

2016: WHAT'S NEW?



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FLSA Regulations

On May 18, 2016, the US Department of Labor released its final rule regarding the changes to the overtime threshold for the Fair Labor Standards Act. Among other things, the Labor Department has doubled the minimum salary needed to qualify for these exemptions, from the previous level of \$455 a week (or \$23,660 a year) to \$913 a week (or \$47,476 a year), with increases every three years thereafter.

Drug Testing and new OSHA Regulations

- OSHA's final rule revising its Recording and Reporting of Occupational Injuries and Illnesses prohibits employers from using drug testing (or threat of drug testing) as a form of adverse action against employees who report injuries or illnesses. 29 CFR 1904.
- The rule does not prohibit drug testing of employees. It only prohibits employers from using drug testing, or the threat of drug testing, as a form of retaliation against employees who report injuries or illnesses. If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be retaliatory and this rule would not prohibit such testing.
- Update any blanket drug testing policies.

EEOC GUIDANCE 2016

- Employer Provided Leave and the Americans with Disabilities Act (May 9, 2016)
- EEOC Enforcement Guidance on Retaliation and Related Issues (August 25, 2016)

Ban the Box Trend

State & Local Laws Prohibiting Mostly Public / Some Private Employers From:

- Asking about criminal background on applications;

and/ or
- Asking about criminal background until final stage or contingent offer (New Austin Ordinance—Austin City Code 4-15)

Defend Trade Secrets Act

- Signed into law on May 11, 2016
- Amends the Economic Espionage Act of 1996 (EEA), which criminalizes trade secret misappropriation
- Prior to DTSA, only the U.S. Department of Justice could bring a claim, civil or criminal
- DTSA allows private citizens to sue if the proper notice is provided



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2016 Essential Employment Law: A Practical Course in the Basics session
"Changes in Employment Law Impacting Compliance Efforts"