



PEO Pointers: Big Changes on the Way for Employee Arbitration Agreements

Insights

2.17.22

Welcome to “PEO Pointers,” a regular series of quick-read alerts to keep PEOs and their client companies up to speed on the latest issues affecting the industry and what they can do to ensure compliance.

With broad bipartisan support, Congress just passed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act – a bill that will radically change the playing field for employers defending common workplace disputes. Under this new law, which President Biden is expected to sign into effect any day, all employees subject to arbitration agreements will have the right to choose whether to bring covered claims in arbitration or in court, even if they previously signed a PEO’s mandatory arbitration agreement.

This development significantly impacts PEOs from both an operational and a liability standpoint. PEOs and PEO customers with arbitration agreements will not be able to enforce them against employees seeking to file lawsuits alleging sexual harassment and/or sexual assault, although employees can voluntarily decide to abide by the arbitration agreement.

The good news is that the new law will not invalidate existing arbitration agreements. Therefore, PEOs do not need to scrap agreements already collected from worksite employees. Going forward, however, existing agreements may need to be modified to ensure they do not appear to cover sexual harassment and sexual assault claims. Moreover, PEOs and their customers should be prepared for increased valuations of sexual harassment cases in some jurisdictions, like California.

You can read the Fisher Phillips [recent Insight summarizing the law, which contains a number of helpful FAQs](#), to help PEOs and their clients get ready to comply with this new law. Feel free to reach out to your Fisher Phillips attorney or any member of our [PEO and Staffing Team](#) if you have further questions. And make sure to [subscribe to our FP Insights](#) to make sure you don’t miss our next edition.

Related People





John M. Polson
Chairman & Managing Partner
949.798.2130
[Email](#)

Service Focus

Employment Discrimination and Harassment
Litigation and Trials

Industry Focus

PEO Advocacy and Protection