) announced that the U.S. Virgin Islands minimum wage will increase from $10.50/hour to $12.00/hour, pursuant to Act No. 9069.

The VIDOL also reminded employers that the wage increase operates alongside existing worker protections reflected in the Territory's labor rules and the official employee-rights minimum wage poster, including tipped wage rules, overtime requirements, recordkeeping, and enforcement provisions.

This update applies to covered private-sector employers in the U.S. Virgin Islands and takes effect April 24, 2026.

Overview

Minimum Wage Change and Future Schedule (Act No. 9069)

- $12.00/hour effective April 24, 2026.
- $14.00/hour effective June 1, 2027.
- $15.00/hour effective June 1, 2028.
- Beginning June 1, 2029, the wage becomes subject to determination by the Virgin Islands Wage Board based on economic data.

Tipped Employees (Tourist Services & Restaurant)

- The VIDOL states tipped tourist service and restaurant employees must be paid not less than 40% of the minimum wage, subject to the law's framework.
- The official poster lists the tipped wage as $4.80/hour and requires the employer to ensure total hourly wages plus tips equal $12.00/hour.

Posting Requirement: Employers are required to display the updated Minimum Wage Poster in a location accessible to employees.

Overtime (General) and Tourism/Restaurant Variation (Poster + VIDOL Reminders)

- The poster states overtime is paid at time-and-a-half for work over eight hours/day, over 40 hours/week, and for hours worked on the sixth and/or sixth consecutive day.
- For the tourism and restaurant industries, the poster describes a variation: overtime on the 6th day applies only if 40 hours were first worked during the first five or six consecutive days, and overtime applies on the 7th consecutive day (with an overtime exemption on the 6th day if 40 hours are not exceeded in the workweek).

Other Key Poster Reminders (Recordkeeping, Enforcement, Complaint Windows)

What Employers Need to Do

- **Update Payroll Rates and Wage Tables by April 24, 2026:** Adjust hourly pay to $12.00/hour for covered employees effective April 24, 2026.
- **Recheck Tipped Employee Pay Practices (Tourism/Restaurant):** Confirm tipped employees receive at least the required base wage and that wages plus tips equal $12.00/hour, with employer "make-up" pay when needed.
- **Post the Updated Minimum Wage Poster:** Download and display the updated poster where employees can read it.
- **Validate Overtime Calculations—Especially for Tourism/Restaurant Schedules:** Ensure time-and-a-half triggers are applied correctly under the poster rules and the tourism/restaurant variation.
- **Confirm Hours-worked Recordkeeping Controls:** Maintain accurate daily and weekly hours records for all employees, retain them for three years, and be prepared to produce them for inspection.
- **Refresh Manager/HR Awareness of Complaint Timelines and Anti-retaliation:** Ensure HR and supervisors understand the 30-day wrongful discharge window, the 180-day discrimination window, and the anti-retaliation protection for wage-and-hour complaints.

Key Risks for Employers

- **Wage Underpayment Risk:** Failing to implement the $12.00/hour rate on April 24, 2026, creates direct noncompliance exposure.
- **Tipped Wage Shortfall Risk:** Not ensuring wages plus tips equal $12.00/hour can create underpayment exposure for tipped workers.

U.S. Territories Legal Update

- **Youth Labor:** Employees under 18 may not work in hazardous occupations.
- **Recordkeeping:** Employers must maintain accurate daily/weekly hours records for all employees, retain records for three years, and produce them to the VIDOL upon request for inspection.
- **Enforcement and Penalties:** The VIDOL is mandated to conduct investigations; employers may be fined up to $2,500 for violations.
- **Wrongful Discharge Complaint Window:** Employees may file within 30 days of discharge.
- **Discrimination Complaint Window:** Employees may file within 180 days for discrimination in employment-related decisions based on race, sex, religion, color, or ancestry.
- **Anti-retaliation:** Employees who file complaints or participate in wage-and-hour investigations are protected from discharge.

Why This Matters

- **Payroll Cost Impact is Immediate:** Employers must ensure all covered employees are paid at least $12.00/hour starting April 24, 2026, and should prepare payroll systems accordingly.
- **Compliance is Broader Than the Wage Rate:** The official poster ties wage compliance to overtime rules, recordkeeping, and enforcement/penalty exposure.

- **Posting Violations:** Failure to display the updated Minimum Wage Poster can itself constitute a minimum-wage-law compliance violation, which may trigger VIDOL investigation/enforcement and potential penalties of up to $2,500 under VIDOL's stated enforcement framework.
- **Overtime Miscalculations:** Incorrect application of daily/weekly or consecutive-day overtime, especially for tourism/restaurant variations, can drive back-pay risk.
- **Recordkeeping Gaps:** Missing or incomplete time records (or failure to retain for 3 years) increases exposure in investigations and audits.
- **Penalty Exposure:** The VIDOL materials indicate employers may be fined up to $2,500 for violations.
- **Retaliation Claims:** Adverse action against employees involved in wage-and-hour complaints or investigations can create additional risk under the poster's anti-retaliation warning.

Source References

- Virgin Islands DOL - Virgin Islands Minimum Wage Increase To $12.00 Per Hour Effective April 24, 2026
- Virgin Islands Fair Labor Standards Act - Minimum Wage Poster

State Legal Updates

State Legal Update

Connecticut Sets Warehouse Quotas and Data Rules

Connecticut Senate Bill 298 (SB 298) establishes new requirements governing productivity quotas and the collection and use of warehouse "work-speed data." The law imposes notice, recordkeeping, and operational limits on covered employers and creates enforcement and litigation risks for noncompliance.

This update applies to Connecticut private-sector employers operating covered warehouse distribution centers and takes effect on July 1, 2026.

Overview

- **Who is Covered:** Employers that, in the prior 12 months, employed or controlled 250 or more employees at a single covered warehouse distribution center in Connecticut, or 1,000 or more employees across Connecticut warehouse distribution centers. Coverage includes workers supplied through staffing agencies.
- **Who is Protected:** Non-exempt employees working in covered warehouse distribution centers. Drivers and couriers traveling to or from a center are excluded.
- **What is a "Quota":** A work standard that measures speed, volume, counts, rankings, time-on-task, or productivity within a defined time period.
- **Notice Deadlines:** Provide written quota notices to current employees by August 1, 2026; to new hires upon hire after that date, and for any quota change, give advance notice as soon as practicable and confirm the new quota in writing within two business days.
- **Operational Limits:** Quotas cannot interfere with meal or bathroom breaks; employers cannot set standards that measure total output over periods shorter than a full workday or base a standard solely on rankings.
- **Work-speed Data:** Includes task counts, items handled, rates or speeds of work, metrics measured against a quota, and time classified as on-task or not-on-task. Certain qualitative information and unrelated data are excluded.
- **Recordkeeping:** Keep contemporaneous quota notices and individual and aggregate work-speed data for three years.
- **Employee Access:** Provide requested records within 10 days, in English and the employee's primary language.
- **Enforcement:** Private right of action and Attorney General enforcement; available relief includes damages, injunctive relief, attorneys' fees and costs, plus civil penalties.

What Employers Need to Do

- **Determine Coverage:** Confirm whether you meet the size thresholds: at least 250 employees at a single Connecticut warehouse distribution center or 1,000 employees across one or more Connecticut warehouse distribution centers in the prior 12 months; coverage includes control via agents or staffing providers.
- **Map NAICS (North American Industry Classification System) Scope:** Identify which sites fall under the covered industries (e.g., NAICS Codes: 493110, 423, 424, 454110, 492110, 452311, 452319, 444110) referenced for "warehouse distribution centers" and related operations.
- **Prepare Written Quota Notices:** Provide a written description of each quota that applies to the employee, including any potential adverse action for failing to meet it. For changes that create a new quota, notify us as soon as practicable before they take effect and deliver the written description within two business days. Delivery may be in person or by email.
- **Rebuild Prohibited or Risky Standards:** Remove quotas that interfere with meal periods or bathroom use, that measure total output over less than a full workday, or that are based solely on ranking employees against one another. Do not discipline employees for failing to meet a prohibited or undisclosed quota.
- **Stand up Data Systems and Retention:** Maintain contemporaneous, true, and accurate records for three years of each employee's personal work-speed data, aggregate data for similar employees at the same center, and the quota notices provided. If you do not use quotas and do not collect or interpret work-speed data, these record duties do not apply.

