

HR, Benefits, and Payroll Compliance Monthly Roundup: April 2023



OSHA Pilots New Whistleblower Process

The Occupational Safety and Health Administration (OSHA) began piloting a nationwide intake program for whistleblower complaints. The [new program](#) will alleviate backlogs and give investigators additional resources to complete investigations of whistleblower complaints.



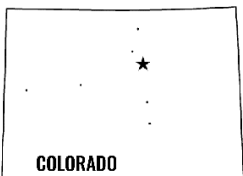
Affirmative Action Contractor Portal Opens

The Office of Federal Contract Compliance Programs (OFCCP) opened the Affirmative Action Plan (AAP) [Contractor Portal](#). New federal contractors and subcontractors must certify compliance in the portal within 90 days of AAP completion and existing contractors must certify by June 29, 2023. Please see our e-Alert coming soon for further details.

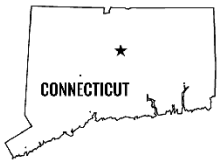


Summary of Consumer Rights Updated

Effective March 17, 2023, the Consumer Financial Protection Bureau (CFPB) [released](#) an updated version of the Summary of Consumer Rights. The [updated summary](#), which includes pre-adverse action notices, must be provided to potential and current employees by March 20, 2024.

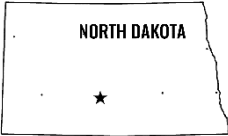
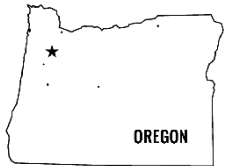
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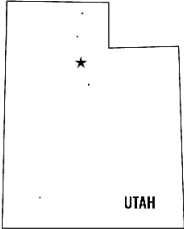


	<p>Confidentiality and Disparagement Provisions Deemed Unlawful</p> <p>The National Labor Relations Board (NLRB) issued a ruling on the legality of confidentiality and disparagement clauses within severance agreements. The NLRB determined that clauses surrounding the requirement that employees waive their labor law rights are defined too broadly and may not be offered within a severance agreement. The decision is only relevant to non-supervisory employees.</p>
	<p>Arizona Amends “The Act”</p> <p>Effective February 9, 2023, Arizona amended its Fair Wages and Healthy Family Act, otherwise known as the “The Act”, which defines the state minimum wage and earned paid sick time. The amendments provide clarity on specific terminology used and include updates to recordkeeping requirements, which state that employers are no longer required to track an employee's paid sick leave used but must continue to keep a daily or weekly record of the total wages due to an employee.</p>
	<p>California’s Consumer Privacy Act in Review for Final Regulations</p> <p>The California Privacy Rights Act (CPRA), which went into effect on January 1, 2023, has final regulations in review by the California Office of Administrative Law. The regulations are expected to be finalized by the end of April, with enforcement of the CPRA set to take effect July 1, 2023. We will continue monitoring for updates.</p>
	<p>Colorado Amends Paid Family Leave Law</p> <p>Effective March 23, 2023, Colorado's Paid Family & Medical Leave Law, which provides employees up to 12 weeks of leave benefits, has been amended to allow employee wages from any employer within the most recent 5 quarters to be used in benefit calculation. This is a change from how the leave benefit amount was previously calculated, with wages only earned from the employee's current job.</p> <p>Colorado Issues Privacy Act Rules</p> <p>On July 1, 2023, the newly adopted rules related to Colorado's Privacy Act will take effect. The Privacy Act details the requirements employers, “controllers”, have in protecting consumer data, which includes requirements for disclosures, notifications, and other communications to consumers. Please see our e-Alert coming soon for further details.</p>

