

HR Suite

Product Update Notice

Policy Manual · Handbook · Forms & Tools

Update April 2022

Includes Revised
Policies and Forms

Notice Regarding Professional Advice

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Update Contents

EMPLOYMENT LAW DEVELOPMENTS

New employment laws continue to emerge year after year which makes it increasingly difficult to keep track of. To assist you, below is a summary of changes made at the federal level.

Additionally, states have been busy passing legislation on a variety of issues specifically in areas regarding leave and benefits, background checks, pregnancy and lactation accommodations, discrimination and sexual harassment, pay equity, salary history questions, marijuana, drug testing, and guns in the workplace. COVID-19 has also caused varying state and local requirements. It is important not to lose sight of the state and local laws that also govern the workplace. Because of the variance of state laws, they are not incorporated into HR Suite or its updates. With the complexity of some of these recent developments and issues, including variances between states, legal counsel is necessary to determine what is appropriate for your organization.

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REVISED POLICIES

We conducted a comprehensive review of each of our standard, template policies. Many policies have had changes made to them. The policies were thoroughly updated to comport with recent developments in best practices, legal updates, and industry standards. As always, please ensure the updates are applicable to your specific state and workplace.

Some policies have been updated to include a choice of text options. You will notice these are marked in red in the redlines and in the master version of the manual.

Please note that all policies have been reviewed only for federal law compliance. No state law requirements are incorporated into either manual. The manuals should be reviewed by you and your attorney to ensure conformity with your organizational needs, and state and local legal requirements as applicable. Please refer to the redlined documents for specific changes. Policy numbers may differ from your specific manual due to customization. Affected policies include:

Employee Handbook

Section	Policy Number & Name	Description of Changes
2000	2012 - Anti-Retaliation	Text changed to support topic of the policy which is anti-retaliation.
2000	2030 – Equal Employment Opportunity	Policy updated for consistency.
2000	2040-Harassment and Bullying	Policy updated for consistency.
3000	3010-Employee Classification	Policy updated to reflect best practices, legal updates, and industry standards.
3000	3030-Human Resources Files and Records	Policy updated to reflect best practices, legal updates, and industry standards.
3000	3040-Reference Requests	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4026-Employment of Minors	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4033-In-House Education and Training	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4040-Medical Exams, Drug Testing, and Health Certification	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Number & Name	Description of Changes
5000	5040-Confidentiality	Policy updated to reflect best practices, legal updates, and industry standards related to the Defend Trade Secrets Act of 2016.
5000	5050-Conflicts of Interest/Code of Ethics	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5081-Personal Financial Transactions	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6010-COBRA-Insurance Continuation	Policy updated to reflect best practices, legal updates, and industry standards related to COVID-19.
7000	7010-Funeral Leave	Policy updated to reflect best practices, legal updates, and industry standards.
7000	7045-Paid Time Off	Policy updated to reflect best practices, legal updates, and industry standards.
7000	7050-Sick Leave	Policy updated to reflect best practices, legal updates, and industry standards.

HR Policy Manual

Section	Policy Name	Description of Changes
2000	2010 – Americans with Disabilities Act (ADA)	Adding language covering COVID-19 disability. Policy updated to reflect best practices, legal updates, and industry standards.
3000	3010-Employee Classification	Policy updated to reflect best practices, legal updates, and industry standards.
3000	3030-Human Resource Files and Records	Policy updated to reflect best practices, legal updates, and industry standards. Veteran status was removed as it should be on a voluntary disclosure basis.
3000	3040-Reference Requests	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4020-Hiring Procedures	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4040-Immigration Law Compliance	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4070-S.A.F.E. Act	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5010-Complaint Procedure	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5026-Employee Serious Injury or Death	Policy updated to reflect best practices, legal updates, and industry OSHA standards.
5000	5040-Layoff and Reduction in Force	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5050-Medical Examinations and Drug Testing	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5060-Medical Reporting and Health Certification	Policy updated to reflect best practices, legal updates, and industry OSHA standards.
5000	5091-Relocation	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6040-Confidentiality	Policy updated to reflect best practices, legal updates, and industry standards related to the Defend Trade Secrets Act of 2016. New sample confidentiality agreement is provided as part of this update.