Why This Matters

- **Health and Safety Focus:** The law explicitly aims to prevent musculoskeletal injuries, preserve legally required breaks, and strengthen safety by placing guardrails on quota use and by increasing transparency through notices and data access.
- **Transparency and Accountability:** Employers must disclose what the quota is, how it will be used, and possible consequences, and must retain and produce work-speed data quickly upon request—driving system and process changes.
- **Litigation Exposure:** With private lawsuits, AG actions, fee shifting, and civil penalties, failure to meet notice, limits, or records obligations can create immediate legal and reputational risk.

Additional Information

- **Line-item Veto Context:** SB 298 is an omnibus enacted with line-item vetoes of certain appropriations; the warehouse protections were among the “important provisions” preserved.
- **Public Reporting:** State coverage and purpose have been publicly highlighted as Connecticut joins other states placing limits on warehouse quotas and expanding worker protections.
- **NAICS References:** Covered operations include general warehousing and storage, and specified categories in wholesale trade, retail, e-commerce/mail order, and couriers/express delivery—use NAICS tools to verify classification.

- **Fulfill Employee Data Requests:** When requested by a current employee (or once by a former employee for the 90 days before separation), provide quota descriptions, personal work-speed data (last 90 days), and aggregate 90-day data for similar employees at the same center as soon as practicable and within 10 calendar days, in English and the employee’s primary language.
- **Train Managers and Update Policies:** Add procedures for quota changes, data requests, and anti-retaliation protections; align onboarding packets and handbooks with the new notice and records rules.

Key Risks for Employers

- **Using Prohibited or Undisclosed Quotas:** Disciplining for failing to meet a prohibited or undisclosed quota can trigger liability and penalties.
- **Insufficient Data Systems:** Inability to produce accurate, contemporaneous work-speed data and quota notices within 10 days risks claims and fee exposure.
- **Retaliation Presumption:** Adverse action within 90 days of a protected request or suit creates a rebuttable presumption of a violation; employers must rebut with clear and convincing evidence.
- **Coverage Misclassification:** Misreading NAICS coverage or employee-count thresholds (including counts via staffing agencies) can lead to missed compliance.

Source References

- Connecticut SB 298 - An Act Concerning The Reallocation Of Certain State Funds And Various Provisions Relating To Education, Public Safety, General Government, Elections, Intermediate Care Facilities And Warehouse Distribution Centers (§§ 50-57 — WAREHOUSE WORKERS)
- Connecticut §§ 50-57 — WAREHOUSE WORKERS (SB 298 OLR Bill Analysis)

Delaware Paid Family and Medical Leave Final Rules for 2026

As a reminder for employers in Delaware, on December 1, 2025, the state published final amendments to its Paid Family and Medical Leave (PFML) regulations.

The Delaware Department of Labor explained that the amendments were intended to improve consistency and predictability and to align regulations with recent statutory changes to the Healthy Delaware Families Act.

These amendments apply to private employers with 10 or more employees in Delaware, with mandatory coverage requirements varying by employer size. The amendments took effect on December 11, 2025, and PFML benefits became available on January 1, 2026.

Overview

- **What Changed:** The final rules require employers to use a measured-forward application year, shift employee eligibility to a wage-based test, and prohibit employee payroll deductions for voluntarily added coverage lines.
- **Application Year:** a 12-month period measured forward from the first day PFML is used, for both state and private plans.
- **Employee Eligibility:** coverage is based on where wages are earned; coverage applies if an employee earns at least 60% of wages in Delaware each quarter.
- **Voluntary Coverage Contributions (Employers with 10–24 Employees):** When voluntary lines are added, employee contributions cannot be deducted for those lines.
- **Coverage Thresholds:** Employers with 10-24 Delaware employees must provide parental leave only, while employers with 25 or more Delaware employees must provide all required Paid Family and Medical Leave coverage lines.

Why This Matters

- The measured forward application year can diverge from common FMLA leave year methods, increasing complexity for concurrency, administration, and audits unless FMLA is realigned.
- The 60% wage in Delaware test may change eligibility outcomes for remote, hybrid, or multi-state workers, increasing the importance of accurate payroll and location data.
- Small employers that voluntarily expand coverage face payroll compliance risk if employee deductions continue for voluntary lines that must be employer-funded.

What Employers Need to Do

- Update leave policies to state that the PFML "application year" is a 12-month period measured forward from the first day PFML is used, for both the state plan and approved private plans.
- Employers with 10 to 24 Delaware employees that voluntarily add non-mandatory lines of coverage should ensure payroll systems do not deduct employee contributions for those voluntary lines; the employer must fund 100% of those costs.
- Reassess eligibility using the wage location standard, under which an employee is covered if at least 60% of wages are earned in Delaware each quarter.
- Coordinate PFML and Family and Medical Leave Act (FMLA) tracking, since many will now administer two different leave year systems unless they change FMLA to the measured forward method.

Key Risks for Employers

- Incorrect leave year calculations may lead to under- or over-granting of PFML if measured forward rules are not applied distinctly from non-forward FMLA methods.
- Misapplication of the wage location test may cause erroneous eligibility decisions for remote and hybrid workers.
- Unlawful payroll deductions for voluntary lines among employers with 10–24 Delaware employees may require refunds and could trigger penalties.

Source References

- Delaware Final Order - 1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program, and the Division of Paid Leave

- Compressed timelines require completed updates to policies, systems, and training by the December 11, 2025, effective date, and the January 1, 2026, benefits starting date.

Additional Information

- **Application Year (Benefit Tracking):** The regulations now define the application year as the 12-month period measured forward under 29 CFR 825.200(b), applying to both the state plan and approved private plans.
- **Employee Definition (Wage Location Test):** The definition of employee focuses on where wages are earned; an individual is covered if at least 60% of wages are earned in Delaware each quarter, replacing a worksite location approach.
- **Small Employer Voluntary Coverage and Contributions:** Employers with 10-24 Delaware employees must provide parental leave only; if they voluntarily add medical, family caregiver, or qualifying exigency coverage, they may not deduct employee contributions for those voluntary lines and must fund 100% of those costs.
- **Process and Intent:** The Department finalized the rule after an October 1–31, 2025, comment period, citing goals of consistency, predictability, and alignment with recent statutory amendments.
- **Enforcement and Program Context:** PFML contributions began January 1, 2025, and benefits became available January 1, 2026; the Department of Labor provides program resources and FAQs for employers and employees. Employers with 10–24 employees are responsible only for parental leave, while those with 25 or more must provide all lines of coverage.

State Legal Update

Indiana Ends Youth Employment System (YES) Reporting

As a reminder for all employers in Indiana, House Enrolled Act 1302 discontinues the state-run Youth Employment System (YES) and ends employer reporting of teen workers. The Indiana Department of Labor will no longer maintain the YES database or require employer registration/updates for minors, reflecting the state's shift away from work permits toward a no-registration model.

This update applies to all Indiana employers that previously had to register five or more minor employees in YES and takes effect on July 1, 2026.

Overview

- **What Changed:** The state repealed provisions for the youth-employment employer database (YES)—ending registration and monthly updates for businesses with 5+ minors.
- **What Did Not Change:** Employers must still comply with Indiana youth-employment rules and federal child-labor laws on hours and hazardous work.
- **Additional Elements in HB 1302:** Clarifies/expands youth election work pathways for 16–17-year-olds; and modernizes mine-safety provisions.

Why This Matters

- **Lower Administrative Burden, but Continued Oversight:** Ending YES reduces administrative tasks, yet employers remain accountable for lawful scheduling, duties, and documentation. Auditors and agencies can still rely on site records and federal rules to assess compliance.
- **Public Scrutiny and Risk Posture:** Media and policy groups have spotlighted the removal of the database as reducing a guardrail; maintaining strong internal controls helps mitigate reputational and enforcement risks.
- **Operational Opportunities:** For organizations that support elections, 16–17-year-olds may be available for more roles (subject to local board approvals), helping with staffing surges around election cycles.

