

Southwest Montana SHRM

Affiliate of the Society for Human Resource Management

Chartered in Bozeman, MT



LEGISLATIVE UPDATE

OCTOBER 2024 UPDATE



Southwest Montana SHRM MISSION:

To connect and inspire members to create a collaborative environment for people to do their best work

THANK YOU to all who attended the 1st MT/Helena SHRM Legislative Seminar in Helena last month!

We had great speakers and a good showing both in-person and online.

Thank you!

Time Off to Vote: What's Required of Employers? Are you obligated to give employees time off from work to vote?

October 2, 2024

Federal law does not require employers to give employees time off to vote, but a majority of states and some local ordinances mandate voting leave time, especially when an employee's work hours do not permit sufficient time to vote during poll hours.

Want to know what your state requires? **MONTANA:**

Montana does not have a voting leave law. However, Montana law does prohibit an employer from influencing an employee's political opinions and actions, as well as prohibit public employees from soliciting support or opposition to a candidate or ballot issue while on the job. These election and campaign offenses are covered in the Montana Code Annotated at Title 13, Chapter 35, Part 2, Sections 13-35-226 and 13-35-228.

In terms of pay, state voting-leave laws vary on whether such time off must be paid or unpaid for nonexempt employees. Exempt employees who take a partial day off to vote during normal working hours should not have their pay reduced, as doing so would jeopardize their exempt status under the Fair Labor Standards Act.

State laws also vary as to the amount of time that must be provided and whether an employer can dictate which hours are taken off, such as at the start or end of the employee's workday. Some jurisdictions require postings to advise employees of their voting-leave rights. Additionally, some jurisdictions require employers to provide time off to employees who serve as election officials or to serve in an elected office.

SHRM LINK ARTICLE: [Time Off to Vote: What's Required of Employers?](#)

NLRB General Counsel Takes Aim at Noncompetes and 'Stay-or-Pay' Provisions

October 10, 2024 | [Allen Smith, J.D.](#)

The National Labor Relations Board (NLRB) General Counsel Jennifer Abruzzo issued a memo to board regional directors doubling down on her position that overbroad noncompete agreements are unlawful and asserting that certain "stay-or-pay" provisions violate employees' rights under the National Labor Relations Act (NLRA).

We've gathered articles on the news from SHRM and other outlets.

General Counsel's Reasoning

Under stay-or-pay provisions, an employee must pay their employer if they separate from work, Abruzzo explained. Such provisions "infringe on employees' Section 7 rights in many of the same ways that noncompete agreements do," she wrote.

Section 7 of the NLRA guarantees employees "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection," as well as the right "to refrain from any or all such activities."

Abruzzo stated in her memo that noncompete provisions "can restrict the ability to change jobs or leverage one's outside options to obtain a raise, which are common ways employees improve their income and employment terms. In other words, unlawful noncompete provisions may have a harmful financial impact on employee wages and benefits by explicitly restricting employees' job opportunities."

SHRM LINK ARTICLE: [NLRB General Counsel Takes Aim at Noncompetes and 'Stay-or-Pay' Provisions](#)

PLAN AHEAD

[Health Care Cost Projections for 2025](#): The average cost of employer-sponsored health care coverage in the U.S. is expected to increase by 9% in 2025, according to an analysis from Aon. That's significantly higher than the 6.4% increase in health care budgets that employers experienced from 2023 to 2024.

[Daylight Saving Time Ends: November 3rd](#). When Daylight Saving Time ends on the first

Sunday in November, nonexempt employees working when the clock “falls back” will be entitled to pay for that extra hour of work.

[Veterans Day](#): **NOVEMBER 1** is Veterans Day is set aside to thank and honor all who served honorably in the military—in wartime or peacetime.

Supreme Court to Review White, Straight Worker’s Bias Claims

The U.S. Supreme Court has agreed to decide whether white, straight workers must clear a higher bar when they are trying to prove race and sex discrimination in violation of Title VII of the Civil Rights Act of 1964. We’ve gathered articles on the news from SHRM and other outlets.

Plaintiff Seeks to Revive Lawsuit

The justices took up an appeal by Marlean Ames, a heterosexual woman, who is seeking to revive her lawsuit against the Ohio Department of Youth Services in which she said she lost her job to a gay man and was passed over for a promotion in favor of a lesbian woman in violation of federal civil rights law.

The 6th U.S. Circuit Court of Appeals decided that Ames had not shown the background circumstances that courts require to prove that she faced discrimination because she is straight. At least four other U.S. appeals courts have adopted similar hurdles to proving discrimination claims against members of majority groups. Those courts have said the higher bar is justified because discrimination against those workers is relatively uncommon. But other courts have said that Title VII does not distinguish between bias against members of minority and majority groups.

SHRM LINK ARTICLE: [Supreme Court to Review White, Straight Worker’s Bias Claims](#)

Permanent Telework May Not Be a Reasonable Accommodation

Takeaway: *This case highlights the importance of engaging in a detailed interactive process with employees when handling accommodation requests.*

The U.S. Court of Appeals for the District of Columbia Circuit decided that an employer could not require an employee with a disability to accept telework as a reasonable accommodation when the employee would rather work in person at the office.

The plaintiff worked as an economist in the U.S. Environmental Protection Agency’s (EPA’s) Office of Science & Technology. He long experienced severe allergies that resulted in bleeding, itchy skin, rashes, face and arm swelling, and difficulty breathing, seeing, walking, and sleeping. For about 10 years, he worked in a private office at the EPA. After an office reshuffling in 2007, he worked from home for months before being moved to a cubicle. At

that time, he sued, claiming that the EPA failed to accommodate his allergies. He lost that claim for failure to provide requested medical information.

The plaintiff then returned to work in the cubicle without incident for more than four years. But in 2011, the EPA moved a co-worker known for wearing particularly pungent cologne to the desk next to him. The cologne triggered the plaintiff's allergies and also made another colleague nauseous.

SHRM LINK ARTICLE: [Permanent Telework May Not Be a Reasonable Accommodation](#)

UPCOMING CALENDAR EVENTS:

Crowley Fleck's Eighth Annual Employment Law Webinar

You are invited to Crowley Fleck's Eighth Annual Employment Law Webinar. This year, we are going "Back to Basics," with a two-hour webinar featuring six short presentations on the areas where we see the most employment law questions from clients.

Date: Wednesday, November 13, 2024

Time: 11 a.m. to 1 p.m. Mountain

Who should attend: Employers and HR Professionals

Advance registration is not required. Zoom information is below.

Zoom Information:

[Join Zoom Meeting](#)

<https://crowleyfleck.zoom.us/j/99843730771?pwd=zeU1NVf1f66ETa2bQw2z35TsbEJSXS.1>

Meeting ID: 998 4373 0771

Passcode: 220453 Call in number: 888 475 4499 US Toll-free



In Person Pass
Member \$795.00
Nonmember \$1,195.00

WEBCASTS/CONFERENCE SESSIONS

None at this time

THANK YOU