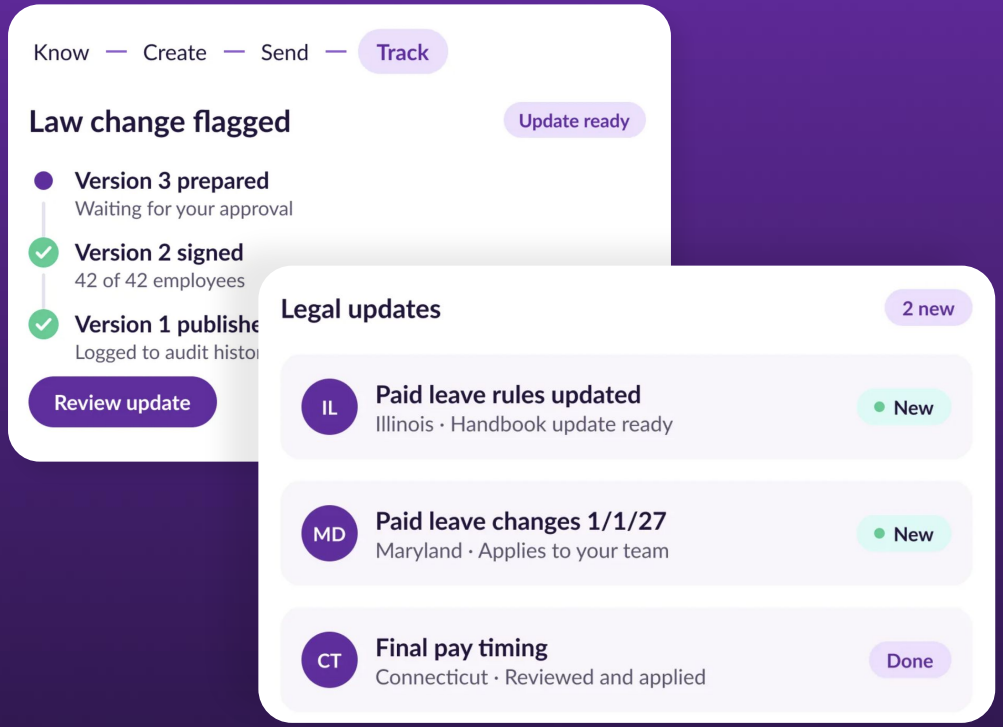
EOY SERIES: PART 1

EOY Employment Law Update: 2026 Year-in-Review

November 5th, 2026

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Today's agenda

1. Employment agreements and AI
2. Minimum wage & pay transparency
3. Leave, EEO, and worker classification
4. Practical applications & important dates

A recording of the webinar + a copy of the slide deck will be sent to all registrants after the webinar

Recertification codes for HRCI and SHRM will be shared at the end of the webinar

PART 2: THURS, NOV. 19 — JAN. 1ST LEGAL UPDATES & 2027 LOOK-AHEAD

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Non-compete and non-solicitation legal updates

Non-compete agreement: A promise, usually in a sale-of-business, partnership, or employment contract, not to engage in the same type of business for a stated time in the same market.

Non-solicitation agreement: A legal contract that prohibits one party (usually a departing employee) from recruiting another party's (the former employer's) customers, clients, staff, vendors, or other contacts for a set period once the relationship ends.

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Washington: A full non-compete ban

HB 1155 (signed March 23rd, 2026)

- Every non-compete becomes void and unenforceable starting June 30, 2027—regardless of when it was signed.
- The old earnings threshold is gone; enforcing, threatening to enforce, or even entering into a new non-compete is a violation.
- Employers must notify current and former employees and contractors that their non-compete is dead by October 1, 2027.



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Virginia: Severance requirements & judicial expansion

SB 170: Effective as of July 1st, 2026

- Non-competes are only enforceable against no-cause terminations if severance is paid—no exceptions for highly-compensated employees or business sales

Sentry Force Security v. Barrera

- VA Court of Appeals ruled that only customer non-solicits are exempt from the law. Other types of non-solicit agreements qualify as non-competes.



