



# Human Resources WEEKLY DIGEST

February 26, 2020

## EEOC Closes EEO-1 “Component 2” Pay Data Collection; Upcoming Filing Requirements Not Yet Clear

“On February 10, 2020, the U.S. District Court for the District of Columbia approved the Equal Employment Opportunity Commission (EEOC)’s request to deem its retrospective collection of compensation data (the so-called “Component 2” information) for calendar years 2017 and 2018 completed, ending (at least for now) the federal government’s first-ever collection of pay data. Employers’ obligations with respect to filing calendar year 2019 demographic data remain unclear.” [Full Article](#)

*Littler Mendelson*

## Safety and Health Program Assessment - Form 33

**Legend:** 0 = No; 1 = No, Needs major improvement; 2 = Yes, Needs minor improvement; 3 = Yes;  
NA = Not Applicable; NE = Not Evaluated \* = Stretch Items (for SHARP companies)

### Hazard Prevention and Control

	0	1	2	3	NA	NE
1. A comprehensive, baseline hazard survey has been conducted within the past five (5) years.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments:** A comprehensive surveys addresses “safety” and “health” issues, all written programs, and the entire facility. In order to get a “3”, there must be documentation in the form of a written report for the hazard survey, and showing how hazards discovered in the survey have been addressed.

## Reporting Deadline for OSHA Form 300A Looms

“By March 2, 2020, employers must submit their Form 300A information through OSHA’s Injury Tracking Application (ITA). Form 300A is the second page of the OSHA Form 300 and serves as a summary of all recordable work-related injuries and illnesses that occurred in 2019. OSHA defines a recordable injury or illness as follows:

- Any work-related fatality.
- Any work-related injury or illness that results in loss of consciousness, days away from work, restricted work, or transfer to another job.
- Any work-related injury or illness requiring medical treatment beyond first aid.
- Any work-related diagnosed case of cancer, chronic irreversible diseases, fractured or cracked bones or teeth, and punctured eardrums.

There are also special recording criteria for work-related cases involving: needlesticks and sharps injuries; medical removal; hearing loss; and tuberculosis.” [Full Article](#)

*Fisher Phillips*

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## Whistleblower Rights in Today's Evolving Federal Statutory Landscape

"All viable whistleblower cases arise from allegations of wrongdoing serious enough to run afoul of some statute or rule. Common issues in every whistleblowing case include:

- Who is subject to protection against retaliation as a whistleblower?
- What types of conduct or speech are entitled to protection as whistleblowing?
- What must a whistleblower do by way of exhaustion of administrative remedies or other effort to remediate wrongdoing in order to have a justiciable claim?
- What remedies does the law afford to a whistleblower who successfully demonstrates at trial all elements of a viable claim?"

[Full Article](#)

*Jackson Lewis*



### Cupid's arrow strikes at work: Managing romantic and personal relationships in the workplace

"Valentine's Day offers an annual reminder to every employer that Cupid's arrow can strike at the workplace. According to certain studies, 25 to 50 percent of employees have been a part of a workplace romance. This might not be surprising given the amount of time employees spend with each other, in many cases over the course of several years, and the bonds that can form among and between coworkers who share common interests and experiences, whether professional or personal in nature. So what can employers do to manage romantic and personal relationships when "love is in the air" at the workplace?" [Full Article](#)

*Reed Smith*

### Beltway Buzz

"Administration Releases FY2021 Budget. D.C. policy watchers dove headfirst into President Donald Trump's 2021 budget this week, looking for clues and insights into where the administration may be heading in a variety of policy matters. Though federal law requires the president to release a budget, the utility of the exercise is dubious, as Congress retains the "power of the purse" and ultimately makes the decisions on where to allocate federal funds. The budget is instead a political document, but it can provide a sense of where the administration stands on certain things. As for labor and employment projections, the president's Fiscal Year (FY) 2021 budget seeks an overall reduction in funds for the U.S. Department of Labor (DOL) (a 10.5 percent cut), the National Labor Relations Board (a 10.2 percent cut), and the Equal Employment Opportunity Commission (EEOC) (a 7 percent cut), but it would increase H-1B fees (a budget request that has been made in prior years)."