Additional Information

- **Background on YES and Work Permits:** Indiana eliminated work permits in 2021 and shifted to YES; HB 1302 now retires the YES reporting model.
- **Youth Election Service Expansion:** 16- and 17-year-olds may serve in certain election-related roles, subject to statutory requirements such as a minimum 3.0 grade point average, county residency, required approvals, and training.

What Employers Need to Do

- **Retire YES Workflows by July 1, 2026:** Consider removing YES registration steps from onboarding checklists, Human Resources Information System (HRIS) prompts, and monthly reminder tasks, since the Department of Labor will no longer run the employer database going forward.
- **Keep Internal Records and Scheduling Controls:** Although YES reporting ends, it may be prudent to continue internal rosters and timekeeping oversight for minors.
- **Train Managers on "What Changed vs. What Didn't":** Consider refresher training that YES reporting is gone, but Indiana youth employment rules and federal child labor standards (e.g., hazardous duty prohibitions) continue to govern permissible work and hours.
- **Update Posters, Handbooks, and Templates:** Replace any language that instructs sites to "register five or more minors in the Youth Employment System" and ensure required federal and state postings are current. State youth employment resources remain available on the Department of Labor website.
- **County Election Boards:** If partnering with county election boards, align on the new youth roles. HB 1302 clarifies pathways for 16–17-year-olds to serve in certain election capacities if eligibility criteria are met. Coordinate locally on approvals/training and scheduling.
- **For Mine Operators:** Review the labor and safety updates (e.g., removal of certain certificate references) and watch for implementation guidance so certifications, exams, and personnel assignments remain current.

Key Risks for Employers

- **Compliance Gaps Without YES:** Weak rosters and timekeeping can lead to violations of state and federal child labor laws, particularly hour restrictions for 14- and 15-year-olds.

State Legal Update

- **Mine Safety Updates:** HB 1302 removes certain certificate references (e.g., belt examiner) and makes corresponding changes; consult agency guidance and exam schedules as updated.

- **Manager Confusion:** Ending YES does not end hour/duty restrictions or hazardous work prohibitions.
- **Outdated Materials/Workflows:** Leaving "register five (5) plus minors in YES" in handbooks/HRIS after July 1, 2026, invites audit risk.
- **Role-specific Missteps:** Youth election roles need local approvals/training; mine operators must track certification/exam updates to avoid enforcement.

Source References

- Indiana HB 1302 - Various labor and safety matters (Public Law 91)

State Legal Update

Nebraska Updates Minimum, Youth and Training Wages

On February 9, 2026, Governor Jim Pillen signed Nebraska Legislative Bill 258 (LB 258), amending the Nebraska Wage and Hour Act to:

- Keep the statewide minimum wage at $15.00 through 2026.
- Replace post-2026 Consumer Price Index (CPI) indexing with a fixed 1.75% annual increase beginning January 1, 2027. The adjusted amount will be published annually by the Department of Labor on October 15.
- Establish a $13.50 youth minimum wage for non-emancipated 14–15-year-olds with 1.5% increases every five years starting January 1, 2030.
- Update the training wage for 16–19-year-olds to $13.50 through 2026 with 1.5% annual increases beginning in 2027.
- Strict duration/usage safeguards.
- Retain the $2.13/hour tipped cash wage.

This update applies to Nebraska employers covered by the Wage and Hour Act (see below "Applicability") and takes effect on July 17, 2026.

Applicability: Applicable to all employers with four or more employees at any one time, except for seasonal employment of not more than twenty weeks in any calendar year.

Overview

- **2026 Wage:** $15.00/hour through December 31, 2026.
- **Annual Increases (Beginning 2027):** Fixed 1.75% per year; Nebraska DOL will publish by October 15 annually.
- **Youth Wage (14–15, Non-emancipated):** $13.50/hour starting July 17, 2026; +1.5% every five years beginning January 1, 2030.
- **Training Wage (16–19, Non-seasonal, Non-emancipated):** $13.50/hour through 2026; +1.5% annually beginning 2027; 90-day period plus a possible 90-day Commissioner-approved extension; no more than 25% of total paid hours; no replacing existing staff.
- **Tipped Employees:** $2.13/hour direct wage + tips must reach at least the applicable minimum wage; employer bears the burden of proof.

What Employers Need to Do

- **Set Effective-date Triggers (July 17, 2026):** Keep the general minimum wage at $15.00 through December 31, 2026; do not apply CPI indexing for 2027 and beyond. Replace CPI with fixed 1.75% increases starting January 1, 2027.
- **Configure Annual Updates:** Add a calendar task that the Nebraska Department of Labor will publish the next year's adjusted rate by October 15, 2026; load the new rate in payroll each January 1 beginning in 2027.
- **Add a Youth Wage Pay Code (ages 14–15, non-emancipated):**
  - **Rate:** $13.50/hour starting July 17, 2026.
  - **Increase Cadence:** +1.5% every five years beginning January 1, 2030 (round to the nearest cent).
  - **Controls:** Block this code automatically at the worker's 16th birthday or if emancipation is recorded.
- **Add a Training Wage pay code (ages 16–19, new hires, non-seasonal, non-emancipated):**
  - **Rate:** $13.50/hour through December 31, 2026; then +1.5% annually beginning January 1, 2027 (round to the nearest cent).
  - **Duration Guardrails:** 90 days standard from date of hire; a one-time 90-day extension is permitted only if the job requires technical/personal/other necessary skills and the training program is approved by the Labor Commissioner—retain written approval.
  - **Utilization Cap:** Configure reports to ensure no more than 25% of total paid hours are at the training wage across the establishment.

State Legal Update

Why This Matters

- **Predictable Payroll Escalators:** Moving from CPI-U indexing to a fixed 1.75% produces steadier out-year budgeting than inflation-driven adjustments, which have shown volatility in the Midwest.
- **Youth and Entry-level Staffing Options:** The youth and training wage structures can expand early-career hiring while lowering initial labor costs—if employers stay within the statute's eligibility, duration, utilization, and anti-substitution limits.
- **Mid-year Change Management:** The July 17, 2026, effective date requires mid-cycle updates to payroll, posters, scheduling logic, and manager training—missed updates can trigger wage-and-hour violations.

Additional Information

- **Student Learners:** If using bona fide student-learner programs, confirm pay is at least 75% of the otherwise applicable minimum wage and retain the program documentation.
- **Posters and Handbook Updates:** Refresh Nebraska wage posters and internal pay-practice pages before July 17, 2026, reflecting the youth and training wage options and the 1.75% indexing method for 2027 and beyond.
- **Controls for Eligibility:** In HRIS/ATS, collect date of birth, emancipation status, and seasonality flags; build alerts so the youth wage cannot apply to 16–17-year-olds, and the training wage cannot apply to seasonal/migrant or emancipated minors.
- **Budgeting and Offers:** Update labor-cost models for the 1.75% annual floor increase from 2027 onward; revise offer-letter templates for youth/training-wage roles (include duration limits, conversion timing, and any tip-credit disclosures).
    - **Anti-substitution rule:** Train managers that they may not reduce or eliminate existing employees' hours to replace them with trainees; audit schedule changes for compliance.
- **Tipped Employees:** Keep the direct cash wage at $2.13/hour and verify that cash wage + tips is at least the applicable state minimum wage (i.e., $15.00 through December 31, 2026, and the published rate thereafter). Maintain documentation because the employer bears the burden of proof.

Key Risks for Employers

- **Eligibility Errors:** Applying the youth wage to a 16-17-year-old or an emancipated 14-15-year-old or applying the training wage to seasonal/migrant or emancipated minors. Lock eligibility in HRIS and audit quarterly.
- **Duration/Extension Missteps:** Exceeding 90 days (or granting a 90-day extension without the Labor Commissioner's approval tied to a bona fide skills program).
- **Over-utilization:** Paying more than 25% of establishment hours at the training wage—use exception reports and monthly reviews.
- **Tip-credit Shortfalls:** Failing to ensure $2.13 + tips meets the applicable minimum each pay period and to retain evidence.
- **Poster/Notice Gaps and Late Rate changes:** Not updating postings or missing the October 15 published rate for January 1 changes beginning in 2027.
- **Intersection with Child-labor Rules:** Wage compliance does not override federal restrictions on under-18 hazardous duties or 14–15-hour limits—train supervisors accordingly.

