

Revamping The 'Advice Exemption'

News

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Tampa Partner Steve Bernstein was featured in *HR Executive Magazine* on February 11, 2014.

According to the article, human resource professionals' ability to find a good employment attorney could become a bit tougher if a Department of Labor rule change involving the advice exemption under the Labor-Management Reporting and Disclosure Act goes into effect.

Under Section 23 of the LMRDA, neither an employer nor a consultant is required to file reports with the DOL if the consultant is merely giving or agreeing to give advice to the employer.

If the proposed rule is enacted, such agreements would be reportable in any case that goes beyond the plain meaning of advice, in which a consultant engages in specific persuader actions, conduct or communication, regardless of whether advice is given, according to the article.

Since 1962, the "litmus test for triggering a disclosure obligation has always revolved around direct employee contact," explained Steve. "But that no longer will be the case if this rule change sees the light of day."

[Read the full article here.](#)

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