

# NAVIGATING THE HR MINEFIELD



## CONTEMPORARY EMPLOYEE ISSUES FUEL 2016 HR CHALLENGES

*The HR landscape has become a minefield for employers who face new rules on minimum pay, disabled, LGBT employees, paid sick leave and a host of other thorny — and costly — new regulations so far this year.*

**S**omewhere in the HR department, you may find the HR director saying, “Enough!” Enough new rules and enough demands for changing the way we are managing our business this year. We are on overload and this year is far from over. It seems 2016 is our most challenging year since the passage of the Affordable Care Act.

Unlike the implementation of the Affordable Care Act, the mandated changes in 2016 have come from many different directions. The Department of Labor, the National Labor Relations Board and the Supreme Court have issued important decisions, but there are also many changes at the state and local level from equal rights to minimum wage.

Since the beginning of 2016, we have known the Department of Labor would drop the bomb that would increase the minimum pay for any exempt white-collar employee. It happened last month and becomes effective on Dec. 1. It raises the floor from \$455 a week to \$913, and the ripple effect is yet to be calculated.

Yes, it has more than doubled the minimum salary of salaried-exempt employees or they must be paid overtime. The message to every employer is loud — check every job to see who is entitled to be exempt; then decide the best course of action for your business.



COMBS

The U.S. Supreme Court sent an interesting message to the lower courts regarding a former UPS employee that will change the way we administer modified duty for pregnant employees. Allowing disabled employees to have modified duty has been reserved for work-related disabilities in most companies.

### WHEN AND WHERE

STAFDA HR consultant Nancye Combs will tackle this year’s “Top Ten Challenges in HR,” on **Sunday, Nov. 6 from 1:00 to 2:30 p.m.** and again from **3:00 to 4:30 p.m.** See the postings at the show for room assignments.

SCOTUS also ruled on same-sex marriage in 2015 and sent a message that employee differences in the workplace are on their radar. LGBT regulations have been passed at the state and local levels, and it appears there will be a federal law soon. Most confusing for employers appears to be the accommodation for transgender employees.

The National Labor Relations Board has also been very busy dishing out a host of opinions in recent years with profound consequences for employers who are trying to control communication that protect the company and its brand. They began in earnest to warn employers about controlling social network communication back in 2012, when they took a sledgehammer to the social media policies of virtually every U.S. employer.

While companies had an overriding motive to protect their image and brand, using the reference to the Section 7 rights of employees to “grieve,” the NLRB took a different approach. It set forth an opinion that employers may not prohibit any kind of employee communication that prevents employees from exercising their Section 7 rights. Confusing? You bet. Every policy regarding employee freedom to use social media must be revisited.

The confusion grows as we look at a brand new problem — employees using a wearable recording device. In a recent decision, the NLRB weighed in on what an employee can record while at work with no retribution.

The tentacles of the decision require employers to be guarded and aware that a recording device on a Smart-phone can be recording every word said by management.

Other confounding issues, such as establishing Independent Contractor Status to be paid with a 1099, responsibility for joint-use temporary employees if the temporary agency fails them and paid sick leave, have major financial impact. None of these changes is simple. Understanding what the employer *can* do, in spite of the many restrictions, requires a historical perspective and careful planning for implementation. These topics are the subject of the “Top Ten Challenges in HR,” presented by Nancye Combs, at the STAFDA Conference in Atlanta. **CS**

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