



Hot Topics for Human Resources:

*A Conversation Among HR
Professionals*



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Objectives



Impact of recent state and federal legislation on employers



New Regulations / Guidance



Recent Case Law and DEI

Six Factor Independent Contractor Rule

“Totality of the circumstances” test; in general, the rule defines the economic reality factors as follows:

- Opportunity for profit or loss depending on managerial skills
- Investments by the worker and the employer
- Degree of permanence of the work relationship
- Nature and degree of control
- Extent to which the work performed is an integral part of the employer’s business
- Skill and initiative

All factors should be considered equally

FAQs:

<https://www.dol.gov/agencies/whd/flsa/misclassification/rulemaking/faqs>

White Collar Regulations

- The DOL's final rule is a phased in increase to the salary threshold for exempt employees. Currently \$684/week; as of 7/1/2024 it will be \$844/week and as of 1/1/2025 it will be \$1128/week (\$43,888 and \$58,656, respectively).
- The DOL increased the total annual compensation requirements for the "highly compensated employee" exemption from \$107,432 to \$132,964 as of 7/1/2024, and \$151,164 as of 1/1/25.
- Finally, the rule includes updates to these earnings thresholds every three years.
- There are no changes to the duties tests, which outline the types of work an employee must perform to be classified as exempt.
- *Final rule April 23, 2024*

Pregnant Workers Fairness Act (PWFA)

- Effective June 27, 2023
- Final Regulation issued April 15, 2024, effective June 18, 2024
- Applies to public and private sector
- “Reasonable Accommodation” language
- But Texas!
- Also LGC 180.004

EEOC

- EEOC Workplace Harassment Guidance
 - Released April 29, 2024
 - 25 years after last guidance
 - Replaces 5 prior guidance documents on workplace harassment issued between 1987 and 1999
- Guidance
 - Based on legally protected characteristic?
 - Discrimination with respect to a term, condition, or privilege of employment?
 - Is employer liable?

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace>

Recent Cases

- Does Adverse Action mean “Ultimate Employment Decision”?
- *Hamilton v. Dallas County* – 5th Circuit reverses lower court (and itself) where plaintiffs claimed discrimination because men were allowed weekends off, but women were not. Court held that an action need not be an “ultimate employment decision” to constitute adverse action

Recent Cases

- *Muldrow v. City of St. Louis*
 - Transfer to a different position with similar pay and responsibilities violates Title VII if the pay is discriminatory and causes “some harm.”
 - New standard on Adverse Action resolves split in circuits
 - “Substantial harm” not required
 - “Material adversity” not required
 - Lowered the bar for employees
- *Brooks v. City of Pekin*
- *City of Denton v. Grim*

DEI and Discrimination

- *Duvall v. Novant Health, Inc.*
- DEI efforts
- Religious beliefs vs. Title VII training after *Groff v. DeJoy*?
- Florida's "Stop Woke" Act

Questions?



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Thank you!