



## Newsletter January 2012

This is a brief two-minute legal update. It is not a comprehensive or detailed summary of legal updates – it's not even all of them. This is intended to give you an "at a glance" outline of the top level issues. Please join us on January 26 for our legal update with Felicia Reid of Curiale Hirschfeld Kraemer LLP to get the specific details. You'll also have an opportunity to address questions to Felicia. Sign up here: [Labor Law Update 2012](#)

### **Issues Requiring Action:**

1. This is a new requirement; effective immediately, employers should use the DLSE form for hiring all non-exempt employees. Employers may use their own offer letter; however it is our suggestion to use the DLSE template form. Also, add the complete at-will employment statement in writing on the form. The form is attached for your reference.
2. For employee handbooks, there are two action items; 1). We will include the new "gender expression" terminology in our EEO and anti harassment policies. 2). There is a significant change to pregnancy disability leave which requires that we update the FMLA/CFRA/PDL policy. If your handbook was not updated in 2011, you'll need to update to be current to January 2012. In 2011 we added breaks for nursing mothers and organ donor leave policies. Also, if you desire or require any other changes, this is a good time to do them.
3. This significant change to pregnancy-disability leave requires employers with 5 or more employees to maintain and pay for health insurance coverage for female employees who take pregnancy disability leave up to a maximum of four months. This extends the

requirement for those employers subject to FMLA/CFRA from three months of medical coverage to four months.

4. There are minimum wage increases in various states effective January 1st. Rather than list them all, contact us to get the current information for your offices outside of California.

### **Other Updates:**

Other items that are significant to managing employer risk but do not require immediate action.

- NLRB Posting: The NLRB, National Labor Relations Board posting has been delayed until April 30, 2012. If you've posted the notice, it is suggested that you take it down. We will not post the NLRB notice until April 30 or until we receive notice of the final guidance.
- Credit Checks: Employers may continue to do credit checks on certain types of managerial positions. If you currently conduct credit checks as part of your background process, please contact your rep at OHR for guidance and proper procedure on conducting those credit checks. This is a liability issue.
- Misclassification of Employees: Employer alert! Additional penalties apply for willful misclassification of independent contractors. If you employ individuals classified as independent contractors, you should evaluate those job classifications to ensure they comply with the IRS 20 factor test. The new penalties are onerous and could harm your company financially. Call us for assistance.

### **Changes Recently Passed:**

- Organ and Bone Marrow Donor Leave: There is additional guidance on the leave time period. Your handbook should contain an organ and bone marrow donor leave policy.
- Genetic Information Act: Applies to companies with 5 or more employees. The recent change amended the Fair Employment and Housing Act to state that employers are prohibited from discriminating against employees on the basis of genetic information.
- Leave Rights: New language prohibits employers from interfering with the rights of employees under the leave laws. We suggest you provide training to your managers on recognizing and managing leaves so that you can avoid any possibility of a manager inadvertently interfering with an employee's leave rights.
- Workers Compensation: There are a number of changes to workers compensation.

**On the Horizon:**

- Sales Commission Plans: A heads up for an expected change coming in 2013. Effective next year, sales commission plans must be in writing. It's not required today, but it's a good idea to start putting those notifications and plans together so that you may obtain timely legal review of your sales commission plans.

Plan to tune in for the legal update on January 26th to get additional information on all these items and more. Also, we're ordering compliance posters for 2012. Please let us know if you would like to order new compliance posters. Follow this link to order now: [Poster Order 2012](#)

To learn more, contact the HR professionals at MyOHR. [www.MyOHR.com](http://www.MyOHR.com)

**These articles should not be construed as legal advice or as pertaining to specific situations. Consult with your legal counsel for further information.**

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## **Stay “In The Know” in 2012 – Educational Seminars**

We have a variety of educational seminars planned for 2012. Some will be live from the office of our partner in Campbell. Others will be conducted using “Go To Meeting” web conferencing.

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### **January Educational Session**

**2012 Legal Update** -- Join us on Thursday, January 26th for an update on Labor laws for 2012. This session will help you get the jump on the new issues. [2012 Webinar Labor Law](#)

### **February Educational Session**

**DOL Audit** -- Join us on Thursday, February 23rd for a session with Lisa Klinger of Leavitt Business Solutions on the topic of "How to Plan for a Department of Labor Audit".

[DOL Audit Webinar](#)

### **March Educational Sessions**

**OHR's Quarterly Harassment Prevention Training for Managers** -- The next OHR Harassment Prevention Training for Managers session is scheduled for **Thursday, March 29th at 1:00 pm** in Campbell, CA. This is a live training presentation. To register please RSVP for the live session at [Harassment Prevention Training](#)

### **Strategies for Preventing Workplace Violence**

On Thursday, March 29th, join us for a discussion on Workplace Violence Policies with Mike Regan.

[Workplace Violence Webinar](#)