Source References

- Nebraska Legislative Bill 258 (LB258) - Change provisions relating to the minimum wage under the Wage and Hour Act

State Legal Update

Ohio E-Verify: Nonresidential Construction Mandate

As a reminder for all construction employers in Ohio, the law now requires employers in nonresidential construction to use federal E-Verify—in addition to Form I-9—for all employees assigned to covered projects within Ohio.

The rule is size-neutral and applies to contractors, subcontractors, and labor brokers on covered work. Residential construction, manufactured or mobile homes, industrialized units, and buildings or structures incidental to agricultural land use are excluded.

Enforcement is driven by complaints to the Ohio Attorney General (AG) and includes monetary sanctions, contract ineligibility, and permanent business revocation.

This update applies to all employers making hiring decisions for covered nonresidential construction projects in Ohio and took effect on March 19, 2026.

Overview

- **In-state Scope:** Applies only to nonresidential construction projects within Ohio (work performed outside Ohio is not covered).
- **Size-neutral:** Applies to all covered employers regardless of employer size.
- **What is Required:** Use federal E-Verify to confirm all employees on covered projects are authorized to work in the U.S., in addition to Form I-9.
- **Nonresidential Construction (Definition/Coverage):** Construction or renovation of any nonresidential building, as well as highways, bridges, utilities, and related infrastructure.
- **Exclusions:** Residential construction, manufactured or mobile homes, industrialized units, and buildings/structures incidental to agricultural land use.
- **Prime vs. Subs Liability:** No statutory contractor liability for subcontractor noncompliance (use contract clauses).

Why This Matters

- **Mandatory E-Verify on Covered Ohio Projects:** All employees assigned to covered nonresidential construction in Ohio must be verified via E-Verify in addition to Form I-9.
- **Tentative Non-confirmation/Final Non-confirmation (TNC/FNC) Timing is Critical:** Missing the 10-federal-working-day contest window or failing to separate after an FNC escalates enforcement risk.

What Employers Need to Do

1) Confirm Coverage and Scope

- Confirm and document whether the Ohio work is covered (nonresidential construction/renovation and specified infrastructure such as roads, bridges, utilities) or excluded (residential construction; manufactured/mobile homes; industrialized units; and structures incidental to agricultural land use).
- Implement subcontractor controls even if the statute does not impose prime-to-sub liability: include an E-Verify compliance clause in subcontractor agreements and verify subcontractor enrollment status.

2) Enroll and Operationalize E-Verify

- Enroll in E-Verify and update onboarding SOPs to reflect Ohio coverage.
- Create a Case for Each Worker using Form I-9 Section 1 information.
- New-hire Case Exception: Create an E-Verify case for all new hires.

3) Follow the E-Verify Workflow

- **Employment Authorized:** Close the case.
- **Tentative Non-confirmation (TNC):** Notify the newly hired employee, provide the TNC notice, and allow the employee to contest. They will have 10 federal working days to resolve.
- **Final Non-confirmation (FNC):** Close the case and terminate employment or withdraw the offer. Continuing to employ after an FNC violates the Act.

4) Recordkeeping

- Retain Forms I-9 and E-Verify results for three (3) years after the date of hire or one (1) year after termination, whichever is later.
- The references “record-retention guidelines prescribed by the Act” but do not add durations beyond the above.

State Legal Update

- **Penalty Exposure can be Significant:** Per-violation fines, contract ineligibility, and—in knowing-hire cases—permanent license revocation.
- **Prime/Sub-alignment Without Statutory Vicarious Liability:** While primes are not statutorily liable for subs' compliance, contractual controls are essential to avoid project disruption and complaint exposure.
- **Federal Interplay:** Employers must comply with Ohio's E-Verify mandate while continuing to follow all federal Form I-9 and E-Verify rules.
- **Multi-state Nuance:** Requirements vary by state (e.g., Pennsylvania public works vs. no Kentucky statewide mandate), so ensure worksite-specific enrollment and SOPs.

Additional Information

Enforcement and Penalties (Ohio AG via Complaints):

- **Process:** Complaints must be on an AG-prescribed form. The AG must investigate if the complaint includes sufficient facts and may investigate anonymous complaints with sufficient facts. If the AG finds reasonable evidence of a violation, it issues a notice of violation. The company has 10 calendar days from receipt to request an adjudicatory hearing (director of commerce or designee). Missing the 10-day window results in a final, enforceable order.
- **Civil Action Posture/Triggers:** A civil action may follow failure to create an E-Verify case or continued employment after the AG has issued a notice requiring satisfactory proof of work authorization.
- **Sanctions:** Monetary penalties of $250–$25,000, including up to $1,500 for failure to create a case and up to $25,000 for continued employment after a Final Non-confirmation (FNC) (with higher penalties for repeat offenses within three (3) years). Possible ineligibility to bid for or participate in state contracts for up to 2 years. Permanent business-license revocation if a contractor knowingly hires an unauthorized worker.
- **Enforcement Discretion:** Actions are pursued at the discretion of the Ohio AG.

5) Training, Auditing, and Coordination

- Train HR, recruiting, and project administrators on TNC/FNC steps and timelines.
- Standardize documentation (case notes, notices, closure steps) and retention.
- Coordinate with subcontractors/labor brokers to ensure enrollment and process alignment.

6) Multi-State Setups (Scope Boundaries)

- When a contract contains the FAR E-Verify clause (FAR 52.222-54), the contractor must enroll as a federal contractor and E-Verify (a) all new hires and (b) employees assigned to the covered federal contract under the FAR timelines. This federal track is distinct from state mandates and should be built into capture/procurement and project-mobilization procedures.

Source References

- Ohio HB 246 - Require certain construction industry employers to use E-Verify

State Legal Update

Third Circuit Clarifies Pennsylvania Criminal History Hiring

As a reminder for all Pennsylvania employers, a recent federal court decision confirms that how you learn about an applicant's criminal history does not change your legal obligations.

On January 28, 2026, the U.S. Court of Appeals for the Third Circuit held that Pennsylvania's Criminal History Record Information Act (CHRIA) applies regardless of how an employer obtains criminal history information—including when an applicant voluntarily discloses a conviction during the hiring process. In Phath v. Central Transport LLC, the court rejected the idea that CHRIA applies only when an employer orders a formal background check.

Importantly, the decision does not prohibit employers from asking about convictions or require them to hire every applicant with a criminal record. Rather, it clarifies that once criminal history information is obtained—by any method—CHRIA's notice and use requirements still apply. Employers cannot avoid these obligations by relying on self-disclosure instead of a background report.

This update applies to all employers making hiring decisions in Pennsylvania.

Overview

- **CHRIA Statewide Rules:** Employers may consider convictions only to the extent they relate to job suitability, and they must issue a written notice if a no-hire decision is based, in whole or in part, on criminal-history information.
- **What Counts as "Criminal History Record Information":** This term includes information collected by criminal-justice agencies from the start of a criminal case, such as identifying information, arrests or charges, and case outcomes. For hiring purposes under CHRIA, employers should focus on convictions that are job-related. Arrests or charges that did not result in a conviction are not used when evaluating job suitability.
- **Potential Remedies:** An aggrieved person may recover actual damages (at least $100 per violation), costs and attorneys' fees, and punitive damages ($1,000–$10,000 per willful violation).
- **FCRA Interplay:** CHRIA applies even when FCRA does not (for example, when there is a self-disclosure or an employer-run check without a CRA). When a CRA report is used, FCRA pre-adverse and adverse action steps are required in addition to CHRIA.