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	<p>Colorado Mandates Annual Notice of Income Tax Credits</p> <p>On March 31, 2023, House Bill (HB) 23-1006 was signed into law which expanded the annual tax withholding notice requirements to include written notice of the availability of federal and state earned income tax credits and child tax credits. This is in addition to issuing annual statements showing the total compensation paid and income tax withheld for the preceding calendar year</p>
	<p>Connecticut's Mandatory Retirement Program Deadline Extended</p> <p>The Connecticut Retirement Security Program requires private employers with 5 or more employees in the state, and at least 5 of whom earned more than \$5,000 in the previous year, to either join MYCT Savings or offer a qualified employer-sponsored retirement plan. The state has extended the deadline to comply, and businesses now have until August 31, 2023, to either register or claim an exemption.</p>
	<p>Michigan Includes LGBTQ Under Anti-discrimination Law</p> <p>Michigan took steps to increase LGBTQ protections by passing a law that prohibits discrimination based on sexual orientation, gender identity, or expression. The law protects both employees and applicants from adverse workplace discrimination.</p> <p>Michigan Repeals Right-to-Work Law</p> <p>On March 24, 2023, Michigan repealed its right-to-work statute. Unionized employees will no longer be able to opt out of union membership, dues, or fees. The repeal will also allow security clauses in collective bargaining agreements, which forces the employee to support the union via dues, fees, and other expenses. The repeal will take effect on March 30, 2024.</p>
	<p>New York Amends Public Health Law</p> <p>Effective March 24, 2023, New York amended its public health law to include COVID-19 vaccine confidentiality. This amendment limits what personal identifying information can be disclosed. The amendment also includes that anyone who requires an immunization passport should accept valid COVID-19 vaccination record cards that were provided by the Centers for Disease Control and Prevention (CDC).</p> <p>New York Amends Mandatory Overtime for Nurses Law</p> <p>Effective June 28, 2023, New York amends its Restrictions on Consecutive Hours of Work for Nurses law. The law prohibits healthcare organizations</p>

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	<p>from mandating overtime for nurses unless in specific circumstances, such as a healthcare disaster or federal or state declaration of emergency.</p> <p>New York Electronic Workplace Poster Requirements With remote and hybrid positions increasing, New York amended its poster requirement law to require employers to provide digital copies of state, local, and federal labor law notices. See our e-Alert with further details.</p> <p>New York City Adopts Final Regulations on AI Tools NYC has issued final rules to implement an ordinance regulating employer use of automated employment decision tools (AEDTs) in hiring and promotions. Employers have until July 5, 2023, to determine whether they use an AEDT to make employment decisions, and if so, commission an independent bias audit; publish a summary of the results; provide notice to applicants and employees of the tool's use and functioning; and provide notice that affected individuals may request an accommodation or alternative selection process.</p>
	<p>North Dakota Expands Definition of Pregnancy Effective August 1, 2023, the North Dakota Human Rights Act expands the definition of pregnancy to include reasonable accommodations for pregnancy-related medical conditions, birth, or reasons associated with pregnancy.</p>
	<p>Oregon Issues Final Ruling on Paid Family and Medical Leave Effective March 16, 2023, Oregon issued a ruling amending its Paid Family and Medical Leave (PFML) program, which requires employers with 25 or more employees to contribute based on company size. The amendment defines employer size, which is used to calculate employee threshold. Employer size is defined as the average number of employees over the preceding 12 months and is based on the number of employees on the payroll for the pay period. To determine employee count, you must include employees in Oregon, and all other states, who are active on payroll for the pay period. See more information on how to calculate employee count.</p>

	<p>Utah Amends Law on Veteran Hiring Preference Effective May 3, 2023, Utah amended its law allowing employers to create an employment preference policy for veterans and their spouses. Employers that have this policy must have it in writing and consistently apply it to employment decisions.</p> <p>Utah Prohibits Employer Vaccination Requirements Effective May 3, 2023, Utah amends its Antidiscrimination Act, which prohibits private employers from making employment decisions based on an employee's vaccination or immunity status. Federal contractors, certain childcare providers, legally mandated entities, and other business categories are excluded from this prohibition.</p> <p>Utah Takes Measures to Define a Safe Workplace Effective July 1, 2023, Utah passed a law allowing employers to obtain protective orders against individuals for violence in the workplace. The protective order applies to individuals who engage in or threaten potential workplace violence, including the threat of physical violence, harassment, intimidation, or other threatening or disruptive behavior that occurs on a worksite.</p> <p>Utah Amends Background Check on Juvenile Delinquency Records Effective October 1, 2023, Utah amends its background check law to cover juvenile delinquency records. The law does not prohibit inquiring about an applicant's criminal history but allows those seeking employment who have expunged records to respond to background check questions as if the records never occurred.</p>
	<p>Virginia Prohibits Use of Social Security Numbers Effective July 1, 2023, Virginia prohibits the use of employee Social Security Numbers as a form of identification, such as Employee ID, access card, or badge issued to employees. Employers that violate the law are subject to a penalty of no more than \$100 per violation.</p>
	<p>Seattle, Washington Bans Caste Discrimination Effective March 25, 2023, Seattle, Washington adds Caste to the list of categories protected against discrimination. The law bans employers from making workplace decisions based on Caste, or a social hierarchy system that places people into groups at birth and can potentially determine</p>

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opportunities throughout the person's life. Caste will now be included as a protected category from discrimination alongside race, gender, religion, sexual orientation, and other forms of identification.

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