

2018 COMPLIANCE TRENDS & TOPICS

Kristine Olson, Avionté
Janell Stanton, myHRcounsel
Andy Nielsen, myHRcounsel
Mark Young, myHRcounsel

DISCLAIMER

- The information in this session is being presented by Avionté as a general informational and educational service to its clients and prospective clients.
- This information should not be construed as, and does not constitute, legal advice nor accounting, tax, or other professional advice or services on any specific matter.
- Participants should consult with their counsel or other professional advisor before acting on any information contained in this session.
- Avionté expressly disclaims all liability in respect to actions taken or not taken based on the contents of this session.

OBJECTIVES

- Trends in employment law
- How staffing companies are impacted
- What to be on the look out for
- How Avionté & myHRcounsel can help

AGENDA

- Paid Sick and Safe Leave
- ERISA and new requirements

PAID SICK AND SAFE LEAVE

Paid Sick and Safe Leave

Mish mash of various state, county and municipal laws requiring employers give paid sick and safe leave

- Majority of the statutes require:
 - Most if not all employees are eligible (including part-time, temporary and/or seasonal employees)
 - Accrue 1 hour for every 30 or 40 hours worked – with option to frontload
 - Caps on how much PSL may be accrued and used in a year vary, and not all jurisdictions have a cap
 - Most require some form of carry over
 - Most require leave for their own illness or a family member's illness with varying definitions of family members
 - Safe leave for reasons related to domestic violence, stalking or abuse
 - Vastly different notice, posting and recordkeeping requirements

Paid Sick and Safe Leave (cont.)

Further complicating the matter, many states have different laws from various counties and cities within those states.

- California:
 - California has a state-wide law requiring Paid Sick Leave
 - Berkeley, Emeryville, Long Beach, Los Angeles, Los Angeles (Airport Hotel Workers), Oakland, San Diego, San Francisco (City and County), Santa Monica.
- Illinois:
 - Illinois has a state-wide law that requires employers who give employees paid sick time to also allow employees to use that time off for family members
 - Cook County has a paid sick leave law that many municipalities have opted out of
 - Chicago its own law

Paid Sick and Safe Leave (cont.)

How can employers comply with all of this in mind?

- Make sure that you have reputable software that can help
- Consult legal counsel to be sure that you have paid sick leave policies in place that comply with all of the laws in your state
 - Do you have one sick leave policy that adopts the most employee-friendly laws of a particular jurisdiction
 - Do you have different sick leave policies for each jurisdiction where you have employees
 - What if employees travel between different jurisdictions
- Comply with notice and recordkeeping requirements – which may require the information be included on an employee's pay stub.
- Make sure front-line managers know about these laws and what they can and cannot do

Paid Sick and Safe Leave (cont.)

What does it look like if an employer violates these laws?

- Minnesota matter involving a Metro Petro & Car Wash
 - Employee said he was ill and asked for sick leave
 - Supervisor demanded he find his own replacement
 - Also denied leave stating he needed to ask off at least six hours before the shift
 - Employee suspended for a week as a result of not finding replacement and ultimately left off the work schedule – effectively terminating his employment
 - Reached an \$11,000 settlement – for one employee – in a small gas station.
- Consequences can be severe.

ERISA

CONNECT 2018

Employers Subject to ERISA

Private-Sector Employers

- Corporations
- Partnerships
- Sole Proprietorships
- Non-Profit Organizations

Key ERISA Requirements

Plan document must exist for each Plan

Plan terms must be followed and strict fiduciary standards adhered to

Fidelity bond must be purchased to cover every person who handles Plan funds

Summary Plan Description (SPD) must be furnished automatically to Plan Participants

Summary of Material Modification (SMM) must be furnished automatically to Plan Participants when a Plan is amended

Benefits Subject to ERISA

Health, Dental and/or Vision Insurance or Plans

Health Flexible Spending Accounts (separate Plans)

Health Reimbursement Arrangements (separate Plans)

Accidental Death & Dismemberment Insurance

Group Term Life Insurance

Short Term and Long Term Disability

Severance Insurance Policy

Wellness and Employee Assistance Programs

Voluntary Benefits offered as pre-tax benefits under any 125 plan

Summary Plan Description (SPD)

Who Must be Provided an SPD?

- No small Plan exception
 - Whether covers one individual or 2000
- Must be furnished to Participants covered under ERISA Welfare Plan, not required to furnish beneficiaries
- Must be furnished to COBRA qualified beneficiaries, parent or guardian under a QMCSO, and to spouse or dependent of deceased retiree who remains entitled to benefits

Summary Plan Description (SPD)

When and How to Furnish SPDs

- Should generally be furnished within 90 days after Participant first becomes covered
- NEW Plans – within 120 days after Plan becomes subject to ERISA
- Updated SPDs must be furnished to all covered Participants every 5 years (every 10 years for a Plan that had no changes)
- Must be furnished in a way “reasonably calculated to ensure actual receipt of the material,” using method “likely to result in full distribution”

Annual Form 5500 Reporting

Filing Form 5500 with DOL

- Plan administrator of an ERISA Plan must report specified information each Plan Year using Form 5500
- Reporting obligation applies to each ERISA Plan an employer sponsors

Annual Form 5500 Reporting

Penalties for 5500 Form Failures

- Plan administrator subject to penalties up to \$2,100.00 for every day form 5500 is missing or incomplete and can be subject to possible criminal penalties for willful failure to file
- Penalties are cumulative;
 - Assessed separately for each missing or incomplete Form
 - No statute of limitations
 - DOL offers program for voluntary correction of Form 5500 filings

Form 5500 Exemptions?

Penalties for 5500 Form Failures

- Plan administrator subject to penalties up to \$2,100.00 for every day form 5500 is missing or incomplete and can be subject to possible criminal penalties for willful failure to file
- Penalties are cumulative;
 - Assessed separately for each missing or incomplete Form
 - No statute of limitations
 - DOL offers program for voluntary correction of Form 5500 filings

New Schedule J

Will require reporting of:

- An estimate of the number of covered participants and beneficiaries
- How many individuals are receiving COBRA
- Who may be covered under the plan
- What type of group health benefits are offered
- Whether the plan has a high deductible
- Total premium payment
- Whether the plan is an FSA or HRA (or has either component)
- Claims payment information like counts of claims approved and denied, counts of benefit claim appeals
- Etc.



my|HR|counsel™

Let us know how we can help you and your business today!

Contact Us:

info@myHRcounsel.com

612.339.1421

844.347.2400

www.myhrcompliance.com

CONNECT 2018

This session is eligible for ASA Continuing Education credits!

Go to the ASA website to submit this session and receive your credits.

| | |
|--------------------------------|---------------------------------|
| Program Title | 2018 Compliance Topics & Trends |
| Instructor | Janell Stanton, Andrew Nielsen |
| Sponsoring Organization | Avionté Staffing Software |
| Date of Session | Thursday, August 2nd |
| City | St. Paul |
| State | MN |
| Start Time | 1pm, 2pm, 3pm |
| End Time | 1:50pm, 2:50pm, 3:50pm |
| Actual Learning Time | 50 minutes |



AVIONTÉ

CONNECT 2018