

Wage and Hour Opinion Letters

Earlier this year the U.S. Department of Labor's Wage and Hour Division (WHD) announced that it is reinstating its practice of issuing Opinion Letters to help employers and employees understand their responsibilities under federal wage and hour law.

According to the WHD, as part of the administration of the Fair Labor Standards Act (FLSA) and Family Medical Leave Act (FMLA), interested parties may seek and WHD officials may provide official written explanations of what these laws require in response to their specific inquiry. At the department's discretion, opinion letters may be signed by the WHD Administrator or a lower level official. Opinion letters issued by the Administrator may be relied upon as a good faith defense to FLSA wage claims.

The WHD may also issue opinion letters addressing fact-specific questions under other federal wage and hour laws enforced by the agency, including the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and the wage garnishment provisions of the Consumer Credit Protection Act (CCPA).

Whistleblower Protections

In June President Trump signed legislation (H.R. 657) to provide clarification under the federal Whistleblower Protection Act, located at 5 U.S.C. 2302(b)(9)(D), that an employee who refuses to obey an order that would require him or her to violate a law, rule, or regulation is protected from retaliation. The law is in response to a decision by the U.S. Circuit Court of Appeals for the Federal Circuit, in *Rainey v. Merit Systems Protection Board*, where the court recommended that the federal Whistleblower statute be amended to include rules, regulations, and other sources of legal authority rather than just the violation of a law. In response to the court's recommendation, H.R. 657 was introduced, passed by both the House and Senate, and signed into law.

The law became effective June 14, 2017, and is applicable to all employers, including churches and religious nonprofits.

Immigration

The federal Department of Justice (DOJ) has updated its E-Verify Right to Work posters website E-Verify Participation and DOJ, Immigrant and Employee Rights Section (IER) Right to Work posters must be displayed in English and Spanish by employers to inform their current and prospective employees of their legal rights and protections.

E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

For more information on click on this link: <https://www.uscis.gov/e-verify/publications/participation-posters/e-verify-participation-posters>

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