What Employers Need to Do

- **Centralize and Pause Decisions:** Employers should route all criminal history information (self-disclosures, background reports, public sources) to HR/Compliance and should not allow interviewers to make on-the-spot disqualification decisions.
- **Apply and Document the CHRIA Suitability Test:** Consider only felony or misdemeanor convictions and only to the extent those convictions relate to the job's duties. They should document their analysis (offense, time elapsed, duties, and risk).
- **end the Required CHRIA Notice, in Writing:** If an employer declines to hire, in whole or in part, based on criminal history information, the employer must notify the applicant in writing.
- **Layer the Fair Credit Reporting Act (FCRA) When Applicable:** If a consumer reporting agency (CRA) report is used, the employer must provide FCRA pre-adverse and final adverse action notices in addition to CHRIA's notice. Self-disclosures or employer-conducted checks that do not use a CRA generally do not trigger FCRA, but CHRIA still applies.
- **Apply Philadelphia's Overlay (if the Role is in the City):** Consider using seven-year felony and four-year misdemeanor look-backs, excluding summary offenses, conducting an individualized assessment (using a reasonable person risk standard), and providing at least 10 business days for a pre-adverse rebuttal.
- **Train, Audit, and Retain:** Train managers that applicant self-disclosure does not eliminate CHRIA obligations, audit a sample of hiring files each quarter, and retain assessments and notice documentation for at least six years based on current limitations-period trends.

- **No Ban on Asking:** The Third Circuit did not prohibit employers from asking applicants about criminal convictions. Instead, the court clarified that once an employer receives criminal-history information—no matter the source—CHRIA's job-relatedness and notice requirements apply.

Why This Matters

- **No Self-disclosure Workaround:** Employers cannot avoid CHRIA by asking applicants to disclose their criminal history. Once an employer receives a qualifying criminal history, CHRIA obligations are triggered.
- **Layered Compliance is Mandatory:** Statewide CHRIA plus Philadelphia's FCRSS (if applicable) plus FCRA where a CRA report is used—omitting any layer risks invalid decisions and liability.
- **Exposure can Scale Quickly:** CHRIA's per-violation damages, fee-shifting, and punitive damages create significant risk, including potential class exposure if processes are systemic. Public entities have also faced CHRIA claims, and some courts allow a six-year limitations period—so record retention should be planned accordingly.
- **Implications for Hiring Decisions:** Once an employer is "in receipt of information which is part of an employment applicant's criminal history record information file," CHRIA applies, meaning:
  - (a) only convictions related to job suitability may be considered; and
  - (b) if the employer declines to hire in whole or in part based on that information, it must provide written notice.
- **The Court Emphasized** that the statute hinges on the nature of the information, not its source.

Key Risks for Employers

- **Assuming Self-disclosure Avoids Compliance:** Employers face risk if they believe CHRIA applies only when a formal background check is run. Once criminal-history information is received — even if volunteered by the applicant — CHRIA obligations are triggered.
- **Improper Use of Criminal History in Hiring Decisions:** Considering arrests, charges without conviction, or convictions that are not job-related can violate CHRIA and invalidate a hiring decision.
- **Failure to Provide Required Written Notice:** If an employer declines to hire an applicant in whole or in part based on criminal-history information, failing to issue the required CHRIA written notice creates immediate liability exposure.
- **Missing Layered Compliance Requirements:** Employers operating in Pennsylvania — and especially Philadelphia — risk noncompliance if they fail to apply all required layers, including CHRIA, Philadelphia's Fair Criminal Record Screening Standards (where applicable), and the federal Fair Credit Reporting Act when a consumer report is used.
- **Inadequate Assessment, Training, and Retention Practices:** Inconsistent or undocumented job-related suitability assessments (failing to show how a conviction relates to duties, time elapsed, and risk), combined with untrained hiring managers and weak record-retention, increase the likelihood of violations and undermine defenses in audits, investigations, and litigation—especially where longer statutes of limitations apply.
- **Escalating Financial and Litigation Exposure:** CHRIA allows for actual damages (minimum $100 per violation), attorneys' fees, costs, and punitive damages for willful violations.

Source References

- US Court of Appeals for the Third Circuit - Rodney Phath Vs. Central Transport LLC (No. 25-1028)

State Legal Update

Virginia Court Clarifies Non-Solicits Under Non-Compete Law

As a reminder for all employers in Virginia, a recent Court of Appeals decision clarifies that certain non-solicitation provisions may be treated as prohibited non-compete agreements for covered workers.

On January 27, 2026, the Court of Appeals of Virginia ruled in Sentry Force Security, LLC v. Barrera that employee non-solicitation provisions can function as unlawful covenants not to compete when applied to workers covered by Virginia's low-wage non-compete statute. In contrast, customer non-solicitation provisions remain permissible—but only when narrowly limited to restricting the former employee from initiating contact or solicitation (the employee may still serve customers who reach out on their own).

This update applies to employers making hiring and restrictive-covenant decisions in Virginia, ruling affecting low-wage and Fair Labor Standards Act (FLSA) non-exempt employees, and reflects the Court of Appeals' January 27, 2026, ruling.

Overview

- The Virginia Court of Appeals (in Sentry Force Security, LLC v. Barrera, January 27, 2026) held that Virginia's low-wage non-compete statute can cover certain non-solicitation clauses.
- **Ruling:** Employee non-solicitation covenants can be treated as prohibited "covenants not to compete" for low-wage/FLSA non-exempt employees, while customer non-solicitation covenants are allowed if limited to barring outbound initiation/solicitation; the former employee may still service a customer who initiates contact.

Who is Covered

- **"Low-wage" Employees:** those earning below Virginia's average weekly wage (AWW)—$1,507.01/week in 2026 (approximately $78,364.52/year)—and, after a 2025 amendment, any FLSA non-exempt employee (regardless of pay).
- **Exclusion:** Employees whose earnings are predominantly commissions, incentives, or bonuses are not "low-wage" under the statute.

Court Takeaways

- **Customer Non-solicitation — ALLOWED (even for low-wage):** Enforceable when it only restricts outbound solicitation/initiating contact and does not bar the former employee from providing services to a customer who reaches out on their own.

What Employers Need to Do

- **Identify Low-wage/FLSA Non-exempt Employees:** Use the Average Weekly Wage (AWW) threshold ($1,507.01/week in 2026) and apply the commission/ bonus/incentive exclusion.
- **Audit Agreements:** Revise any non-compete and non-solicitation clauses for low-wage/non-exempt employees in offer letters, employment agreements, and Restrictive Covenant Agreements (RCAs).
- **Remove/Replace Infringing Covenants:** Consider not including employee non-solicitation for covered workers. If using a customer non-solicitation, narrowly tailor it to initiation/solicitation only.
- **Update Policies and Train:** Consider refreshing templates, playbooks, and HR/Legal training to align with the ruling and statutory carve-outs.
- **Stop Unlawful Enforcement:** Do not threaten, attempt, or enforce banned non-competes or employee non-solicits against low-wage/non-exempt employees; the statute provides private suits, fees, and civil penalties.

Key Risks for Employers

- **Using or Enforcing Employee Non-solicitation Clauses for Covered Workers:** Virginia courts may treat employee non-solicits as prohibited non-competes for low-wage and FLSA nonexempt employees, making them unenforceable and exposing employers to claims.
- **Overbroad Customer Non-solicitation Drafting:** Customer non-solicits remain permissible only if narrowly limited to outbound initiation/solicitation; clauses that effectively bar servicing customers who initiate contact can increase enforceability risk.

- **Employee Non-solicitation — PROHIBITED (for Low-wage/FLSA Non-exempt):** Treated as a covenant not to compete and therefore unenforceable against covered workers.

Why This Matters

- This departs from the common view in many states that non-solicitation agreements are not the same as non-compete agreements; Virginia now treats employee non-solicits for covered workers as non-competes.
- Even recently updated templates may now be non-compliant in Virginia, creating risk if employers enter into, threaten to enforce, or enforce prohibited covenants under Va. Code § 40.1-28.7:8.

