# **Montana State Council**

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



 ***LEGISLATIVE UPDATE***

*** JULY 2025 UPDATE***

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| Grover Wallace – Montana State Legislative Director |
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**Why Every Workplace Needs to Document Its Immigration Policy Now**

As sweeping [immigration policy changes](https://www.shrm.org/topics-tools/news/talent-acquisition/dhs-issues-reverification-guidance-after-revoking-eads) and [workplace enforcement](https://www.shrm.org/topics-tools/news/talent-acquisition/electronic-i9-systems-compliance-ice-enforcement) ramp up in President Donald Trump’s second term, employers are facing more questions from employees about the potential for immigration sponsorship, visas, and work authorizations. That uptick makes a documented workplace immigration policy essential to codifying your organization’s answers to these questions, according to Kelli Duehning and Josiah Curtis, partners at law firm BAL in San Francisco and Boston, respectively.

For example: Such a policy can lay out whether your organization does any visa sponsorship, and if so, under what circumstances. It can state what happens when an employee’s work authorization expires and they are waiting for a new one to be processed. Similarly, it can dictate whether a company helps with visas for family members of employees, Duehning told an audience at SHRM25 in San Diego.

**Benefits of Documenting a Policy**

While these are just a few of the dozens of particulars that a policy can lay out, Duehning and Curtis pointed to the four big reasons to write down an immigration policy — or to review and possibly update one that a company already has.

1. **Having a single source of truth.**That means not just HR, but supervisors, managers who may be overseeing foreign nationals, general counsel, and even outside contractors who may be managing immigration issues are all on the same page about how an organization handles certain situations.
2. **Taking the emotions out of the conversation.** “This document gives you something to point to if there’s a challenge,” Curtis said. “People bring so much emotion to these conversations,” so having a document to point to helps keep things objective.
3. **Saving time for HR.**For HR pros who are the main source of immigration information in their company, addressing these issues takes a tremendous amount of time. “An immigration policy can really help you in terms of freeing up your day so that you’re not constantly answering the questions from your foreign nationals,” Duehning said.
4. **Increasing visibility.**Writing a policy can make an organization’s stance on immigration issues clear to employees and managers, but it can also let the C-suite know how much HR is doing to manage such issues. In companies that don’t hire a lot of foreign nationals, these topics may not be on the C-suite’s radar, Duehning said.

# **SHRM LINK ARTICLE:** [**Why Every Workplace Needs to Document Its Immigration Policy Now**](https://www.shrm.org/topics-tools/news/why-every-workplace-document-immigration-policy-now)

**Supreme Court Decisions Open Door to More Title VII Claims**

Four Supreme Court decisions in the past few years have created a “Lego tower” for plaintiffs to build upon and bring more discrimination cases, legal experts said during a session at SHRM25 in San Diego.

In 2023, in [*Students for Fair Admissions Inc. v. President and Fellows of Harvard College*](https://www.shrm.org/topics-tools/employment-law-compliance/affirmative-action-supreme-court-cases), the Supreme Court struck down affirmative action in admissions in higher education.

Also in 2023, in [*Groff v. DeJoy*](https://www.shrm.org/topics-tools/employment-law-compliance/supreme-court-sunday-sabbath-accommodation), the Supreme Court ruled that employers must prove religious accommodations inflict substantial costs — rather than just de minimis costs — before denying them or else risk being found in violation of the prohibition on religious discrimination by Title VII of the Civil Rights Act of 1964. Title VII also prohibits discrimination based on race, color, gender, or national origin.

The Supreme Court again opened the door to more Title VII lawsuits in 2024 in [*Muldrow v. St. Louis*](https://www.shrm.org/topics-tools/employment-law-compliance/mandatory-job-transfer-case). In that decision in the context of a job transfer, the court ruled that plaintiffs need only show some harm to allege discrimination — rather than a significant injury — in violation of Title VII.

This year, the court held in [*Ames v. Ohio Department of Youth Services*](https://www.shrm.org/topics-tools/employment-law-compliance/supreme-court-decision-underscores-importance-of-inclusion) that there is no higher evidentiary standard for members of majority groups — such as heterosexuals — who are trying to show unlawful discrimination.

Plaintiffs are using all these cases like “Lego blocks” to bring more Title VII claims, said Elizabeth Beske, a professor at American University Washington College of Law and associate dean for scholarship at American University in Washington, D.C.

Based on this “Lego tower” of decisions, there are “a lot of suits” over employee resource groups and training being offered to women but not men, said Samantha Grant, an attorney with Reed Smith in Los Angeles.

Employers should examine their policies to determine if there is equal opportunity for all — not benefits for some but not others — including in training, she added.

Standards for plaintiffs have been lowered by the Supreme Court to make it easier for them to bring Title VII claims, while the bar has been set higher for employers to defend against them.

*“Ames* has expanded the pool of potential plaintiffs in a lot of circuits,” Beske said. There “may be a lot more possible lawsuits.”

HR needs to be ready with documentation to show there was a legitimate reason for an adverse employment action, as well as consistent application of a policy, Grant emphasized.