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Virginia: Employee non-solicits = non-competes

***Sentry Force Security, LLC v. Barrera*—Virginia Court of Appeals, January 27th, 2026**

- Customer non-solicits are not non-competes—as long as they don't prohibit doing business with customers who leave on their own accord
- Non-solicits for employees and others are functionally non-competes, and must be treated the same way
- Just as with non-competes, employee/other non-solicits are only enforceable against someone who:
  - Isn't an attorney or physician;
  - Earns at least $1,507.01 a week; and
  - Actually has access to a protectable interest

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Tennessee: New salary threshold

HB 1034: Effective as of July 1st, 2026

- Non-competes can't be enforced against anyone earning less than $70,000 a year.
- Also codifies a time restriction. Common law generally presumed 1 year was reasonable—the new law creates a presumption that 2 years is reasonable.
    - Not a guarantee: 2 years can still be found unreasonable if the employee proves there's no legitimate reason for it to last that long.



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Non-compete wage thresholds: 2026 state updates

Many states increase their non-compete salary thresholds annually. Employers must verify that any employee subject to a non-compete meets the updated wage floor—agreements with below-threshold employees may be unenforceable.

State	2026 Threshold	Notes
District of Columbia	**$162,164**	Indexed annually; one of the highest thresholds in the country
Colorado	**$130,014**	Based on CO DOL's "highly compensated worker" definition
Washington	**$126,859**	Adjusted annually by WA DLI, based on CPI
Oregon	**$119,541**	Indexed annually; based on CPI
Virginia	**$78,365**	Based on state's average weekly wage
Tennessee	**$70,000**	HB 1034 effective July 1, 2026—no non-competes below this threshold
Maine	**$63,840**	400% of federal poverty level
Maryland	**$49,920**	150% of the state minimum wage ($15/hour)
Rhode Island	**$39,900**	250% of federal poverty level

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Healthcare & other carve-outs

- **Louisiana (effective 8/1/26)**: HB 315 bans non-competes with interns & apprentices, paid or unpaid
- **Maine (effective 7/29/26)**: LD 2200 non-competes with healthcare practitioners unenforceable unless the practitioner has an ownership stake; must include a patient-choice clause
- **New Hampshire (effective 7/7/26)**: SB 402 bans non-competes with physician associates—prospective only
- **Utah (effective 5/6/26)**: SB 111 bans non-competes with veterinarians unless they own at least 5% of the practice. Bans non-solicits with vets entirely
- **Utah (effective 5/6/26)**: HB 270 bans non-competes with healthcare workers generally. Non-solicits can't stop healthcare workers from telling patients where they're going to be working when they leave
- **Virginia (effective 7/1/26)**: HB 627/SB 128 bans non-competes with licensed healthcare professionals (medicine, nursing, counseling, optometry, psychology, social work)



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Non-disclosure legal updates

Non-disclosure agreements (NDAs, also known as confidentiality agreements): Agreements where parties agree that certain information will remain confidential.

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Non-disclosure agreements: Alabama (Trey's Law)

Signed February 19, 2026 by Governor Ivey, SB 30 voids any provision in a non-disclosure agreement, confidentiality agreement, employment agreement, settlement agreement, or any other agreement that prohibits someone from disclosing:

- An act of sexual abuse, or
- Facts related to such abuse—including conduct that would be a criminal violation under Alabama's sexual offense statutes

This applies regardless of whether any criminal legal action has been taken.

The law took effect on October 1, 2026.

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Utah: Limits with healthcare workers

SB 111: Effective 5/6/26

- Prohibits non-disclosure agreements with veterinarians in which the veterinarian agrees not disclose or discuss their experience working for the employer



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TRAP legal updates

TRAP agreement (also known as stay-or-pay agreements): A contractual term requiring an employee to pay back training costs, equipment fees, or hiring expenses if they leave their job before a specified period.

