

HR Suite

Product Update Notice

Policy Manual · Handbook · Forms & Tools

Update June 2023

Includes Revised
Policies and Forms

Notice Regarding Professional Advice

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Update Contents

EMPLOYMENT LAW DEVELOPMENTS

The past year brought some impactful, but relatively quiet, developments in federal employment law. Many of these developments affect confidentiality, arbitration agreements, and create protections for pregnant and nursing employees. Below you will find a summary of changes made at the federal level.

The trend of increasing workplace regulations by state and local governments continued throughout 2022. There has been an upward trend in passage of states' leave and job protection laws, renewed attention to anti-discrimination laws, focus on pay equity and pay transparency, and flexibility in the workplace as it relates to remote and hybrid work. 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 and template policies. Many policies have had changes made to them. The policies were thoroughly updated for clarity and 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.

Remember, some policies have 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
1000	1001 – Employee Handbook Receipt & Acknowledgement	Policy updated to reflect best practices, legal updates, and industry standards.
2000	2010 – Disability Accommodation	Policy updated to reflect best practices, legal updates, and industry standards.
2000	2012 - Anti-Retaliation	Policy updated to reflect best practices, legal updates, and industry standards.
2000	2030 – Equal Employment Opportunity	Policy updated to reflect best practices, legal updates, and industry standards. Physical or mental handicap is included in the term “disability.” “Handicap” is more of an outdated term from an employment law perspective. Reasonable Accommodation section removed because it is covered separately.
2000	2040 - Harassment and Bullying	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.
4000	4005 – Alternate Working Schedules	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4020 – Corrective Action	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Number & Name	Description of Changes
4000	4023 – Emergency Closing	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4025 – Employee Referral Program	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	4034 – Paid Internships	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4070 – Promotions and Transfers	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4090 – Termination of Employment	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5020 – Attendance and Dependability	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5025 – Bring Your Own Device to Work	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5030 – Communication, Information Systems and Equipment	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5040 - Confidentiality	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5060 – Drugs and Alcohol	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5070 – Employee Conduct and Work Rules	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5080 – Personal Property, Searches, and Inspections	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5110 – Smoking and Other Tobacco Use	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5115 – Social Media	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5130 – Workplace Violence	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6030 - Overtime	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6050 – Working Hours	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Number & Name	Description of Changes
7000	7040 - FMLA and Other Leaves of Absence	Policy updated to reflect best practices, legal updates, and industry standards. Remember, if you are using policy 7040, you should not be using policy 7041
7000	7041 – Personal and Other Leaves of Absence	Policy updated to reflect best practices, legal updates, and industry standards. Remember, if you are using policy 7041, you should not be using policy 7040
7000	7043 – Military 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	7048 – School/Volunteer Leave	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
1000	1001 – Manager’s Acknowledgement of Receipt of Manual	Policy updated to reflect best practices, legal updates, and industry standards
1000	1010 – Introduction to the Manual	Policy updated to reflect best practices, legal updates, and industry standards
2000	2010 – Disability Accommodation	Policy changes to 6a - Adding “may” here and “may be” below gives some wiggle room in potential defenses to a future claim. Policy changes to 10A – the deleted language was repetitive.
2000	2020 – Employment-At-Will	Policy updated to reflect best practices, legal updates, and industry standards.
2000	2030 – Equal Employment Opportunity	Policy updated to reflect best practices, legal updates, and industry standards. Physical or mental handicap is included in the term “disability”. “Handicap” is more of an outdated term from an employment law perspective.
2000	2040 – Harassment and Bullying	Policy updated to reflect best practices, legal updates, and industry standards. Policy changes to 11 A – Edited so the same standard applies to manager-subordinate relationships as to co-worker relationships.
2000	2112 – Anti-Retaliation	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	3040 – Reference Request	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4005 – Employee Referral Program	Policy updated to reflect best practices, legal updates, and industry standards.
4000	4010 – Employment of Minors	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Name	Description of Changes
4000	4020 - Hiring Procedures	<p>Policy changes to general policy statement - Since this policy is not ADA-specific, we are taking out this clause.</p> <p>Policy changes to 2b - Unless the Credit Union is a federal contractor or subcontractor or has made the determination that it has underutilized a minority group, this provision may be used against the CU in a “reverse discrimination” claim. Employers must meet specific requirements to be able to adopt an Affirmative Action plan and use race as a selection criteria. Therefore, we changed this language to mirror the language in an earlier section of the manual.</p>
4000	4030 – Hiring of Relatives (Nepotism)	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5005 – Alternate Working Schedules	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	5020 - Corrective Action	<p>Policy updated to reflect best practices, legal updates, and industry standards.</p> <p>Policy changes to 6A - We do not recommend that managers have blanket approval to refer employees to non-EAP programs. This type of encouragement may generate a “regarded as disabled” disability claim.</p>
5000	5023 – Employee Development	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 standards.
5000	5029 - Paid Internships	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5080 - Performance Appraisal	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5090 - Promotion	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Name	Description of Changes
5000	5105 - Telecommuting	Policy updated to reflect best practices, legal updates, and industry standards.
5000	5110 - Termination of Employment	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6010 - Appearance and Grooming	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6020 - Attendance and Dependability	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6025 - Bring Your Own Device at Work	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6030 - Communication, Information Systems, and Equipment	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.
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	6070 - Employee Conduct and Work Rules	Policy updated to reflect best practices, legal updates, and industry standards and to be consistent with the Employee Handbook.
6000	6080 - Personal Property, Searches and Inspections	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6115 - Social Media	Policy updated to reflect best practices, legal updates, and industry standards.
6000	6160 - Workplace Violence	Policy updated to reflect best practices, legal updates, and industry standards.
7000	7016 - Domestic Partnership Benefits	Policy updated to reflect best practices, legal updates, and industry standards.
7000	7030 - Overtime	Policy updated to reflect best practices, legal updates, and industry standards.