- **Misidentifying Who is "Covered":** Errors applying the AWW threshold and the statute's FLSA nonexempt coverage, or misapplying the commissions/bonus/incentive exclusion, can lead to unlawful restrictive covenants being used with protected workers.
- **Threatening to Enforce Prohibited Restrictions:** Even threats or attempts to enforce banned non-competes/employee non-solicits can trigger statutory exposure, including fee-shifting and potential penalties.
- **Legacy Template and Agreement Contamination:** Offer letters, employment agreements, and restrictive covenant templates with problematic language; failing to update them can create repeat compliance failures across hires.
- **Cost Exposure from Fee Awards and Litigation Posture:** The decision reflects that unlawful enforcement attempts can result in attorneys' fees and costs awards, increasing litigation cost risk.

Source References

- Virginia - Sentry Force Security, LLC v. Barrera

State Legal Update

Utah Creates the State-Endorsed Digital Identity (SEDI)

On March 13, 2026, Utah lawmakers unanimously approved SB 275, creating a new State Endorsed Digital Identity (SEDI) program.

The law allows Utah to support a voluntary digital ID option that people can choose to use to prove things like their age or identity, without sharing more personal information than necessary.

SEDI is a voluntary digital identity that Utah endorses, but it does not replace or "create" someone's identity.

Instead, it allows people to share only the specific information needed for a transaction — for example, confirming they are "21 or older" without revealing their full date of birth.

The program is designed to prevent tracking or profiling of digital ID use and is built around user consent, limited data use, strong security, and a legal duty for participating organizations to act in the user's best interest.

This update applies to Utah businesses of any size that voluntarily opt into the SEDI program, including wallet providers, identity verification vendors, and employers that choose to accept SEDI credentials, and takes effect on May 6, 2026.

Overview

- **Program and Scope:** Creates the State Endorsed Digital Identity (SEDI) program within the Utah government and sets rules for organizations that choose to participate, including wallet providers, verifiers, and businesses that accept SEDI credentials. Certain government and health care entities are expected to accept SEDI when technically feasible.
- **Proof of Age Now Explicit:** Utah law expressly recognizes SEDI as valid "proof of age" for alcohol and tobacco purchases, allowing age verification without disclosing a full date of birth. (26B-7-501(18)(a)(vi); 32B-1-102(98)(a)(vi)).
- **Cross Agency Coordination:** New §63A 20 204 requires coordination with Alcoholic Beverage Services, Driver License Division, Health & Human Services, State Board of Education, and state/local law enforcement to develop mechanisms and named use cases (alcohol age checks, student enrollment, ID in lawful encounters, and financial institution Know Your Customer - KYC), with findings in the annual report.
- **Eligibility Clarified:** Emancipated minors (as well as 18+) may apply directly for SEDI.
- **Government Acceptance Timing:** For new systems that accept digital identity on or after May 6, 2026, a governmental entity must accept SEDI within three months of first issuance, subject to a tech feasibility plan.

What Employers Need to Do

- **Decide Whether to Participate:** SB 275 is voluntary for businesses; duties attach only if you build/operate SEDI tech or accept SEDI credentials.
- **Design for Consent and Minimization:** Capture explicit, affirmative consent and request only the minimum attribute required (e.g., "21+" without date of birth - DOB). Avoid secondary uses without new consent.
- **Implement "State-of-the-Art" Security:** Engineer tamper resistance, cryptographic verification, compromise detection, recovery, and anti-correlation controls; keep presentation activity from being tracked.
- **Honor the Duty of Loyalty:** Do not process identity attributes in ways that exploit users, conflict with their interests, or cause harm. Train product, legal, and frontline teams on this standard.
- **Update Contracts and Notices:** Add SEDI-specific purpose limitation, retention, and no sale/sharing clauses with vendors; revise privacy notices to reflect selective disclosure and consent flows.
- **Stand up a Complaint Path:** Be prepared to receive, triage, and document SEDI complaints that may be routed to the data privacy ombudsperson; track remediation.
- **Vendor Diligence:** Ask ID verification partners if/when they will support Utah SEDI and how they implement consent capture, attribute minimization, anti-correlation, and recovery; bake requirements into contracts.

Key Risks for Employers

- **Opt-in Without Readiness:** Accepting SEDI credentials without consent capture, minimization logic, or anti-correlation controls can create enforcement and reputational exposure.
- **Purpose Creep:** Reusing SEDI-provided attributes for marketing, profiling, or unrelated analytics without fresh consent violates purpose limitation/loyalty requirements.

State Legal Update

- **Legacy Sunset:** §53 3 235 (electronic license certificate/ID card) is repealed Jan 1, 2027, avoiding parallel digital ID constructs and channeling adoption to SEDI.
- **Core Participant Duties:** Explicit consent; data minimization/selective disclosure; purpose limitation (no unrelated profiling); state-of-the-art security; duty of loyalty; and adherence to accepted identity proofing standards.
- **Processing Restriction:** Any record of a SEDI presentation may be processed only for the presentation's primary purpose (or as required by law). Downstream use/retention/sharing/sale requires conspicuous notice and the holder's express authorization (or a legal requirement).

Why This Matters

- **Acceptable Proof of Age, Day One:** SEDI is now expressly recognized as "proof of age," enabling alcohol/tobacco retailers to verify age with privacy-preserving attribute checks (e.g., "21+" without DOB) as soon as the ecosystem is live.
- **Coordinated Adoption Across Sectors:** A new cross agency mandate drives practical use cases (alcohol, student enrollment, law enforcement identity checks, financial services) and requires the state to report progress—accelerating real-world integration.
- **Lower Data Exposure at the Point of ID:** Attribute only sharing plus duty of loyalty and purpose limitation rules reduce over collection, profiling, and breach surface in common ID checks (hospitality, retail, fintech, healthcare).
- **One Coherent Framework:** Sunsetting the prior "electronic license certificate/ID" avoids parallel systems and channels investment into SEDI—with state-of-the-art security, anti-surveillance guardrails, and clear complaint/audit oversight.

Additional Information

- **Ombudsperson and Attorney General (AG) Pathway:** Individuals can file complaints with the data privacy ombudsperson; the ombud may refer matters to the Attorney General, who may investigate and seek injunctive or declaratory relief, restitution/disgorgement, actual damages, costs, and attorneys' fees under the statute's enforcement framework.
- **Severability and Repeals:** SB 275 includes severability and repeals the prior 2025 digital identity policy sections (63A-16-1201 to 1203) as it moves the framework into the new program chapter.
- **Optional, Privacy-first Program:** SB 275 follows a year of study and stakeholder input and implements a Digital Identity Bill of Rights in operational form—no one can be compelled to obtain or use a digital ID.

- **Tracking or Device Surrender:** Building telemetry that tracks presentations or requiring users to surrender devices contradicts the bill's anti-surveillance and device control rules.
- **Vendor Gaps:** Using third-party ID vendors that cannot support Utah's selective disclosure requirements or state-of-the-art security standards can put your business out of compliance. Review vendor contracts and test ID verification workflows before accepting SEDI credentials

Source References

- Utah SB 275 - State-Endorsed Digital Identity Program Amendments

State Legal Update

Utah Bans Healthcare Non-Competes Starting May 6, 2026

On March 24, 2026, Utah House Bill 270 (Healthcare Worker Post-employment Amendments) was signed into law, amending Utah's Post Employment Restrictions Act by prohibiting new healthcare non-compete agreements and limiting certain healthcare non-solicitation terms.

The law voids (1) healthcare non-compete agreements entered into by covered healthcare workers and (2) non-solicitation terms that prevent a healthcare worker from informing patients of the worker's current or future place of employment.

This update applies to Utah healthcare employers that use covenants with licensed healthcare workers, regardless of size, and takes effect on May 6, 2026.

Overview

- **Healthcare Post-employment Covenants—Key Limits:** Starting May 6, 2026, healthcare employers must stop using (and should remove from templates) non-competes and patient-communication restrictions that bar a covered worker from telling patients where the worker works now or will work next; such provisions are unenforceable/void.
- **Broad Coverage and Carve Out:** "Healthcare worker" is defined by a broad list of licensed roles but excludes individuals whose job or contract does not require practicing under the scope of that license.
- **Exceptions Preserved:** The chapter continues to allow certain non-competes tied to the sale of a business and certain severance agreements (subject to common-law requirements).
- **Fee Shifting and Damages:** If an employer seeks to enforce a non-compete (including a healthcare non-compete) and it is determined unenforceable, the employer is liable for arbitration costs, attorney fees, court costs, and actual damages.