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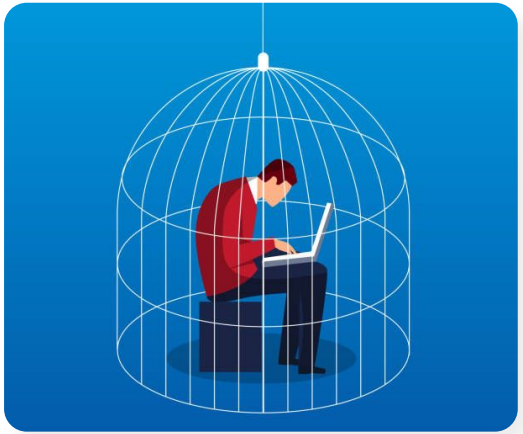
New York: “Trapped At Work Act” amended

AB A584C: Signed December 19th, 2025

- Original “Trapped At Work Act” banning promissory notes requiring repayment if an employee leaves before a set period

AB A9452: Effective December 19th, 2026

- Amends AB A584C
- Now applies only to “employees,” not the broader “worker” category (independent contractors are out)
- New exception for tuition tied to transferable credentials, under certain conditions
- Employees can now file a DOL complaint



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Connecticut: Removes employer size restriction

HB 5003: Effective October 1st, 2026

- Amends existing ban on promissory notes
- Removes the old employer-size exception—now every employer, regardless of headcount, is barred from using promissory-note repayment agreements



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California: Ban on TRAPs

AB 692: Effective January 1st, 2027 (originally January 1st, 2026, extended by AB 1697)

- Bans TRAPs / “stay-or-pay” agreements outright:
  - No debt owed on exit
  - No debt collection triggered by exit
  - No penalty or fee tied to leaving
- Narrow loan/tuition exceptions apply



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Minimum wage updates

Significant off-cycle changes

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Minimum wage updates: Jan. 1st, 2026

Minimum wage increases went into effect for these states on Jan. 1st, 2026

- Arizona - $15.15/hr
- California - $16.90/hr
- Colorado - $15.16/hr
- Connecticut - $16.94/hr
- Hawaii - $16/hr
- Maine - $15.10/hr
- Michigan - $13.73/hr
- Minnesota - $11.41/hr
- Missouri - $15/hr
- Montana - $10.85/hr
- Nebraska - $15/hr
- New Jersey - $15.92/hr
- New York - $16/hr
- Ohio - $11/hr
- Rhode Island - $16/hr
- Vermont - $14.42/hr
- Virginia - $12.77/hr
- Washington - $17.13/hr

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Minimum wage: 2026 off-cycle updates

- **Alaska:** $14.00 per hour, effective July 1, 2026
- **D.C.:** $18.40 per hour, effective July 1, 2026
- **Oregon:** On July 1, 2026, the minimum wage rose in Oregon's three minimum wage categories:
  - Portland Metro Area: $16.80 per hour;
  - Standard / General Counties: $15.55 per hour;
  - Non-Urban Counties: $14.55 per hour.
- **Florida:** $15.00 per hour, effective September 30, 2026

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Pay transparency updates

Pay transparency protections continued to expand in 2026

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State updates

- **Federal**: On July 21, 2026, the EEOC proposed to rescind their EEO-1 reporting requirements. They are reviewing the public comments now before finalizing the rescission.
- **California**: Effective January 1, 2026, the "pay scale" that must be included in job postings needs to be a "good faith estimate" of the pay range, reflecting what the employer intends to pay a new hire.
- **Connecticut**: Effective October 1, 2026, new pay transparency rules require employers to include wage range and benefits information in job postings.
- **Maine**: Effective July 19, 2026, employers with 10 or more employees must include pay ranges in job postings unless compensation is based solely on commission.
- **Oregon**: On April 1, 2026, an Oregon court clarified that Oregon employees are protected from retaliation for asking for a raise, even where there is no claim of pay inequity or class-based discrimination. *Mirkovic v. Tenasys Corp.*, 348 Or App 70 (2026).
- **Virginia**: Effective July 1, 2026, employers may not seek the wage history of job applicants and must disclose good faith wage or salary ranges in all job postings. Employers also may not retaliate against applicants or employees for refusing to provide wage history or requesting pay range information.
- **Washington**: Effective January 1, 2026, employers must disclose a fixed wage amount, rather than a scale or range, if the employer is offering only a fixed wage for a position.

