

Legal Guide to Human Resources 2025-2 Highlights

Chapter 3

- Executive Orders impacting affirmative action and diversity, equity and inclusion
- Revocation of Executive Order 11,246, which requires federal contractors to adhere to nondiscrimination standards, file compliance reports, and adopt affirmative action plans
- New section on Pregnant Workers Fairness Act. See § 4:37. OFCCP's request that federal contractors examine their affirmative action plans for any race or sex-based placement goals
- Executive Order eliminating the federal government's use of disparate impact to enforce employment discrimination laws
- Department of Justice's notice that it will utilize the False Claims Act to prevent federal contractors from engaging in DEI programs
- Secretary of Labor's directive on resuming enforcement activity under Section 503 and VEVRAA

Chapter 4

- Supreme Court's ruling on requirement that majority group employees support discrimination claims with "background circumstances" evidence

Chapter 5

- U.S. Supreme Court's decision on whether a disabled retiree is a "qualified individual" under the ADA
- Fourth Circuit's ruling on disabled employee's obligation to engage in interactive process
- EEOC's guidance on disability related harassment
- Sixth Circuit's ruling on whether the Eleventh Amendment bars suits by state employees to enforce ADA retaliation provisions
- Fourth Circuit's ruling on the sufficiency of an employee's ADA accommodation request

Chapter 8

- Third Circuit ruling on coverage of the Ending Forced Arbitration Act (EFAA)

Chapter 13

- NLRB Acting General Counsel's rescission of prior guidance on Severance Agreements; Non-Compete Agreements; Unfair Labor Practice Remedies; Electronic Monitoring of Employees
- U.S. Supreme Court decision staying reinstatement of NLRB Member Wilcox following her removal from that position
- NLRB Acting General Counsel's Memorandum on remedial relief in settlement agreements
- NLRB Acting General Counsel's rescission of memorandum on reinstatement and back pay remedies for undocumented workers
- Third and Ninth Circuit rulings on NLRB's remedial authority for "direct or foreseeable harms" resulting from employer unfair labor practices
- NLRB decision on lawfulness of employer statement that employees who are unhappy with their jobs should work elsewhere
- Fourth Circuit's review of NLRB ruling on whether company's message to employees in response to a union flyer constituted an unfair labor practice
- NLRB's new standard for determining whether a union has waived its right to bargain over mandatory terms and conditions of employment

Chapter 15

- D.C. Circuit Court's ruling on NLRB decision which found that unions in a successorship situation are entitled to only a rebuttable presumption of majority support