Additional Information

- **Key Sections Updated/Enacted:** The enrolled bill amends definitions and remedies in the Post Employment Restrictions Act and enacts a new non-solicitation section applicable to healthcare workers' patient communications.
- **Fee Shifting and Damages Exposure from Failed Enforcement:** If an employer seeks to enforce a non-compete, including a healthcare non-compete, and it is determined unenforceable, the employer can be liable for arbitration costs, attorneys' fees/court costs, and actual damages.

What Employers Need to Do

- **Review restrictive covenant templates used on or after May 6, 2026,** to remove healthcare non-compete provisions and ensure any non-solicitation language permits covered healthcare workers to inform patients of the worker's current or future place of employment.
- **Confirm Worker Coverage Under the Statute's Definitions:** Determine whether each role meets the statute's definition of a covered healthcare worker.
- **Re-check severance and sale-of-business restrictive covenants** for healthcare workers to ensure they fall within the statute's preserved exceptions and are drafted for enforceability under common law.
- **Treat enforcement decisions as high-risk and document the analysis** before sending demand letters, initiating arbitration, or filing suit, given the fee shifting and damages exposure if a covenant is found unenforceable.

Key Risks for Employers

- **Entering into a Prohibited Healthcare Non-compete After May 6, 2026:** Agreements that meet the statute's definition of a healthcare non-compete and are entered into on or after the effective date are void.
- **Overbroad Non-solicitation Language that Blocks Patient Communications:** Any healthcare non-solicitation covenant that prevents a provider from telling patients where the provider currently works or will work next is void.
- **Coverage Misclassification:** Misidentifying whether a role is a covered "healthcare worker" (or whether the job actually requires practice under the license) can lead to invalid covenants and avoidable disputes.
- **Legacy Template Contamination:** Using older restrictive covenant templates (especially "standard" non-competes) after May 6, 2026, can create repeat noncompliance across hires and separations.

Source References

- [Utah HB 270 - Healthcare Worker Post-Employment Amendments]

State Legal Update

Washington Updates PFML Premium Allocation for June 2026

On March 5, 2026, the Governor signed Washington's Second Substitute House Bill 2345 (2SHB 2345), which updated how Paid Family and Medical Leave (PFML) premiums are allocated between the family and medical shares, without changing the total premium or the overall employee-versus-employer split.

This update applies to all Washington employers with employees employed in Washington (including small employers and voluntary plans) and is effective June 11, 2026.

Overview

- **What Changed:** HB 2345 reallocates contributions between the medical and family premium shares to align with federal tax guidance. It does not change the total PFML premium rate or how that total is split between employees and employers.
- **Medical Leave Premiums (Employee Deductions):** An employer may deduct up to the full amount of the employee share of the medical premium from wages.
- **Family Leave Premiums (Employee Deductions):** An employer may deduct from wages up to the difference between (i) the full family premium plus 45% of the full medical premium and (ii) the full medical premium (the exact statutory formula).
- **Employer Election to Cover More:** Employers may pay all or part of the employee share for family or medical premiums.
- **Small Employer Rule Unchanged:** Employers with fewer than 50 Washington employees are not required to pay the employer portion of premiums.
- **Annual Rate Setting Continues:** The total premium continues to be set each year under RCW 50A.10.030 (October calculation; three-month reserve; 1.20% maximum).

Why This Matters

- **Payroll Accuracy and Compliance:** The new legal caps and allowances change how much you may deduct from employee wages for each premium type and, therefore, require system updates and communications.
- **Tax Alignment:** The Legislature designed the reallocation to respond to federal guidance, so PFML funding aligns with IRS treatment, reducing potential federal employment tax friction for employers and workers. The ESD has acknowledged this intent and will publish guidance.

What Employers Need to Do

- **Adjust Payroll Deduction Logic:** Configure PFML withholding to allow up to the full employee share for the medical premium and apply the statute's formula cap for the family premium. Coordinate this change with the next rate cycle update.
- **Keep Total PFML Processes Unchanged:** The total premium rate and overall employee versus employer split are unaffected by HB 2345; only the distribution between family and medical shares changes.
- **Confirm Small Employer Status Annually:** Employers with fewer than 50 employees in Washington are not required to pay the employer portion but must still collect and remit the employee portion. The Washington State Employment Security Department (ESD) determines employer size each year using a September 30 snapshot averaged over the prior four quarters.
- **Plan for the Annual PFML Rate Cycle:** The ESD recalculates the total premium around October 20 for the following January 1 implementation, using the statutory formula and three-month reserve target with a 1.20% cap. Align the payroll change window with that cadence.
- **Coordinate Tax Treatment:** Work with payroll and tax advisors to ensure FICA reporting aligns with the reallocation that prompted HB 2345 (ESD indicates the change responds to federal tax guidance and will issue implementation details).

Key Risks for Employers

- **Incorrect Deductions:** Over-withholding on family premiums or under-withholding on medical premiums by ignoring the new statutory allowances and formula.
- **Missed Sizing Determination:** Failing to verify the fewer than 50 status based on ESD's September 30 headcount methodology, leading to wrong employer contributions.

State Legal Update

- **No Change to Total Cost Mechanics:** The overall PFML premium and the employee versus employer total split remain as set by statute, and the annual ESD formula, so budgets tied to total PFML costs should not shift due to HB 2345 alone.

Additional Information

- **PFML Wage Base and Sizing Reminders:** Premiums apply up to the Social Security wage cap; the ESD sets the cap each year and sizes employers on September 30 by averaging the last day of quarter headcounts over four quarters.
- **ESD Implementation Notes:** The ESD's March 2026 update confirms the law responds to IRS guidance, preserves total contributions, and that employer implementation guidance will follow ahead of the next rate split announcement.

- **Rate Cycle Timing Errors:** Reconfiguring mid-cycle without aligning to ESD's October recalculation and January 1 adoption can create reconciliation issues.
- **Tax Reporting Mismatches:** Not coordinating with payroll tax advisors to reflect the medical vs. family reallocation in FICA treatment when ESD guidance arrives.

Source References

- Washington HB 2345 - Concerning contributions in the state paid family and medical leave program

Resources

- Washington - WAC 192-510-050
- Washington PFML Employer Hub - Here for your business

State Legal Update

Washington Updates Personnel File Access Rule (2026)

On March 31, 2026, the Washington Department of Labor and Industries (L&I) adopted a permanent rulemaking order (AO 26-01) amending Washington Administrative Code (WAC) 296-126-050 (Personnel Files) to align the rule with changes to chapter 49.12 Revised Code of Washington (RCW) made by Substitute House Bill (SHB) 1308 (2025), including expanded access rights and remedies.

The amended rule clarifies what records may be included in a "personnel file." Employers will be required to provide access to the file within 21 calendar days. Furthermore, an employee or former employee may pursue a private cause of action for each violation for failure to provide complete personnel file(s) after providing notice of intent to sue.

This update applies to Washington employers responding to employee or former employee personnel file requests and takes effect on May 1, 2026 (31 days after the permanent rule is filed).

Overview

- **Personnel File Scope (if Created):** "Personnel files" include job application records, performance evaluations, nonactive or closed disciplinary records, leave and reasonable accommodation records, payroll records, and employment agreements, if the employer creates such records.
  - **Note:** In accordance with 49.12.250(3)(a), an employer reserves the right to remove any irrelevant documentation from the file when the requested content is unrelated (e.g., leave or accommodation documents that disclose medical information, often kept in a separate confidential file).
- **Employee Access Deadline:** Employers must allow employees to inspect their own personnel files within 21 calendar days of receiving a request.
- **Former Employee Discharge Statement:** Within 21 calendar days of receiving a written request from a former employee (or designee), employers must provide a signed written statement stating the effective date of discharge and whether there was a reason for the discharge (and, if so, the reasons).
- **Former Employee Definition:** "Former employee" means a person who separated from the employer within three years of the request date.