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AI updates

States continue to regulate AI

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California: Automated Decision Systems in the workplace

Passed September 30th, 2026

Effective July 1st, 2027

Employers may not rely on ADS for disciplinary decisions:
If an employer primarily relies upon an Automated Decision System (ADS) to make a disciplinary or termination decision, they must have a human corroborate the decision using data that was collected or used to produce the ADS output.

An ADS may not be used to circumvent legal protections:
Employers may not use ADS to:

- Violate any federal, state, or local laws or regulations;
- Infer an employee's protected status; or
- Predict and take adverse action against a worker for exercising their legal rights.

Retaliation is prohibited:
Employers may not discharge, threaten to discharge, demote, suspend, or discriminate or retaliate against any employee for using or attempting to use their rights under the new law.

Penalties:
In addition to injunctive relief, punitive damages, and attorney's fees, employers can face fines up to $500 per violation.

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Colorado AI law revision: SB 189

What the law now covers

Applies when: Employers use Automated Decision-Making Technology (ADMT) to make consequential employment decisions: hiring, firing, promotions, compensation, or similar employment-related determinations.

Three employer obligations:

1. **Pre-decision notice:** Notify employees and applicants before using ADMT to make a consequential decision about them.
2. **Adverse action process:** If adverse action is taken, provide written notice explaining the decision, opportunity to correct the data used, and right to meaningful human review.
3. **Three-year recordkeeping:** Maintain records related to all ADMT-based employment decisions for 3 years.

What changed from the prior law

SB 189 scaled back two prior employer obligations:

- ✖ Risk management programs
- ✖ Annual impact assessments

Developer obligations added:
Technical documentation required. Must notify deploying employers of material updates.

Penalties & enforcement:

- $20,000 per violation
- 60-day cure period available

If you use AI tools in hiring or employment decisions, document your process and build notice and adverse action procedures before January 1, 2027.

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Connecticut Artificial Intelligence Responsibility and Transparency Act

Effective October 1st, 2026

AI decisions can still be discriminatory:
The law explicitly states that the use of Automated Employment-Related Decision Technology (AEDT)is not a defense to a discrimination claim.

Mass layoffs must indicate AI influence:
Employers must state in any WARN Act notice provided to the state whether a layoff is due to the use of artificial intelligence or other technological changes.

Effective October 1st, 2027

Employees must be notified of AI influence:
Employers must disclose to CT employees and applicants when they are interacting with an AEDT.

Additionally, before using an AEDT to make an employment-related decision, employers must provide affected applicants/employees a written notice regarding AEDT's input.

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Where the law moved in 2026

1. Leave kept growing

New paid family leave programs launched, and job-protected and sick leave laws now reach more employers.

2. Worker classification is in flux

A new federal contractor test is pending, states are writing their own rules, and state salary thresholds keep rising for exemptions..

3. Federal EEO enforcement is narrowing, while states are expanding EEO laws

The federal government pulled back while states expanded coverage.

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FMLA & job-protected family leave

U.S. DOL Opinion Letter Clarified Travel Time

Issued: January 5th, 2026

FMLA leave covers travel time to and from medical appointments for the employee's or a family member's serious health condition. Certifications don't need to address travel time.

New Jersey Expanded Eligibility

Effective: July 17th, 2026

NJFLA now covers employers with 15+ employees (was 30+). Employees qualify after 3 months and 250 hours (was 12 months and 1,000 hours).

Hawaii Expanded Reasons for Leave

Effective: July 1st, 2026

Adds up to 4 weeks of unpaid, job-protected family leave for a qualifying military exigency.

Illinois Added NICU Leave

Effective: June 1st, 2026

Unpaid, job-protected leave while a child is in the NICU: up to 10 days (16-50 employees) or 20 days (51+). Health coverage continues during leave.