Section	Policy Name	Description of Changes
6000	6050-Conflicts of Interest/Code of Ethics	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6060-Drugs and Alcohol	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6075-Personal Financial Transactions	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6080- Personal Property, Searches and Inspections	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6110-Smoking and Other Tobacco Use	Policy updated to reflect best practices, legal updates, and industry standards. Information added relating to an Employee Assistance Program.
6000	6160-Workplace Violence	Policy updated to reflect best practices, legal updates, and industry standards.
7000	7010-COBRA-Insurance Continuation	Policy updated to reflect best practices, legal updates, and industry standards. Expired COVID-19 language was removed. COBRA & COVID-19 extended deadline information added.
7000	7070-Time Records	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8008- Families First Coronavirus Response Act (FFCRA) Policy	Policy removed due to its expiration.
8000	8010-Family and Medical Leave (FMLA)	Policy updated to include the government agency where employees may file complaints. Only use this policy if you are subject to FMLA.
8000	8020-Funeral Leave	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8040-Jury, Witness, and Voting Leave	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8070-Sick Leave	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8080-Vacations	Policy updated to reflect best practices, legal updates, and industry standards.

NEW AND REVISED FORMS/TOOLS

- **Sample Employee Property Rights, Non-Compete, Confidentiality Agreement** – This is a new sample agreement provided for your use. As with all of the update materials, we recommend you review with your attorney to ensure conformity with your organizational needs, state, and local legal requirements as applicable.
- **Voluntary Self-Identification of Disability** - We are including the most recent version of this form (expiring 5/31/2023) for federal contractors or subcontractors to identify employees with disabilities for EEO purposes.
- **2021 COBRA Notices** – These have been removed from the Forms/Tools Library due to their expiration. Current model notices can be found in the HRSuite Forms directory in the Compensation & Benefits category.
- **DOL Model Paid Leave Notice-FFCRA Poster** – This has been removed from the Forms/Tools Library due to its expiration. This was a temporary poster dealing with paid sick leave and expanded Family and Medical Leave under the Families First Coronavirus Response Act. These provisions applied from April 1, 2020 through December 31, 2020.

SOME RECENT HR DEVELOPMENTS SINCE OUR LAST UPDATE

COVID-19

OSHA Withdraws Emergency Temporary Standard

OSHA withdrew the November 5, 2021, emergency temporary standard (ETS) which was issued to protect unvaccinated employees of large employers (100 or more employees) from the risk of contracting COVID-19 by strongly encouraging vaccination. The withdrawal was effective January 26, 2022.

EEOC Releases New Updated Guidance on Religious Accommodations and Vaccines and the Definition of Disability Relating to COVID-19 and the ADA

On March 1, 2022, the EEOC released an updated section L of its COVID-19 guidance. This section answers six questions relating to Religious Objections to COVID-19 Vaccine Requirements.

1. Do employees who have a religious objection to receiving a COVID-19 vaccination need to tell their employer? If so, is there specific language that must be used under Title VII?
2. Does an employer have to accept an employee's assertion of a religious objection to a COVID-19 vaccination at face value? May the employer ask for additional information?
3. How does an employer show that it would be an "undue hardship" to accommodate an employee's request for religious accommodation?
4. If an employer grants some employees a religious accommodation from a COVID-19 vaccination requirement because of sincerely held religious beliefs, practices, or observances, does it have to grant all such requests?
5. Must an employer provide the religious accommodation preferred by an employee if there are other possible accommodations that also are effective in eliminating the religious conflict and do not cause an undue hardship under Title VII?
6. If an employer grants a religious accommodation to an employee, can the employer later reconsider it?

A new section N was added in December 2021 titled *COVID-19 and the Definition of "Disability" Under the ADA/Rehabilitation Act*. Employees and employers alike have asked when COVID-19 is a "disability" under Title I of the ADA, which includes reasonable accommodation and nondiscrimination requirements in the employment context. This section clarifies circumstances in which COVID-19 may or may not cause effects sufficient to meet the definition of "actual" or "record of" a disability for various purposes under Title I, as well as section 501 of the Rehabilitation Act. This section also addresses the ADA's "regarded as" definition of disability with respect to COVID-19.