Why This Matters

- **Clear, Enforceable Timelines:** The rule replaces the older "reasonable time" approach in the rule text with a specific 21-calendar-day deadline for employee inspection and for the former-employee discharge statement.

What Employers Need to Do

- Implement a 21-day request workflow: Date-stamp requests upon receipt and track the 21-calendar-day deadline for inspection access and for former employee discharge statements.
- Create a "personnel file inventory" map: Identify where each qualifying record type is kept (applications, evaluations, closed discipline, leave/accommodation, payroll, agreements) so production is complete when requested.
- Standardize the former employee discharge statement: Use a consistent template that includes (1) the effective date of discharge, (2) whether the employer had a reason for the discharge, and (3) the reasons, if applicable, and ensure it is signed and delivered within 21 days.
- Maintain a request/fulfillment log: Track the request date, deadline date, fulfillment date, delivery/access method, and what was provided to help demonstrate timely and complete compliance.

Key Risks for Employers

- **Late Compliance (21-day Deadline):** Missing the 21-calendar-day inspection or statement deadline increases exposure under the rule's stated enforcement framework.
- **Incomplete Personnel File Production:** Failing to include all record categories that *qualify* if created (especially records housed outside HR) can trigger "complete file" violations.
- **Incorrect "Former Employee" Determination:** Misapplying the "separated within three (3) years" definition can lead to improper denial or delayed compliance.
- **Poor Documentation of Compliance:** Without a request log and proof of delivery/access, employers may struggle to rebut claims that production was late or incomplete.

State Legal Update

- **Broader "Personnel File" Production Risk:** Because "personnel files" include multiple record categories if created, employers can easily miss documents stored outside the traditional HR folder unless they have a defined inventory and process.

Source References

- Washington L&I - Press Release - L&I updates rules to expand worker access to personnel files (April 10, 2026)
- Washington Rulemaking Order - CR 103 P (March 31, 2026)
- Washington WAC 296-126-050
- Reminder Washington: Employers to Provide Upon Request Personnel Records (VensureHR)
- Washington Replaces Personnel File Access Law with New Rules for Employers (VensureHR)

State Legal Update

Washington Bans non-competes Statewide by 2027

On March 23, 2026, the Washington Bob Ferguson signed ESHB 1155 into law, establishing a statewide ban on noncompetition covenants, making all non-compete agreements void and unenforceable in Washington.

This update applies to all Washington employers that engage Washington-based workers (employees and independent contractors), regardless of employer size, and takes effect on June 30, 2027.

Overview

- **What Changed:** Washington bans noncompetition covenants statewide; prior wage-threshold rules no longer apply.
- **Expanded Definition:** A non-compete includes any agreement (written or oral) that restrains lawful work; performer–venue restrictions; "no accept" / "no transaction" clauses; and repayment- or forfeiture-on-competition provisions (including equity forfeiture tied to joining a competitor).
- **What is Not a non-compete:** Narrow non-solicitation, confidentiality, and trade-secret or invention covenants; sale of business when at least 1% ownership transfers; certain franchisee covenants; and bona fide educational-expense agreements (not used as de facto non-competes).
- **Repeals:** RCW 49.62.030, RCW 49.62.040, and RCW 49.44.190.
- **Applicability:** The amended sections apply to proceedings commenced on or after June 30, 2027, even if the cause arose earlier; cases filed before that date proceed under prior law.

Why This Matters

- **Legal Exposure:** Any enforcement (or threat/representation) after the effective date can trigger the greater of actual damages or $5,000, plus fees and costs—including when a court partially enforces or reforms an agreement.
- **Scope is Broad:** "non-compete" now captures "no accept/no transaction" and repayment/forfeiture-on-competition terms—common in equity/bonus plans.
- **Policy Direction:** The Legislature's stated goals are mobility, wages, and innovation, while acting without waiting for federal outcomes; the act confirms no change to the UTSA and no impact on tribal sovereignty.

What Employers Need to Do

- **Stop Using non-competes:** no new agreements; do not enforce, attempt to enforce, threaten, or represent that anyone is bound by a non-compete as of the effective date.
- **Inventory and Purge Restrictive Language** across offer letters, independent contractor (IC) agreements, equity/bonus plans, and handbooks; flag "no accept/no transaction" and repayment/forfeiture-on-competition clauses. Both are treated as non-competes.
- **Send Written Notices Soon After June 30, 2027** (no later than October 1, 2027) to current employees, former employees still within any covenant period, and independent contractors whose agreements include non-competes, stating the non-compete is void and unenforceable (retain delivery records).
- **Redraft Non-solicitations to:** (1) prohibit active solicitation only; (2) limit the restriction to accounts with a direct relationship; (3) avoid any ban on accepting or transacting business; and (4) set a reasonable duration (commonly cited at up to 18 months).
- **Rely on Other Protections:** confidentiality, trade secrets, Uniform Trade Secrets Act, intellectual property (IP)/assignment, return of property, and security measures.
- **Assess Risk and Train Managers/Recruiters:** post-effective-date enforcement or misstatements can trigger the greater of actual damages or $5,000, plus attorneys' fees and costs—exposure multiplies quickly with multiple affected workers.

Key Risks for Employers

- **Misdrafted Non-solicits** (for example, banning acceptance/transactions or lacking a direct-relationship limit) will be treated as non-competes and are void.

State Legal Update

Additional Information

- **Non-competes are Often One-sided and Depress Mobility/Wages:** lawmakers found these covenants are frequently imposed without meaningful negotiation and harm workers' ability to move and earn more.
- **Other Tools are Enough to Protect Businesses:** the Legislature points to confidentiality, IP, and trade-secret protections as adequate alternatives to non-competes.
- **No Change to Washington's Trade-secret Law:** the act does not amend the UTSA (chapter 19.108 RCW).
- **No Change to Tribal Sovereignty:** the act does not alter tribal sovereignty or jurisdiction over employment on tribal lands.

- **Repayment/Forfeiture Traps** (including equity clawbacks triggered by going elsewhere) are non-competes under the statute.
  - A clawback is a contractual provision that allows an employer to recover compensation or benefits already paid to an employee if specified conditions occur.
- **Communications Risk:** telling a worker they are bound by a non-compete after the effective date is itself a violation.
- **Missed Notice Deadline** (October 1, 2027) increases litigation and penalty exposure.

Source References

- Washington HB 1155 - Prohibiting noncompetition agreements and clarifying nonsolicitation agreements.

Scheduled
Regulatory Changes

Scheduled Regulatory Changes

State	Original Update Link	Effective Date
California	San Francisco, Ca, Employer Annual Reporting Due May 1, 2026	May 1, 2026
Colorado	Colorado Delays the Colorado Artificial Intelligence Act for June 2026	June 30, 2026
Maine	Maine Governor Approved Paid Family and Medical Leave	May 1, 2026

Posting Updates
April 2026

Posting Updates April 2026

State	Updated Posting
Federal	The federal Employee Rights on Government Contracts (SCA, Walsh-Healey) posting in English and Spanish has been updated with changes to its QR code and URLs.
Alaska	Alaska has updated its Summary of Alaska Wage & Hour Act posting with a new minimum wage rate.
Minnesota	Minnesota has updated its Workers' Compensation posting in English and Spanish with new content added to its "If you are injured" section
Oregon	Oregon has released an updated Paid Leave Notice. The most notable change adds guidance for unforeseeable leave, requiring employees to notify their employer within 24 hours and provide written notice within three days. The update also clarifies that employees must continue paying their portion of health insurance while on leave.
City	**Updated Posting**
Santa Fe, NM	Santa Fe, NM, has updated its Santa Fe Minimum/Living Wage posting in English and Spanish with a new minimum wage rate.
New York City, NY	New York City, NY, has updated its New York City Paid Sick Leave posting in English and Spanish with formatting changes and updates.
Philadelphia, PA	Philadelphia, PA, has updated its Philadelphia Employment Discrimination is Against the Law posting and Philadelphia Pregnancy Protection posting with formatting changes and language updates.