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Paid family & medical leave

State	Effective	What changed
Delaware	**Jan 1, 2026**	Healthy Delaware Families Act benefits begin
Minnesota	**Jan 1, 2026**	New statewide program launches
Washington	**Jan 1, 2026**	Job protection now at 25+ employees (15+ in 2027, 8+ in 2028) after 180 days
Colorado	**Jan 1, 2026**	Up to 12 extra weeks of paid leave for parents of a baby in the NICU
Maine	**May 1, 2026**	Benefits begin: up to 12 weeks (applications opened March 30)
Maryland	**Sep 1, 2026**	Employer registration opens; withholding starts Jan 2027, benefits Jan 2028
Washington, D.C.	**Oct 1, 2026**	Cutbacks: family leave 12 to 6 weeks, medical 12 to 10, max benefit $1,100/week

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Paid sick leave: what changed in 2026

Connecticut | Effective January 1st, 2026

- Paid sick leave now covers employers with 11+ employees (was 25+). Starting January 1, 2027, it covers employers with 1+ employee.

New York City | Effective February 22nd, 2026

- Adds 32 hours of unpaid “protected time off” each year, available right away, plus new reasons to use leave. The new notice was due March 24.

Pittsburgh, PA | Effective January 1st, 2026

- Accrual rate is now 1 hour per 30 hours worked (was 35). Annual caps rise to 48 hours (under 15 employees) and 72 hours (15+).

Virginia | New sick leave law passed in May of 2026; Effective July 2027

- Sick leave requirements will be phased in between 2027-2029. Employers of at least 50 employees in the U.S. must provide leave beginning July 1, 2027, employers with at least 25 employees by January 1, 2028, and employers with at least one employee by January 1, 2029. Covered employers must provide 1 hour of paid sick leave for every 30 hours worked, up to 40 hours/year.

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Exempt vs. non-exempt: 2026 salary thresholds

The federal minimum held steady, but several states required much more. Pay at least the highest threshold that applies, and remember the job duties test still matters.

Jurisdiction	2026 minimum salary	Effective & notes
Federal	**$684/week ($35,568/year); HCE $107,432**	2024 rule formally rescinded in May 2026; 2019 levels apply
California	**$70,304/year**	Effective Jan 1, 2026; 2x state minimum wage ($16.90/hr)
Colorado	**$1,111.23/week (about $57,784/year)**	Effective Jan 1, 2026; set by the 2026 PAY CALC Order
Maine	**$45,300/year**	Effective Jan 1, 2026; 3,000 x state minimum wage ($15.10/hr)
New York	**$1,275/week NYC, Long Island, Westchester; $1,199.10/week elsewhere**	Effective Jan 1, 2026; executive and administrative exemptions
Washington	**$80,168.40/year**	Effective Jan 1, 2026; 2.25x state minimum wage ($17.13/hr), rising to 2.5x by 2028

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Employee vs. independent contractor

Federal | DOL proposed rule

Final rule pending

Would replace the 2024 six-factor test with a rule that would use a multi-factor “economic reality” test to determine whether a worker is an employee or an independent contractor, giving the most weight to **the worker’s control over the work** and **opportunity for profit or loss**.

New Jersey | ABC test rules

Effective: October 1st, 2026

Final regulations explain how the state applies its 3-part ABC test under its unemployment, wage-and-hour, and wage payment laws. A worker is an employee unless the business proves all three parts.

WY, WV, KS, GA, LA | Portable benefits

Effective: June 12th to August 1st, 2026

Contributions to a contractor's portable benefits account can't be used to show the worker is an employee.

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Equal Employment Opportunity: States step up

While federal enforcement narrowed, states expanded coverage, deadlines, and notice duties.

Virginia

Effective: July 1st, 2026

Human Rights Act now covers employers with 5+ employees (was 15+). The filing deadline for complaints extends from 300 days to 2 years.

Connecticut

Effective: October 1st, 2026

Written notice of the right to disability accommodations at time of hire (by January 29, 2027 for employees hired before Oct. 1). Lactation breaks must be in addition to regular breaks.