Section	Policy Name	Description of Changes
7000	7060 - Severance Pay	Delete this policy - We are removing this policy and suggest severance be discretionary and not have a formal plan.
7000	7080 - Working Hours	Delete this policy - We are removing this policy from the Policy Manual due to the contents being covered in other policies. Our intent is to simplify the manual and decrease the potential for inconsistency.
8000	8010 - Family and Medical Leave (FMLA)	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8011 - Leaves of Absence	Policy updated to reflect best practices, legal updates, and industry standards. Changes made in 2C and 2D made so that the burdens match at least those of a medical leave. Remember, if you are using this policy, 8011, you should not be using 8010 and 8060.
8000	8060 - Personal and Other Leaves of Absence	Policy updated to reflect best practices, legal updates, and industry standards. Changes made in 2C and 2D made so that the burdens match at least those of a medical leave. Remember, if you are using this policy, you should also be using 8010, and not be using policy 8011.
8000	8065 - Paid Time Off	Policy updated to reflect best practices, legal updates, and industry standards.
8000	8068 - School/Volunteer 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.

NEW AND REVISED FORMS/TOOLS

Updated forms have been placed in the HR Suite Library. Links to the forms are found in the applicable narrative sections that follow.

- Updated COBRA Notice – Model General Notice English
- Updated COBRA Notice – Model General Notice Spanish
- Updated COBRA Notice – Model Election Notice English
- Updated COBRA Notice – Model Election Notice Spanish
- Updated Voluntary Self-Identification of Disability English
- Updated Voluntary Self-Identification of Disability Spanish-not available yet

SOME RECENT HR DEVELOPMENTS SINCE OUR LAST UPDATE

Equal Employment Opportunity Commission (EEOC)

Posters

Since our last update, the EEOC and OFCCP announced the replacement of the “EEO is the Law” poster with the new “Know Your Rights” poster. This poster also replaces the OFCCP Supplement. Click [here](#) for a guide titled “Postings & Notice Requirements.”

Links to print the posters can be found at:

[Equal Employment Opportunity Posters | U.S. Department of Labor \(dol.gov\)](#)

[“Know Your Rights: Workplace Discrimination is Illegal” Poster | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

[Workplace Posters | U.S. Department of Labor \(dol.gov\)](#)

The DOL has also revised the FLSA Minimum Wage poster to include information on the “PUMP” Act. This poster can be found at: [Fair Labor Standards Act \(FLSA\) Minimum Wage Poster | U.S. Department of Labor \(dol.gov\)](#)

The Family and Medical Leave Act poster has also received minor changes in April 2023. However, the April 2016 and February 2013 versions still fulfill the posting requirement. A link to download the latest FMLA poster can be found at: [Family and Medical Leave Act \(FMLA\) Poster | U.S. Department of Labor \(dol.gov\)](#)

Pregnant Workers Fairness Act (PWFA)

On December 29, 2022, the Pregnant Workers Fairness Act (PWFA) was signed into law. It will go into effect June 27, 2023.

The [Pregnant Workers Fairness Act \(PWFA\)](#) is a new law that requires covered employers to provide “reasonable accommodations” to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”

The PWFA does not replace federal, state, or local laws that are **more protective** of workers affected by pregnancy, childbirth, or related medical conditions.