**SHRM LINK ARTICLE:** [**Supreme Court Decisions Open Door to More Title VII Claims**](https://www.shrm.org/topics-tools/employment-law-compliance/supreme-court-decisions-opened-door-to-more-title-vii-claims)

**Recent EEOC Memos Highlight Penalties, Presumption of Innocence**

The U.S. Equal Employment Opportunity Commission (EEOC) has announced two memos detailing updates to its policies and future procedures.

The first update ends the EEOC’s practice of imposing monetary penalties, such as attorney fees and litigation costs, on federal agencies that fail to comply with its administrative orders.  This policy adjustment underscores the agency’s intent to align its practices with established legal standards.

The second update focuses on protecting the rights of individuals accused of [workplace discrimination](https://www.shrm.org/topics-tools/employment-law-compliance/supreme-court-decision-underscores-importance-of-inclusion). The [EEOC](https://www.shrm.org/topics-tools/news/talent-acquisition/eeoc-anti-american-discrimination-immigrant-workers) expressed its support for the U.S. Department of Defense’s recent efforts to end the practice of delaying promotions for employees who are the subject of pending equal employment opportunity complaints. The agency emphasized that fairness requires maintaining a presumption of innocence for those accused of discrimination and ensuring that no punitive actions are taken against them unless allegations are proven.

These updates reflect the EEOC’s commitment to balancing the rights of all parties involved in federal employment disputes while adhering to legal standards and promoting procedural fairness.

**HR’s Path Forward**

These developments do not establish any new legal precedent for private-sector organizations. However, they do provide some insight into the [EEOC’s priorities](https://www.shrm.org/topics-tools/news/inclusion-diversity/shrm-chief-staff-joins-eeoc-discussion-skills-based-hiring), which may grant HR professionals some valuable context as they navigate compliance, according to Nonnie L. Shivers, an attorney with Ogletree Deakins in Phoenix.

The memos serve as a reminder to [prioritize merit in the hiring process](https://www.shrm.org/topics-tools/news/talent-acquisition/skills-based-hiring-is-here-to-stay-get-started-now) and other employment practices. Furthermore, they underscore the importance of documenting employment decisions, establishing a valuable record in the event of a discrimination case, Shivers said.

“The federal government and the [EEOC continue to focus on merit-based principles in the workplace](https://www.shrm.org/topics-tools/news/eeoc-investigates-law-firms-issues-guidance-on-illegal),” she said. “Merit is not new to employers, and they have been [using merit](https://www.shrm.org/topics-tools/tools/toolkits/skills-based-hiring-transform-talent-acquisition) in many ways for many years. Now is the time to lean into how you can document employment decisions of all kinds and the legitimate, nondiscriminatory bases for doing so.”

HR professionals should also use this development as an opportunity to refresh themselves on the best practices regarding employment discrimination cases. By asking the right questions and maintaining a productive, unbiased mindset, they can evaluate credibility in a nondiscriminatory fashion.

**SHRM LINK ARTICLE:** [**Recent EEOC Memos Highlight Penalties, Presumption of Innocence**](https://www.shrm.org/topics-tools/news/inclusion-diversity/recent-eeoc-memos-highlight-penalties-presumption-of?utm_placement=article&utm_source=marketo&utm_medium=email&utm_campaign=compliance&utm_initiative=content&utm_content=NL_2025-07-04_Workplace-Compliance&utm_audience=allseg&utm_term=&linktext=Recent-EEOC-Memos-Highlight-Penalties-Presumption-of-Innocence&mktoid=49915738&mkt_tok=ODIzLVRXUy05ODQAAAGbdVv5amrsN-w0Lux93xZDvqvYadPBNdbYjMb_euXoDPwSaU__BYKSoQ4fLz6q-9lO2a-aQVhbPZ9zBa_tkgaAfmkqb2yh0r-sJTbwSIXgHsw9iCKw)

**MONTANA STATE LEGISLATIVE SESSION**

***MT HB 226*** **THE LEGAL EMPLOYMENT AND GOVERNMENT ACCOUNTABILITY LAW**

**Effective July 1 2025**

**Bill Summary**

**Overview:**

House Bill 226 (HB 226) aims to establish a legal framework for employment and enhance government accountability in Montana. This legislation aims to ensure that employers in Montana hire only legally authorized workers to work in the United States, promoting fair competition and legal employment practices.

**Considerations for Employers:**

* **Verification Requirements**: Employers must verify the legal employment status of all employees before they begin work, using either the E-Verify program or Form I-9.
* **Record Retention**: Employers must retain Form I-9 for three years after the date of hire or one year after employment ends, whichever is later.
* **Penalties for Non-Compliance**: Fines range from $500 to $2,500 per unverified employee, with potential license suspension for repeat violations.
* **Inspection and Audits**: The Department of Labor and Industry can audit employers’ records and issue subpoenas to ensure compliance.