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

EEOC Releases New COVID-19 Caregiver Guidance

On March 14, 2022, the EEOC released the “*The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws*” guidance. It can be found at:

[The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

Form I-9 Temporary COVID-19 Policy Ends

The Department of Homeland Security is ending the “*COVID-19 Temporary Policy for List B Identity Documents*.” Beginning May 1, 2022 employers will no longer be able to accept expired List B documents.

DHS adopted the temporary policy in response to the difficulties many individuals experienced with renewing documents during the COVID-19 pandemic. Now that document-issuing authorities have reopened and/or provided alternatives to in-person renewals, DHS will end this flexibility. Starting May 1, 2022, employers must only accept unexpired List B documents.

If an employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers are required to update their Forms I-9 by July 31, 2022. See table at the link below for update requirements. [DHS To End COVID-19 Temporary Policy for Expired List B Identity Documents \(e-verify.gov\)](#)

The DHS has also proposed changes to the Form I-9 and is seeking comments on those proposed changes. Some of those changes include paper reduction measures, an updated “List of Acceptable Documents” and a link to “List C”, and clarification on discrimination, rehires, and “N/A”. The comment period will be open until May 31, 2022. The current Form I-9 expires October 31, 2022. More information can be found at:

[Federal Register :: Agency Information Collection Activities; Revision of a Currently Approved Collection: Employment Eligibility Verification](#)

COBRA Model Notices

In April 2021, the DOL issued an updated set of model notices for use from April 1, 2021 through September 30, 2021. This period has now passed. Current models can be found at: [COBRA Continuation Coverage | U.S. Department of Labor \(dol.gov\)](#), and in the Forms section of the HR Suite Library.

- Model General Notice
- Model General Notice Spanish
- Model Election Notice
- Model Election Notice Spanish

DOL Issues Guidance on Prohibited Retaliation Under FLSA and FMLA

On March 10, 2022, the U.S. Department of Labor released guidance that gave examples of what constitutes unlawful retaliation under the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), and visa programs. The guidance can be found at:

[FAB 2022-2: Protecting Workers from Retaliation \(dol.gov\)](#)

VEVRAA Hiring Benchmark

Federal contractors required, by the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA,) to develop a written affirmative action program (AAP) must also establish a hiring benchmark for protected veterans every year, or adopt the national benchmark provided by the Office of Federal Contract Compliance Programs (OFCCP) each year, as part of their AAP update.

The OFCCP announced the hiring benchmark, effective March 31, 2022, is 5.5 percent. This is down from 5.6 percent in 2021.

[VEVRAA Hiring Benchmark | U.S. Department of Labor \(dol.gov\)](#)

Increased Minimum Wage for Federal Contractors

On November 22, 2021, the Department announced publication of the final rule, "Increasing the Minimum Wage for Federal Contractors." The Department has finalized regulations to implement Executive Order 14026, "Increasing the Minimum Wage for Federal Contractors," which was signed by President Joseph R. Biden Jr. on April 27, 2021.

The Executive Order raises the minimum wage paid by those contractors to workers performing work on or in connection with covered federal contracts to \$15.00 per hour, beginning January 30, 2022; and beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). This final rule establishes standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026 and is effective on January 30, 2022.

[Final Rule: Increasing the Minimum Wage for Federal Contractors \(Executive Order 14026\) | U.S. Department of Labor \(dol.gov\)](#)

[Frequently Asked Questions: Minimum Wage EO 14026: Increasing the Minimum Wage for Federal Contractors | U.S. Department of Labor \(dol.gov\)](#)

OSHA Civil Penalties 2022 Increases

Below are the maximum penalty amounts adjusted for inflation as of January 15, 2022. (See OSHA Memo, Jan 13, 2022). [2022 Annual Adjustments to OSHA Civil Penalties | Occupational Safety and Health Administration](#)

Type of Violation	Penalty Minimum	Penalty Maximum
Serious	[\$1,036] per violation	\$14,502 per violation
Other-Than-Serious	\$0 per violation	\$14,502 per violation
Willful or Repeated	[\$10,360*] per violation	\$145,027 per violation
Posting Requirements	\$0 per violation	\$14,502 per violation
Failure to Abate	N/A	\$14,502 per day unabated beyond the abatement date [generally limited to 30 days maximum]

[* For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty of \$414 shall be proposed for the first repeated violation, \$1,036 for the second repeated violation, and \$2,072 for a third repetition.]

