PREPARING YOUR BUSINESS FOR STATE AND FEDERAL CHANGES

PLDO Partner Matthew C. Reeber provides a rundown of three notable changes in employment law, at both the state and federal level so your business can prepare and adapt.

Rhode Island Expands Workplace Protections to Include Menopause

Key points:

- The State of Rhode Island now defines menopause as a protected class under RIFEPA, requiring reasonable workplace accommodations.
- Employers should update policies and train staff to ensure compliance with new RIFEPA and ADA requirements.

Rhode Island recently became the first state to define menopause as a protected class, in an amendment to its Fair Employment Practices Act ("RIFEPA"). The amendment requires employers to offer accommodations to employees with menopause, perimenopause and related medical conditions. For employers, this means that they must treat menopause like any other protected class and offer reasonable accommodations for employees who suffer from any symptoms related to menopause. Employers should anticipate requests for modified schedules, remote work and improved work conditions, including cooler offices and increased break times to address fatigue. Employers must also engage in the interactive process outlined by RIFEPA when employees seek accommodation for menopause.

This is a good time for employers to review their employee handbooks and update anti-discrimination policies to reflect menopause as a protected class. Employers should also review the interactive process required by RIFEPA and the Americans with Disabilities Act ("ADA") to ensure Human Resources, managers and supervisors are prepared to appropriately respond to RIFEPA/ADA requests for reasonable accommodations.

PLDO lawyers are available to assist with any related needs concerning this amendment or best practices in addressing requests for reasonable accommodation. Please contact mreeber@pldolaw.com with any questions.

Federal Changes for Joint Employers and Independent Contractors

Key Points:

- The Trump Administration recently issued guidance on when employers will be considered a "joint employer" for purposes of overtime.
- The Trump Administration also signaled that it will not adopt a Biden proposal concerning independent contractors.

On September 30, 2025, the Department of Labor issued an opinion letter addressing when a business may be considered a joint employer for purposes of the Fair Labor Standards Act (FLSA). The letter addressed an inquiry made by an employee who worked as a hostess for a restaurant in a hotel. The hostess also worked shifts at a members club located within the hotel. The restaurant and hotel allegedly employed managers that participated in disciplinary matters for both businesses. The restaurant and members club had separate corporate identities, used different payroll systems but had common ownership.

The DOL found that the restaurant and members club were joint employers and that the employee would be entitled to overtime for all time worked over 40 hours between both businesses. The DOL reasoned that while the members club and restaurant may be separate legal entities, corporate structure does not override the FLSA. The DOL found that the two entities were joint employers because they had a physical proximity to each other, shared a kitchen, maintained similar food and beverage menus and some managers supervised employees and facilities at both entities. The employers were therefore jointly liable to the employee for overtime.

On September 30, 2025, the Trump Administration confirmed that it would abandon a proposed change to the FLSA that would have allowed more independent contractors to be classified as employees for purposes of wages and overtime. The DOL stated it plans to rescind the 2024 Independent Contractor rule and reconsider how it will approach independent contractor classification under the FLSA. While the Biden Administration had sought to expand the FLSA's definition of "employee," the Trump Administration will not implement that change. Employers can expect new guidance from the DOL in early 2026, likely reflecting a more conservative approach.

Before the Biden Administration's proposed rule, the DOL evaluated independent contractor status using seven factors, known as the "economic realities" test:

1. The extent to which the services rendered are an integral part of the hiring entity's business,
2. The permanency of the relationship,
3. The amount of the alleged contractor's investment in facilities and equipment,

4. The nature and degree of control by the hiring entity,
5. The alleged contractor's opportunities for profit and loss,
6. The amount of initiative, judgment or foresight in open market competition with others required for the success of the claimed independent contractor,
7. The degree of independent business organization and operation.

Employers should learn in early 2026 whether the Trump Administration will maintain the seven factor "economic realities" test or look to redefine how the DOL looks at independent contractor status.

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