Covered employers” include private and public sector employers with at least fifteen employees, Congress, Federal agencies, employment agencies, and labor organizations. More information can be found at: [What You Should Know About the Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

Providing Urgent Maternal Protections for Nursing Mothers Act (the “PUMP” Act)

Signed into law on December 29, 2022, this law extends to more nursing employees the right to receive break time to pump and a private place to pump at work. [FLSA Protections to Pump at Work | U.S. Department of Labor \(dol.gov\)](#)

The Fair Labor Standards Act (FLSA) requires employers to provide reasonable break time for an employee to express breast milk for their nursing child for one year after the child's birth each time such employee has need to express the milk. Employees are entitled to a place to pump at work, other than a bathroom, which is shielded from view and free from intrusion from coworkers and the public.

A field bulletin released May 17, 2023, answers questions employers may have. It can be found at: [FIELD ASSISTANCE BULLETIN No. 2022-4 \(dol.gov\)](#)

A fact sheet can be found at: [Fact Sheet #73: Break Time for Nursing Mothers under the FLSA | U.S. Department of Labor \(dol.gov\)](#)

A FAQs document can be found at: [Frequently Asked Questions – Pumping Breastmilk at Work | U.S. Department of Labor \(dol.gov\)](#)

ADA and Hearing Disabilities in the Workplace

On January 23, 2023, the EEOC released a document explaining how the Americans with Disabilities Act applies to job applicants and employees with hearing disabilities. In particular, this document explains:

- when an employer may ask an applicant or employee questions about a hearing condition and how it should treat voluntary disclosures;
- what types of reasonable accommodations applicants or employees with hearing disabilities may need;

- how an employer should handle safety concerns about applicants and employees with hearing disabilities; and
- how an employer can ensure that no employee is harassed because of a hearing disability or any other disability.

It can be found at: [Hearing Disabilities in the Workplace and the Americans with Disabilities Act | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

EEO-1 Reporting

The 2022 EEO-1 Component 1 data collection had planned to open in mid-July 2023. As of the time of this publication, it has been delayed and has a tentative opening of Fall 2023. Updates regarding this, including the opening date, will be posted to www.eeocdata.org/eeo1 as they become available.

U.S. Department of Labor (DOL)

Religious Exemption

The Office of Federal Contract Compliance Programs (OFCCP) rescinded the rule “Implementing Legal Requirements Regarding the Equal Opportunity Clause’s Religious Exemption.” The rule was published in December 2020 and became effective January 8, 2021. It adopted new standards for applying the religious exemption in Executive Order 11246. The rescission took effect March 31, 2023. For more information, visit: [Protecting Workers and Safeguarding Religious Freedom | U.S. Department of Labor Blog \(dol.gov\)](#)

[OFCCP Announces Return to Longstanding Policy, Practice on Religious Exemption | U.S. Department of Labor \(dol.gov\)](#)

Telework under the FLSA, FMLA

The U.S. Department of Labor (DOL) released a Field Assistance Bulletin No. 2023-1 on February 9, 2023, with a subject of “Telework Under the Fair Labor Standards Act and Family and Medical Leave Act.” It provides guidance to Wage and Hour Division (WHD) field staff regarding how to ensure workers who telework are paid properly under the Fair Labor Standards Act (FLSA), how to apply protections under the FLSA that provide reasonable break time for nursing employees to express milk while teleworking from their home or another location, and how to apply

eligibility rules under the Family and Medical Leave Act (FMLA) when employees telework or work away from an employer’s facility. It can be found at: [2023-1.pdf \(dol.gov\)](#)

COBRA Model Notices Updated

On January 31, 2023, the U.S. Department of Labor updated the Consolidated Omnibus Budget Reconciliation Act (COBRA) model general and model election notices. These notices contain a new expiration date of January 31, 2026. They can be found at:

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra>

OSHA Civil Penalties 2023 Increases

Below are the maximum penalty amounts adjusted for inflation as of January 17, 2023. (See OSHA Memo, December 20, 2022). [2023 Annual Adjustments to OSHA Civil Penalties | Occupational Safety and Health Administration](#)

Type of Violation	Penalty Minimum	Penalty Maximum
Serious	[\$1,116] per violation	\$15,625 per violation
Other-Than-Serious	\$0 per violation	\$15,625 per violation
Willful or Repeated	[\$11,162*] per violation	\$156,259 per violation
Posting Requirements	\$0 per violation	\$15,625 per violation
Failure to Abate	N/A	\$15,625 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 \$446 shall be proposed for the first repeated violation, \$1,116 for the second repeated violation, and \$2,232 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.

