



Legal Agreements Through the Employment Lifecycle

October 28, 2021

* Although we will be providing legal information during this webinar, we will not be providing legal advice. If you have a legal question about your specific situation, we suggest consulting a lawyer.

Agenda

- Offer Letters
- Employment Contracts
- Separation Agreements
- Independent Contractor Agreements
- Non-disclosure Agreements
- Demo of SixFifty's New Tool
- Questions and Answers

OFFER LETTER

Designed for hiring employees in the evolving employment landscape.

What to include:

- In office, remote, or hybrid
- Full-time or part-time
- Position/title
- Salaried or hourly
- Eligibility for starting and/or annual bonus
- Commission pay
- Exempt or non-exempt under FLSA
- Benefits
- Start date

OFFER LETTER – Risks for Companies

- Best practices vs. legal requirements
- Include statement of at-will employment, or risk at-will status of employee
- Offer letter should include notice requirements for restrictive covenants and take notice period into account when setting a start date.
 - DC – Companies must inform DC employees that non-competes are banned. Penalties range from \$350-\$1,000 per violation.
 - Illinois, New Hampshire, Maine, Massachusetts, Minnesota, Oregon, and Washington require companies to notify potential employees that a non-compete and/or non-solicitation provision will be a condition of employment and provide copy of the non-compete typically at least 7-14 days before the employee's start date. Some require companies to advise employee to seek counsel. Absent this notice, the non-compete is void and unenforceable.
 - These notice requirements are becoming more common as states are rapidly passing laws to rein in non-competes.

EMPLOYMENT CONTRACT

Can contain, among many others, the following provisions:

- At-Will Employment
- Confidentiality/Non-Disclosure
- Invention Assignment Agreement
- Non-Solicitation (Customers, Employees, Third Parties)
- Non-Competition
- Arbitration
- Jury Trial Waiver

EMPLOYMENT CONTRACT – The Non-Competition Landscape

- Rapidly changing area of the law. So far in 2021, 66 bills have been introduced in 25 different states attempting to rein in use of non-competes.
- Biden's executive order that the FTC curtail the use of non-competes. Stay tuned.
- Three basic approaches to non-compete laws:
 1. Non-competes banned in California, Oklahoma, North Dakota, and soon, D.C.
 2. A minority of states have passed laws severely restricting use of non-competes through mechanisms like income thresholds and notice requirements. Expect more of these laws soon.
 3. Most states have no statutes addressing non-competes, and it is up to the courts to limit non-competes in those states.
- Our tool will help companies comply with fast-changing non-compete laws in all states where they have employees.

EMPLOYMENT CONTRACT – Non-Competition Requirements

- Illinois, New Hampshire, Massachusetts, Maine, Minnesota, Oregon, and Washington all require various notice periods for employees entering non-compete clauses. Some require company to affirmatively advise employee to consult an attorney.
 - Offer Letter and Employment Agreement tools work together to ensure companies comply with non-compete notice requirements.
- Illinois and Massachusetts require extra “consideration” for non-compete to be enforceable.
- Illinois, Maine, Maryland, New Hampshire, Oregon, Rhode Island, Virginia, and Washington use income thresholds.
- In Nevada, non-competes not allowed for hourly employees.
- Companies must strictly comply with these laws, or their non-competes won't be enforceable.

EMPLOYMENT CONTRACT –Non-Competition Risks

- In some states, employers can face civil penalties for including unlawful non-competes in employment agreements.
- For example, in **Washington**, non-competes are unenforceable if employee makes less than \$100k/year or if company fails to provide copy of non-compete prior to employee's acceptance of offer. Companies face statutory penalties of \$5k plus attorney's fees for violating the law.

Washington State
Office of the Attorney General
Attorney General
Bob Ferguson

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Home | News | News Releases | Bellingham medical providers must end illegal non-compete contracts, pay \$110K as a result of AG Ferguson consent decree

Bellingham medical providers must end illegal non-compete contracts, pay \$110K as a result of AG Ferguson consent decree

FOR IMMEDIATE RELEASE:
Aug 26 2021

Ending exclusive contracts with area medical clinics saves patients money

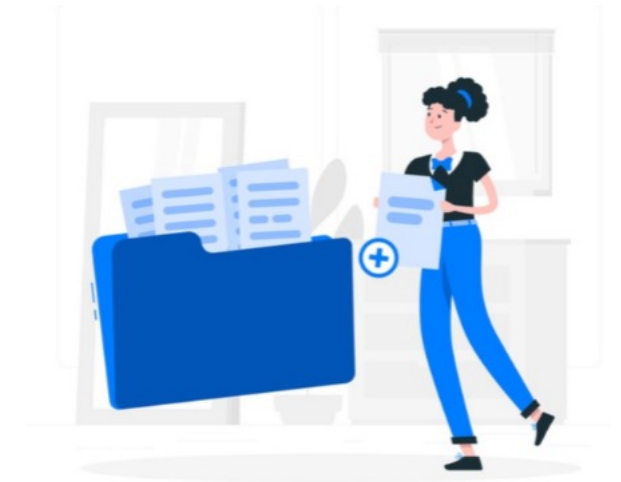
BELLINGHAM — Attorney General Bob Ferguson today announced that, as a result of his [antitrust consent decree](#),

Separation Agreements

- Consider whether a separation agreement or separation acknowledgment is the best form
- Understand the reasons for termination
- Consider a waiver and release of claims
 - Follow state-specific laws regarding notice periods, types of claims that can be waived, and revocation periods
- Consider providing severance
 - Follow any collective bargaining agreements, employment agreements, or company severance plans
 - Consider subsidizing COBRA coverage

Separation Agreements

- Remind employees of restrictive covenants
 - Arbitration provisions
 - Confidentiality provisions
- Provide required federal or state notices or forms to employees
- Obtain the employee's signature

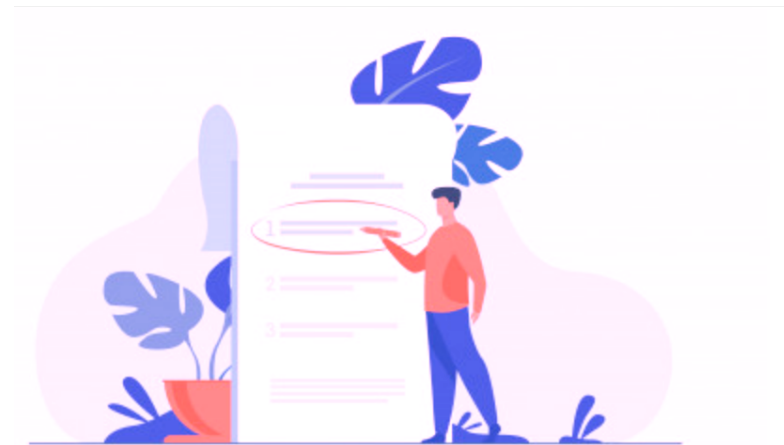


Independent Contractor Agreements

- Ensure independent contractor status
- Prepare independent contractor agreement, including:
 - Description of services
 - Expectations
 - Term of relationship
 - Compensation
 - Independent contractor terms

Independent Contractor Agreements

- Other provisions:
 - Non-disclosure agreement
 - Assignment of inventions
 - Indemnification
 - Mediation and jury trial provisions
 - Jury trial waiver



Nondisclosure Agreements

- Standalone non-disclosure provisions for potential employees or independent contractors



Questions and Answers

www.SixFifty.com/EmploymentAgreements