

2024 Employment & Executive Compensation Compliance Checklist

Each year, LP's **Employment & Executive Compensation Practice Group** is pleased to provide a short checklist of steps that all companies should consider taking to measure their readiness for the coming year. We hope you find our 2024 Employment Law Checklist a helpful guide to best practices for the year ahead.

Refresh, Recharge, and Revamp Paid Time Off and Sick Time Policies. Illinois jurisdictions have been very busy implementing new paid leave requirements. The Illinois Paid Leave for All Workers Act took effect January 1, 2024 and requires all Illinois employers to provide 40 hours of paid time off to use for “any reason,” and Cook County joined in with a new Ordinance setting out similar requirements. Pre-existing policies may meet the requirements under this law; however, employers should revise these policies to ensure they are inclusive of all the requirements under this law. The City of Chicago raised the bar even further by requiring 40 hours of paid leave and an additional 40 hours of paid sick leave for Chicago employees beginning July 1, 2024. Not surprisingly, Illinois is not alone in this activity. California, Colorado, and Minnesota (and a number of localities) have also updated their paid leave laws. Employers need to review their policies and applicable requirements to make sure that the amount of time provided, how it's accrued, how it's used, whether it carries over and how it's handed on termination are both workable for the company and legally compliant.

Revisit Bereavement Policies. Under amendments to the Illinois Victims' Economic Security and Safety Act (VESSA) and the Illinois Bereavement Law effective January 1, 2024, employees are permitted up to two weeks of unpaid, job-protected leave to attend a funeral, arrange a funeral, or grieve if a family or household member is killed in a crime of violence. Illinois also created a new requirement that employers with 250 or more employees offer 12 weeks of unpaid bereavement leave for the loss of a child due to suicide or homicide, while employers with 50-249 employees must provide six weeks of unpaid leave in those circumstances. It's important that employers update their policies to reflect these new requirements and coordinate them with other paid leave offerings.

Understand New Safety in the Workplace Requirements. California employers are now subject to the first proactive workplace violence prevention plan requirements in the US. Under the new requirements, employers must establish, implement, and maintain an effective, written Workplace Violence Prevention Plan, log information for every workplace violence incident, maintain up-to-date records, and meet training obligations, among other requirements. But it's not just California employers who should take note. Amendments to the Illinois Gender Violence Act permit victims to sue employers whose employees or agents commit gender-related violence in the workplace if the violence arises “out of and in the course of employment with the employer.” To minimize liability, it's important that employers conduct regular anti-harassment training (which should include that violence against employees is prohibited) and stay on top of allegations of harassment or violence in the workplace.

Confirm Compliance with Pay Transparency and Equity Laws. Transparency in the workplace continues to be a legislative priority across the country. Beginning in 2025, Illinois employers with at least 15 employees will need to include the wage or salary range and a general description of benefits in job postings, so it's important the HR and recruiting teams start thinking about how they will gather and provide this information. Also in Illinois, the deadline for employers with 100+ employees to submit for their Equal Pay Certification is March 23, 2024. Covered employers that haven't already submitted should move quickly to prepare this detailed, information-intensive application by the deadline. Employers with Colorado employees should also be aware of amendments to the Colorado Equal Pay for Equal Work Act which make some requirements more reasonable while creating new obligations around pay transparency.

- ❑ **Revise Handbooks and Template Agreements that include Confidentiality or Non-Disparagement Provisions to Avoid Liability Under New Standards.** A decision from the National Labor Relations Board in February 2023 means that employers need to ensure that standard employment covenants – such as confidentiality, non-disclosure and non-disparagement – cannot be read to limit non-supervisory employees’ right to make complaints or discuss them with fellow employees, former colleagues, unions, attorneys, the NLRB or others. This development is noteworthy because the language itself creates risk, even if it is never used. It is critical that employers update employee handbooks and other employment-related documents to either include a clear statement that the provision does not limit employees’ exercise of protected rights.
- ❑ **Make Sure Temporary Employee Engagements Meet Strict New Standards.** Both staffing firms and the companies that use their non-professional, non-clerical workers have new obligations under amendments to Illinois’ Day and Temporary Labor Services Act (“DTLSA”). Among other requirements, staffing companies are now required to provide long-term workers (those who are assigned to the same client for more than 90 days in a 12-month period) with pay and benefits not less than what is provided to the client’s lowest-paid directly-hired employees. Companies using staffing company workers are required to confirm that the agency is registered with the Department of Labor at the time it enters into the contract and are required to provide staffing firms with the information necessary to meet the DTLSA’s compensation requirements. Staffing firms should already be aware of and complying with the DTLSA, but companies that use non-professional, non-clerical workers assigned by temporary companies need to make sure they understand and adhere to these new requirements.
- ❑ **Ensure Independent Contractor Agreements Meet New Requirements.** Effective July 1, 2024, companies that engage independent contractors or freelancers in Illinois will be required to have a written agreement with each independent contractor or freelancer that includes very specific information, including an itemization of the products and services to be provided and payment details. Companies that use independent contractors or freelancers need to review and revise contracts to make sure they include all required information and implement new agreements as necessary.
- ❑ **Stay Abreast of New Limitations and Requirements around Restrictive Covenants – and Liability for Implementing Unenforceable Ones.** On the national level, 2023 saw the NLRB taking the position that requiring a non-supervisory employees to sign a non-compete was an unfair labor practice (regardless of whether it was ever enforced) and the Federal Trade Commission issuing a proposed rule that would drastically limit non-competes (even in the sale of business context). While a bill in New York that would have prohibited all non-competes was ultimately vetoed, California took steps to give additional teeth to its prohibition on non-competes and customer non-solicits, amending the law to make clear that such provisions aren’t only void, they are also “unlawful,” and requiring employers to notify employees who signed any such provision about the new law by February 14, 2024.

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