Internal Revenue Service

401(k) Contribution Limit

The Internal Revenue Service announced that the amount individuals can contribute to their 401(k) plans in 2023 has increased to \$22,500, up from \$20,500 for 2022. 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 2023 in [Notice 2022-55](#) posted on IRS.gov. Click on the link below for more information.

[401\(k\) limit increases to \\$22,500 for 2023, IRA limit rises to \\$6,500 | Internal Revenue Service \(irs.gov\)](#)

Mileage Rates for 2023

The Internal Revenue Service issued the 2023 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, 2023, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 65.5 cents per mile driven for business use, up three cents from the rate for last half of 2022,
- 22 cents per mile driven for medical, or moving purposes for qualified active-duty members of the Armed Forces, same rate as what was set for last half of 2022 and
- 14 cents per mile driven in service of charitable organizations; the rate is set by statute and remains unchanged from 2022.

[IRS issues standard mileage rates for 2023; business use increases 3 cents per mile | Internal Revenue Service](#)

Health Savings Account (HSA) Contribution Limits for 2024

The Internal Revenue Service issued the 2024 annual HSA contribution limits. For the calendar year 2024, the annual limitation on deductions for an individual with self-only coverage under a high deductible health plan is \$4,150. For calendar year 2024, the annual limitation on deductions for an individual with family coverage under a high deductible health plan is \$8,300.

For calendar year 2024, a “high deductible health plan” is defined as a health plan with an annual deductible that is not less than \$1,600 for self-only coverage or \$3,200 for family coverage, and for which the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed \$8,050 for self-only coverage or \$16,100 for family coverage.

For plan years beginning in 2024, the maximum amount that may be made newly available for the plan year for an excepted benefit HRA is \$2,100.

This revenue procedure is effective for HSAs for calendar year 2024 and for excepted benefit HRAs for plan years beginning in 2024.

Details can be found at: [IRS Announces 2024 Inflation-Adjusted Amounts for HSAs | Tax Notes](#)

U.S. Citizenship & Immigration Services

Form I-9

On May 4, 2023, the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced that employers will have 30 days to reach compliance with Form I-9 requirements after the COVID-19 flexibilities sunset on July 31, 2023. These flexibilities were first [announced](#) in March 2020 and subsequently extended throughout the COVID-19 pandemic. DHS encourages employers who have been using those temporary flexibilities to plan ahead to ensure that all required physical inspection of identity and employment eligibility documents is completed by August 30, 2023.

Office of Federal Contract Compliance Programs (OFCCP)

Voluntary Self-Identification of Disability Form

On April 25, 2023, the Office of Management and Budget (OMB) approved OFCCP’s revised Voluntary Self-Identification of Disability Form (CC-305). OFCCP revised the form to update the preferred language for disabilities and to include additional examples of disabilities.

Contractors must implement the new form by July 25, 2023.

A link to the form can be found at: [Voluntary Self-Identification of Disability Form | U.S. Department of Labor \(dol.gov\)](#)

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, 2023, is 5.4 percent. This is down from 5.5 percent in 2022.

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

OFCCP Contractor Portal

The U.S. Department of Labor opened its online tool on March 31, 2023, for federal contractors and subcontractors to certify their compliance with annual federal affirmative action program requirements.

The department's Contractor Portal is available for use by covered contractors to certify they have developed and maintained affirmative action programs for each establishment or functional unit. Beginning in 2023, covered federal contractors and subcontractors also must report the coverage period for their affirmative action programs. By doing so, the department will gain greater insight into a contractor's affirmative action program cycle.

Using the [Contractor Portal](#), existing federal contractors and subcontractors must complete their certification for the second annual cycle **by June 29, 2023**. Contractors within OFCCP's jurisdiction that meet certain contract dollars and employee thresholds must develop and maintain affirmative action programs and certify their compliance annually.

[US Department of Labor will open online portal for federal contractors, subcontractors to certify affirmative action program compliance | U.S. Department of Labor \(dol.gov\)](#)

Consumer Financial Protection Bureau (CFPB)

FCRA

An updated version of the model FCRA Summary of Consumer Rights Released. It replaces the October 2018 version. This notice must be provided to applicants before conducting a background check and when taking an adverse employment action in response to a background check. Update your forms by the March 20, 2024, deadline.

A link to the notice can be found at: [Model forms and disclosures | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://www.consumerfinance.gov/model-forms-and-disclosures)

CAUTIONS

Although HR Performance Solutions has conducted a great deal of research developing this product, 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 vastly 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.