**MONTANA WEB SITE BILL**: **https://bills.legmt.gov/#/laws/bill/2/LC1663?open\_tab=bill**

***UPCOMING CALENDAR EVENTS:***

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| [**2025 HR Trends in Focus: Talent, Tech, and the Regulatory Road Ahead**](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JtenfOSjpbH_N35Z0eyWMCPeTBouQUcP_ZnfwS-__SrlAg-rbk1VUrV1XGBxU7rA_PM8vmZzKfnKe0H9hx695FE21lBWq93l5wVdDk69MlFlS4dAe2Gk6DksJBO5C_HGgAV9U_FgaqBMvLfnxshuEgiJKiMGFyBKP5R3qkloJZkQgMWM6oN2ZBUzlvhKYDz8SYoO2_5yV4zysoW4bfS5EIlXf0V4uUX23EY-cL2QHbjbuROskP7shFuwkwDobXIb2pXaH-UmLDIfvGAQ2RrvJciirP3pvBxNpE_4VIjCbUNyEPLO6HvmuI86PaPiGOEZd3WLwBFhN0P6BR3LYwxAqDFVUU2JNHz-sG-AmafffXRcP4NwGkJe4RhW61kwtPNS7e6RYeghOWfqT44G6aq079wSrrmAydDDYpwTygPu6BH8OIJ_etll9IOuoANqDWKpoVGxXNPYd91SV3BifDPrZCO63qQ9dQ-2ZopNsVj1IOBqCGKpjcJEQOboWlQRLJTcDrETJxjBcqQt5FlsQZ7B4wXgRxEod-d3Khjfp2ODE0frzJZ/ODIzLVRXUy05ODQAAAGbdVv5aiqrcA2vdTeQF3DaJpO33n_b3tMJj9zI-wIIU3iv3AUuR-yUzYLR4344Pf6RBQlRU-A=) |
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| **July 23, 1 p.m. ET / 10 a.m. PT** |
| **Free for Members | $149 for Nonmembers** |

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| |  | | --- | | [**Workplace Compliance Trends for 2025**](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JtenfOSjpbH_N35Z0eyWMCPeTBouQUcP_ZnfwS-__SrlAg-1tLxhmapn7nwKdT7qII2w4gr40cO1CJfySzseC2VbzN14hQQAeq7D1cJ-YoTECCPJ0iKawT-Kah_KeH3lKFhqbNJBDjFJVKRwUSlPibLEGttVcl36laMKdxjoPisC1KYoMCf8YCP0893YlOfOYUiDUyIkaXFD9sL682eu_lExE7Clnv2hFwniIN_ghY2vy_XutEADMj_IXsahBLjRHUXsvD38FDiRSNHkVZ3IVinMNHDitCIvxvLewJy1bKzRSgYH8a8BT3Sb1KnU7vnKifzwgI3msFVYiPqmKh9PtA38qIOmSi10wjkta6icO8Y2WJa3MYgg4jUmT8rCSkVeuvQaJJxoRWEOfFnekahDGdNag59NGZapY3mVPeJ8vLhiEJMKVIPt8XeTNHkIbx7Q-xA9EHvTbBEMDMSb9vvuGCzqTlA3iNJHOm06bNJgqRQpxqb/ODIzLVRXUy05ODQAAAGbcAb8GEztvla7CaKfeat7tLSpSOxkI9vBMwp0UsAbYwotsDn7osburUcH88KgCNIIagnp7g4=) | |  | | **July 22, 2 p.m. ET / 11 a.m. PT** | | **Free | Sponsor:**[**Paycom**](https://c.shrm.org/ODIzLVRXUy05ODQAAAGbcAb8GCoroq7mOCTzJ9VAbQyRM9Ly5SLJ9dS4VI0XiZsFHryRB56bh8d9Tom2tQiOYDPnp_w=) | |  | | [Register Now »](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JtenfOSjpbH_N35Z0eyWMCPeTBouQUcP_ZnfwS-__SrlAg-1tLxhmapn7nwKdT7qII2w4gr40cO1CJfySzseC2VbzN14hQQAeq7D1cJ-YoTECCPJ0iKawT-Kah_KeH3lKFhqbNJBDjFJVKRwUSlPibLEGttVcl36laMKdxjoPisC1KYoMCf8YCP0893YlOfOYUiDUyIkaXFD9sL682eu_lExE7Clnv2hFwniIN_ghY2vy_XutEADMj_IXsahBLjRHUXsvD38FDiRSNHkVZ3IVinMNHDitCIvxvLewJy1bKzRSgYH8a8BT3Sb1KnU7vnKifzwgI3msFVYiPqmKh9PtA38qIOmSi10wjkta6icO8Y2WJa3MYgg4jUmT8rCSkVeuvQaJJxoRWEOfFnekahDGdNag4nN8lxldrc8BpwV38_5HYcI5fCusGbI2iojjb0_ukDqtSKnX_LpY9YC9tqR-tUegA=/ODIzLVRXUy05ODQAAAGbcAb8GEztvla7CaKfeat7tLSpSOxkI9vBMwp0UsAbYwotsDn7osburUcH88KgCNIIagnp7g4=) | |

***THANK YOU***