State Plan States

States that operate their own Occupational Safety and Health Plans are required to adopt maximum penalty levels that are at least as effective as Federal OSHA's.

Justice Department Issues Guidance on Protections for People with Opioid Use Disorder under the Americans with Disabilities Act

On April 5, 2022, the Department of Justice announced that it has published guidance on how the Americans with Disabilities Act (ADA) protects people with opioid use disorder (OUD) who are in treatment or recovery, including those who take medication to treat their OUD. The publication, *“The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery,”* is intended to help people with OUD who are in treatment or recovery understand their rights under federal law and to provide guidance to entities covered by the ADA about how to comply with the law.

[U.S. Department of Justice, Civil Rights Division, Disability Rights Section Technical Assistance document: The Opioid Crisis and the ADA](#)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EEO-1 Report

The 2021 EEO-1 Component 1 data collection opened on Tuesday, April 12th, 2022. The deadline to submit and certify the EEO-1 Component 1 Report is Tuesday, May 17, 2022. Organizations must file their information through the EEO-1 Component 1 Online Filing System.

<https://www.eeocdata.org/>

INTERNAL REVENUE SERVICE

401(k) Contribution Limit

The Internal Revenue Service announced that the amount individuals can contribute to their 401(k) plans in 2022 has increased to \$20,500, up from \$19,500 for 2021 and 2020. The IRS also issued technical guidance regarding all of the cost-of-living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2022 in [Notice 2021-61](#) [PDF](#), posted on IRS.gov. Click on the link below for more information.

[IRS announces 401\(k\) limit increases to \\$20,500 | Internal Revenue Service](#)

2023 Limits for Non-HSAs

On December 28, 2021, the U.S. Department of Health and Human Services (HHS) released 2023 out-of-pocket limits for non-HAS plans. The 2023 maximum annual limitation on cost sharing is \$9,100 for self-only coverage and \$18,200 for other than self-only coverage. This represents an approximately 4.6 percent increase above the 2022 parameters of \$8,700 for self-only coverage and \$17,400 for other than self-only coverage. The guidance can be found at:

[2023 PAPI Parameters Guidance \(cms.gov\)](#)

Mileage Rates for 2022

The Internal Revenue Service issued the 2022 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on January 1, 2022, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 58.5 cents per mile driven for business use, up 2.5 cents from the rate for 2021,
- 18 cents per mile driven for medical, or moving purposes for qualified active-duty members of the Armed Forces, up 2 cents from the rate for 2021 and
- 14 cents per mile driven in service of charitable organizations; the rate is set by statute and remains unchanged from 2021.

[IRS issues standard mileage rates for 2022 | Internal Revenue Service](#)

CAUTIONS

Although HR Performance Solutions has conducted a great deal of research developing this product, the HR Suite is not designed to be an exhaustive, legally compliant document specific to your company or intended to comply with state and local laws. In other words, we do not assume the role of your legal counsel and, as always, responsibility for compliance with applicable employment laws remains with you. Once you have customized your HR Suite Policy Manual and Employee Handbook, there may be areas that should be reviewed by you and your attorney to ensure conformity with your organizational needs, state, and local legal requirements as applicable.

The HR Suite was primarily written for use by private employers. In many instances, relevant employment laws are very different in the public sector. In some cases, language pertaining to public employers, federal contractors, and sub-contractors is included in the manual as many areas may apply to both private and public employers. Additionally, companies with unionized environments may have considerably different obligations than those addressed in the HR Suite. Although some language for public employers may be included, employers in public and union environments should consult their attorneys for assistance in using this product.