Minnesota

Effective: August 1st, 2026

Failing to engage in the interactive accommodation process can be an unfair discriminatory practice on its own.

Delaware

Effective: September 30th, 2026

Employees may skip employer meetings about religious or political matters, including unions, without retaliation, and must still be paid if they work while the meeting takes place.

California

Effective: July 8th, 2026

New guidance clarifies that employees can request reasonable accommodations at any time, are not required to make requests in writing or use specific language, and may seek accommodation for conditions that are temporary.

Pennsylvania

Effective: January 26th, 2026

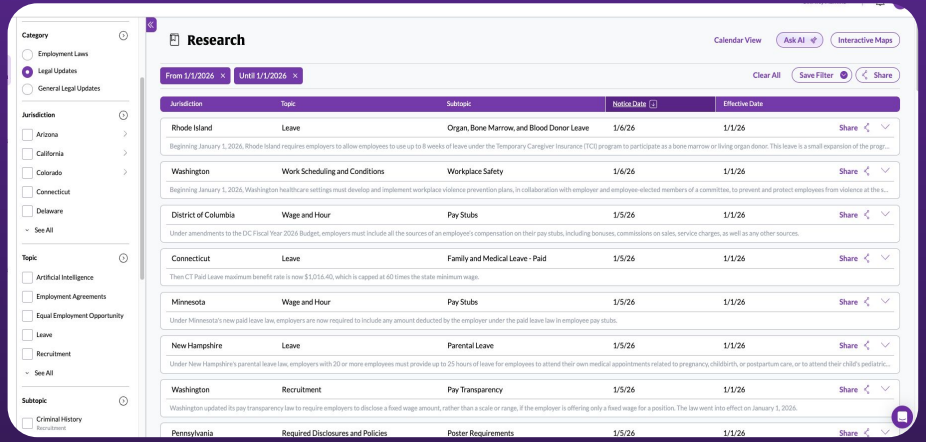
“Race” includes hair texture and protective hairstyles; “religious creed” includes head coverings and religious hairstyles.

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Updating your employee handbook

- How often do you need to update your employee handbook?
- The lawyer's answer to every question: It depends!
- **Best practice**: Review your employee handbook every month for possible updates.
    - Consider changes to laws, your organization's footprint, and your employee count.
    - You may not need to make changes every month.
    - A little time each month can save you a lot of time down the road .



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Signatures and acknowledgments

- When do you need to send your employee handbook to employees for signature or acknowledgment?
    - Lawyers favorites answer: It depends
- An employee handbook **is not** a contract.
- Different approaches:
    - Send out for acknowledgment every time there is a significant change
    - Make employees aware of changes as they occur and send out for acknowledgment once a year
    - Make employee aware of changes as they occur but only get acknowledgments when they start



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“There are so many changes. Where should I start?”

- **Changes that affect employee pay**
  - Minimum wage
  - Employee classification: Exempt vs. non-exempt
- **Paid leave**
  - Paid Sick Leave Laws
  - Paid family and medical leave
- **Employment contracts**
  - Non-completes
  - TRAP agreements

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Tired of playing employment law catch-up?

When it comes to legal changes, understand that not all dates are created equal

- Laws that update regularly often change on notable days—January 1st and July 1st are common, as they align with state government fiscal years and legislative sessions
- Ad hoc changes are more likely to kick in on the 1st of the month than, say, the 22nd—but watch out for laws that take effect a set number of days after passage
- Some states have set calendars that determine when new laws take effect



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Tired of playing employment law catch-up?

Just like people, governments love to follow trends

- You're more likely to see new laws enacted, or existing laws changed, around topics that have seen recent reform in other states
- Paying attention to what other states are doing can help your HR team not be caught off-guard by broader employment law developments

Finding a reliable source of updates is a great way to identify trends before they impact your business

- Tracking when bills are signed into law—not just their effective date—can help you get your ducks in a row early, as there is often a large gap of time between the two dates
- If you struggle with "we don't know what you don't know," a platform like SixFifty that pushes updates to you (based on the states you're in) can be helpful

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