



Boulder Area Human Resource Association

BAHRA Legal Minute April 2021

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Return to Work Legal Issues

- » **Employees who fear work is unsafe get U/I benefits.** US DOL's Unemployment Insurance Program Letter No. 16-20, dated 2/25/21, instructs state unemployment agencies that individuals are eligible for U/I benefits if an employee refuses to return to work or take new work due to a fear of contracting COVID-19, e.g., self-certification that work is unsafe and employer is not following local, state and/or national safety guidelines.
- » **Will COVID-19 passports be required?** On April 2, 2021, a Florida executive order prohibits businesses from requiring "vaccine passports" — standardized credentials showing proof of vaccination — from customers. The order does not limit employers from requiring employees to show proof of vaccination. Nonetheless, there is a growing push for vaccine passports to work, travel, attend live-audience events.

Growth of Marijuana

- » NM, NY and VA have legalized recreational marijuana in 2021. Now, **17 states** and DC (AK, AZ, CA, CO, IL, MA, ME, MI, MT, NV, NJ, NM, NY, OR, SD, VA, VT, WA) allow adult recreational use
- » 35 states (AK, AZ, AR, CA, CO, CT, DE, DC, FL, HI, IL, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SD, UT, VT, WA and WV) had some form of legalized medical marijuana in 2020. [Note: low-THC CBD oil is lawful in AL, GA, IN, IA, KS, KY, NC, SC, TN, TX, VA, WI, and WY]
- » **Will the Biden Administration address federal marijuana law?**

If you file the EEO-1, it's back!

- » EEOC announced the opening date for the collection of **2019 and 2020** EEO-1 data.
- » The portal is slated to open April 26, 2021 and employers will have until **July 19, 2021 to file both years' reports**. Data collection period is now 12 weeks, instead of 10 weeks, to compile two years' data.
- » Information regarding EEO-1 filing is available on the EEOC's website at <https://eeocdata.org/>.

Will the Equality Act Pass?

- » Equality Act, H.R. 5, introduced March 2, 2021, protecting sexual orientation and gender identity
 - » Employment. Codifies *Bostock v. Clayton County* into Title VII
 - » Amends Fair Housing Act (FHA)
 - » Amends Equal Credit Opportunity Act re access to credit
 - » Jury service. Amends Jury Selection and Service Act
 - » Includes federally funded programs, such as schools and participation in sex-segregated activities, and adoption rights
 - » Includes places of public accommodation, e.g., restaurants, retail, stores, transportation, healthcare
 - » Religious Freedom Restoration Act (RFRA) cannot serve as a defense against claims of discrimination

Finally, HR Headlines

“A Man Demanded His Final Paycheck. The Auto Shop Delivered 91,500 Greasy Pennies.” *The New York Times*, March 25, 2021.



Finally, HR Headlines

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“Roughly half of Americans want to return to the office at least some of the time — but mostly to see their work friends, not their bosses.”

Business Insider, March 16, 2021



Thanks!

Are you talking to me?

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