# **Montana State Council**

**Affiliate of the Society for Human Resource Management**



 ***LEGISLATIVE UPDATE***

***JANUARY 2024 UPDATE***

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| ***HAPPY NEW YEAR!***  Grover Wallace – Montana State Legislative Director |
| |  | | --- | | **Supreme Court, NLRB Decisions Changed Employment Law in 2023**  The U.S. Supreme Court and federal agencies altered employment law in 2023 with decisions that changed the way employers and employees interact.  The U.S. Supreme Court, in particular, dismantled affirmative action in college admissions, despite the support of many companies for affirmative action, and fortified the standard for religious accommodations.  These opinions dominated the news, but a decision from the National Labor Relations Board (NLRB) that sparked the revision of many employers' handbooks attracted the most readers of any *SHRM Online* employment law article this year.  **Handbooks Need Revision Following NLRB Ruling**  Many employer handbooks and policies likely had to be reviewed and revised following a landmark Aug. 2 ruling by the NLRB, *Stericycle*.  "This ruling, in a word, is huge," said David Pryzbylski, an attorney with Barnes & Thornburg in Indianapolis. "This decision may invalidate countless workplace rules maintained by private-sector employers—whether they are unionized or not."  **Supreme Court Dismantles Affirmative Action in College Admissions**  On June 29, the U.S. Supreme Court voted in a 6-3 decision to curb affirmative action in higher education. The ruling came in response to a pair of lawsuits accusing Harvard University and the University of North Carolina of racial discrimination in admissions.  In a response to the ruling, SHRM reaffirmed its commitment to advocating for inclusive workplaces and diverse workforces.  **Supreme Court Fortifies Standard for Religious Accommodations**  The U.S. Supreme Court ruled in a unanimous decision on June 29 that employers can deny an employee's request for a religious accommodation under federal law only if they can prove it would result in substantial increased costs for the businesses.  **What Employers Should Know About the Updated Form I-9**  U.S. Citizenship and Immigration Services (USCIS) announced July 21 a new Form I-9—which has been streamlined and shortened—that employers could use beginning Aug. 1, 2023. Employers were able to use the older Form I-9 (Rev. 10/21/19) through Oct. 31, 2023.  **States Outlaw Noncompete Agreements**  A growing number of states have banned noncompete agreements, leaving employers to grapple with a patchwork of different state-level requirements and federal actions.  **The End of FMLA Time Off May Be the Start of ADA Leave**  Potential leave entitlement doesn't end with the exhaustion of 12 weeks of leave under the FMLA but may be extended for a specified period of time under the ADA, so long as that doesn't result in an undue hardship on the employer. HR needs to coordinate ADA and FMLA obligations, including for health insurance and return to work.  **Overtime Would Become Available to Millions More Employees Under Proposed Rule**  More workers would be eligible for overtime under a proposed rule released by the DOL on Aug. 30. If the rule is finalized and implemented, overtime protections would be extended to approximately 3.6 million more workers, according to the DOL.  **Strikes and NLRB Decisions Transform Labor Relations in 2023**  **Next Stop for Big Labor: More Organizing**  Union organizing will be a primary goal for big labor in 2024, following the recent deals between the United Auto Workers (UAW) and Ford, General Motors and Stellantis. The key question to watch in the next year is whether the UAW's deals with the Big Three automakers—and the Teamsters' agreement with UPS—can be converted into organizing victories at other companies such as Tesla and Amazon.  **Lawmakers Disagree on Union Rights**  Congressional lawmakers debated conflicting bills related to workers' union rights. Republicans favored the National Right to Work Act, which would prevent labor unions from requiring workers to pay union dues if they don't want to belong to the union.  Democrats supported the Richard L. Trumka Protecting the Right to Organize Act (PRO) Act, which would nullify laws in 28 states that say workers can't be required to join a union or pay union dues as a condition of the job. The PRO Act also would replace secret-ballot union elections with card-check elections and prohibit captive-audience meetings by employers to discuss union activity. Both bills have been introduced but have not passed the House or Senate.  **Strikes Not Legal If They Harm Property**  A June 1 ruling from the U.S. Supreme Court demonstrated how unions may have to pay hefty penalties if a strike causes damage to a company's property. In *Glacier Northwest v. International Brotherhood of Teamsters*, the court ruled in favor of an employer that sued in state court after a strike risked significant damage to its trucks. Striking workers must take reasonable precautions to avoid foreseeable, imminent harm to the employer's property.  **Rule Changes for Recognizing Unions**  On Aug. 25, the NLRB ruled that when a union requests recognition on a card-check basis, an employer must recognize the union or file a petition seeking an election. Previously, if a union demanded recognition based on signed union cards, the employer could decline recognition and the union would need to file a petition with the NLRB.  A separate NLRB decision on Aug. 2 held that an employer violated the National Labor Relations Act (NLRA) by maintaining certain rules for its employees that addressed personal conduct, conflicts of interest and confidentiality of harassment complaints. The NLRB announced a new standard for whether work rules violate the NLRA. Employer handbooks and policies may need to be revised and updated.  **Trends HR Should Be Ready For in 2024**  The year 2024 looks to be one of amazing potential and ongoing challenges for HR. Talent, economic and supply chain issues are expected to continue, while myriad political views will take center stage during this election year.  The Great Resignation, the Gray Resignation, the Great Regret, the Big Stay, quiet quitting, quiet firing and so many other epithets have developed in recent years for good reason: While the economy is strong and talent scarcity widespread, some employers have embraced layoffs as the best way to manage their bottom line.  The erratic pressures and “polycrises” of global wars, labor strikes, technology disruption, stock market and interest rate gyrations, political turmoil, gun violence, immigration, climate change, and so many other social issues pervade the workplace. Simply put, many employees are exhausted, confused and overwhelmed. The pace of change will only exacerbate these problems, leaving workers constantly putting out fires, at work and at home. These realities pose both opportunities and threats to HR leaders of organizations large and small. | |  |   **SHRM Article Link:** [Trends HR Should Be Ready For in 2024 (shrm.org)](https://www.shrm.org/topics-tools/news/employee-relations/trends-hr-should-be-ready-for-in-2024-?utm_source=marketo&utm_medium=email&utm_campaign=editorial~HR%20Week~NL_2024-01-08_HR-Week&linktext=New-Trends-HR-Should-Be-Ready-for-This-Year&mktoid=49915738&mkt_tok=ODIzLVRXUy05ODQAAAGQha0sbwesBxulltKiXgoIs1c5ofbmbyctkjNINA76LfxX-GYAi24hcKqdB6kevSMo4c5L9dgxoXY4AUGgI8WCKwbSaCQn_dA_WYf10Y7sJmkeBpSu)  ***UPCOMING CALENDAR EVENTS:***  **WEBCASTS/CONFERENCE SESSIONS**   |  | | --- | |  | | |  | | --- | |  | | [**Workplace Compliance Trends for 2024**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGQha0scAiRdkxDHC2qoNgfe3GJOe1Rzgedxukz9NYzBtQU5NOJOs5IEjyXwXQJqN3dHoSYEck=) Jan. 17, 2 p.m. ET / 11 a.m. PT | |  | | [**The Future of Digital Health and What it Means for Your Workforce in 2024**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGQiHg9lPw9TlqEFA20f9l5cMJeWEZC5Cmae-rzFrit95SYUtZ0nbtyatjYxpRdd-HXnw0mfn8=) Jan. 30, 2 p.m. ET / 11 a.m. PT | |  | | [**Building a Sense of Belonging at Work in 2024**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGQiHg9lARqTGhlJRDMe7QsY6oBrfmIa-sG_iYdJZzrnHkB9E8hH1zPy_c3xsWyFkhSRIzQMJw=) Jan. 22, 2 p.m. ET / 11 a.m. PT | | |  | |  |  |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | | **FEB** 26 | | |  | | --- | | [NLRB Expands Definition of Joint Employer](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_Jtendf1e1xWHQVCNm6CVwHUV3RTFj7oHQVOXLxbI87adS-LigD8EbIN2PdZhXGDs7qutMsdzU0cwH2ufZ1KCPpV3ShJiAUuPu_ZsHxE-gUxNw9aAUKk9HYp7zCSvl4fXbzghINPjEKw0JuGghi85mU4bs_a3tEro1CqgZwfpXcW7S5Mzm9fQNZhhgzU1QaMmq4h-UeFKB1WcmlT8d30RllEcvijXVd2aUNycFeOXhBxCnqXGxz8NunA-AKYbcfklGCaNoS-VQQDQgh_K4ihpOIKCU_fEQzsX4GauyPgl0pG4eKX6J1agjNPuO7WWsoeQK2iWnKTjJuKfJ6UFcFqDEJOGhzNWH-jZVBM4_qp_M6rj631/ODIzLVRXUy05ODQAAAGQha0sb499WqkH3WwiKkoUV3RBHpx8zMMllSqIziQK1TiM8YuhRmGqJdC_heWBfia1gWqqNc0=) The National Labor Relations Board (NLRB) released a final rule on Oct. 26 to provide a broadened standard for when two employers that conduct business together are considered to be joint employers and thus liable for one another’s unfair labor practices. It will take effect on Feb. 26. | |  |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | | **APR** 14 | | |  | | --- | | [SHRM Talent Conference & Expo 2024 (Through April 17 in Las Vegas and virtually)](https://c.shrm.org/dc/C-5RRqJPc3RscdoKAAo_aAj47N1o4ap9GAQ995YijPxWKw1l4QiT8w3xK9k5uqpt2Vs8XRT2oEZL4oEf9VWdJiMzl3mge2oBzZLLuRLfJXbe-Y-O4HlGnRARShhHfRCOPaD7Hxe_NODCbkZnMeN8t7yBv_la6ZuEDnz10ZB7W6YXy6LzbxH4YKsqW_YXdPb3MuFsqycjiiQ179o0AM8QgPB72JQXuTw2pkkldxXojbvH7SQ3AIc8rS6QiA_x2uGxXW1_DoXFHyljhnh6MGIQRhMogun6GTh_CEKFGuZXB1IknW1ZqrLBTvdu6s8ifjjqWZ2_PywqNDHFU0RZ2NRGrQ==/ODIzLVRXUy05ODQAAAGQha0sb499WqkH3WwiKkoUV3RBHpx8zMMllSqIziQK1TiM8YuhRmGqJdC_heWBfia1gWqqNc0=" \t "_blank) Engage with top industry experts and thought leaders delivering cutting-edge methods and processes to transform the way you manage talent and empower your organization to succeed in an ever-evolving job market. | | |
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***THANK YOU***