[Full Article](#)

*Ogletree Deakins*

## U.S. DOT Issues Warning Regarding Use Of CBD Products By DOT-Regulated Employees

"The U.S. Department of Transportation Office of Drug and Alcohol Policy Compliance published a notice on February 18, 2020 concerning the use of hemp and cannabidiol (CBD) products by safety-sensitive employees regulated by DOT's agencies (including the Federal Aviation Administration, the Federal Motor Carrier Safety Administration, the Federal Transit Administration, the Federal Railroad Administration, and the Pipeline and Hazardous Materials Administration, as well as the U.S. Coast Guard)." [Full Article](#)

*Jackson Lewis*

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## STATE & INTERNATIONAL COMPLIANCE

### CALIFORNIA



#### The Heart of Employee Rights Under CCPA: Attorney General Modifies Guidance

“Transparency and communication are cornerstones of a successful relationship—and the employment relationship is no exception. The California Consumer Privacy Act (“CCPA”) came into effect on January 1, 2020, bestowing two landmark rights on California employees, applicants, contractors, emergency contacts, and dependents: (1) the right to notice about what personal information an employer collects and the purpose of collection; and (2) the right to sue with statutory damages if sensitive data is compromised.” [Full Article](#)

*Sheppard Mullin*

### DISTRICT OF COLUMBIA

#### D.C. Employers Risk Fines for Failing to Comply with Paid Family Leave Notice Requirements

“The Act covers employers with at least one employee working in D.C. and, as of July 1, 2019, covered employers have been taxed 0.62% of the wages paid to covered employees to create a fund from which PFL benefits will be paid. Paid leave benefits are ninety percent of average weekly compensation, capped at \$1,000 per week. Importantly, covered employers were required to post PFL notice at their worksites by no later than February 1, 2020. Failure to comply with this posting requirement subjects an employer to a fine of \$100 for each day that PFL notice is not conspicuously displayed at each worksite.”

[Full Article](#)

*Hunton Andrews Kurth*

### OREGON

#### Legislative Highlights for Oregon Employers in 2020

“Oregon’s active 2019 legislative session has prompted the need for several policy and handbook updates for employers doing business in Oregon. This Insight provides an overview of the most notable recent employment law developments in Oregon.” [Full Article](#)

*Littler Mendelson*

### KENTUCKY

#### Proposed Amendments Could Substantially Broaden Kentucky’s Workplace Injury and Illness Reporting Requirements

“On Feb. 12, 2020, the Kentucky Labor Cabinet’s Department of Workplace Standards announced proposed amendments to the state’s regulation concerning injury and illness reporting requirements for workplace incidents resulting in the loss of an eye, hospitalization, amputation, and/or death. Under existing law, employers in Kentucky are required to report “work-related incidents” that result in the death of an employee and/or hospitalization of three or more employees within 8 hours of the incident. Employers in Kentucky are also required to report “work-related incidents” that result in an amputation, loss of an eye, or the hospitalization of fewer than three employees within 72 hours of the incident.”

[Full Article](#)

*Frost Brown Todd*

### NEW JERSEY

#### Final Regulations Issued for New Jersey Paid Sick Leave Act

“The New Jersey Department of Labor and Workforce Development (the “Department”) has issued its final regulations regarding the state’s Paid Sick Leave Act (the “Act”), which took effect on October 29, 2018. The Department also published its responses to over one hundred comments submitted by members of the public regarding the proposed regulations. As we previously reported, the Act requires employers to provide eligible employees with paid leave for: (i) their own medical needs; (ii) medical needs of a covered family member; (iii) certain needs resulting from the employee or the employee’s family member being a victim of domestic or sexual violence; (iv) an employee’s inability to work because of a closure of the employee’s workplace or their child’s school or daycare facility, due to a public health emergency; or (v) to attend a child’s school-related conference, meeting, or event.” [Full Article](#)

*Proskauer*