

WORKPLACE LAW UPDATE: 10 ESSENTIAL ITEMS ON YOUR NOVEMBER TO-DO LIST

Insights
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It's hard to keep up with all the recent changes to labor and employment law, especially since the law always seems to evolve at a rapid pace. In order to ensure you stay on top of the latest changes and have an action plan for compliance, here is a quick review of some critical developments we tracked in October and a checklist of the essential items you should consider addressing in November and beyond.



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Plan for workplace impacts of election results. In 2024 we'll have a new president and likely see changes in Congress and state and local governments. Additional voters will weigh in on a number of state ballot issues that affect the workplace, like paid leave, recreational ca

and minimum wage laws. Visit our [Election Season Center](#) to review all our thought leadership and practical resources – and check back often. We'll continue to post-election resources as you prepare for the new

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Consider performing a year-end pay equity audit. employers are now turning to the year-end performance review process and making decisions about bonuses and incentives for employees — which makes this a time to audit your pay practices and fix any potential disparities. [Here are four key steps you should consider taking this comp season to ensure pay equity, level playing field, and avoid significant penalties.](#)

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Track court battles over the FTC's non-compete ban. Federal Trade Commission recently appealed two federal trial court decisions – one in Texas and one in Florida – that prevented the agency from enforcing its near-total ban on non-compete agreements. [Click here to learn more about these appeals and what you should do while they play out.](#)

Keep up with new data privacy developments. Businesses that use website tracking software to monitor activities for marketing purposes must comply with a growing list of state laws. But do state wiretapping laws apply to third-party cookies, pixels, and other tracking technology on your website? [Here's what businesses across the country need to know about an October 24 ruling in Massachusetts and five steps you can take to comply with evolving data privacy rules.](#)

Go over your open enrollment checklist. As you and your colleagues tirelessly work to inform employees of their options, answer their questions, and handle the administration on the end, you must be aware of key laws impacting annual enrollment in the workplace. [Click here for five legal considerations and key takeaways to help you stay compliant.](#)

Review workplace contracts for compliance. The Labor Department's top lawyer announced on October 15 that the agency would target seven specific employment-restrictive contract provisions that she believes could discourage workers from exercising their rights under federal wage laws. [Learn more here about the contract provisions under the DOL's microscope and what you should do about this development.](#)

Work with legal counsel to understand new risks of non-compete or-pay provisions. The National Labor Relations Board General Counsel recently said that many "stay-or-pay" provisions – agreements where workers are asked to remain with their employer if they separate from employment – violate federal law, and also reminded employers that she believed many non-compete agreements also run afoul of employment law. If that wasn't enough, NLRB General Counsel J. B. Abruzzo's October 7 memorandum also said that employers have just 60 days to cure such unlawful agreements or else they could face potentially drastic monetary remedies if they don't. [Click here for seven steps you should consider given this new attack on common workplace practices.](#)

Keep up with the latest AI trends. Artificial Intelligence is reshaping how your business operates – but adopting this new technology comes with new responsibilities. The or

ensure that the AI you use aligns with your business, complies with regulations, and operates ethically is “AI governance.” [Here’s your 10-step guide for getting started, covering the basics and helping you avoid day one.](#)

Simplify your cancellation process. The federal government just fundamentally changed how businesses need to handle recurring subscriptions by unveiling its new “Click-to-Cancel” rule and making it mandatory to simplify cancellation processes. Designed to eliminate so-called “tricks and traps” in subscription cancellation, this rule released by the FTC on October 16 addresses consumer complaints about confusing and restrictive procedures. [Here’s a breakdown of the rule and a five-step plan to make your business in the clear.](#)

Update your social media policies. The latest TikTok videos encouraging people to post from work have garnered millions of views as employees post videos from the retail, office, healthcare, and a host of other settings. As social media use and trends evolve, you may want to regularly review and adjust your guidelines to strike a balance while also ensuring your policies don’t run afoul of employment and labor laws. [Here are four tips for updating your social media policies to reflect this modern era on top of the latest developments.](#)

We will continue to monitor developments related to all aspects of workplace law. Make sure you are subscribed to [Fisher Phillips’ Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney.