



12 Hidden HR Landmines

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Watch your footing.

Compensation

- Employee Classification
- Meal/Rest Periods
- Pay Equity
- Paid Family Leave

Culture and Performance Management

- Leaves and ADA Management
- Investigations
- Separations

Policy

- Non-Competes/Non-Solicits
- Social Media and Callout Culture
- Updated Handbooks and Policies
- Multi-State Compliance
- Manager Training

Landmine #1: Compensation – FLSA Classification

Exempt versus Non-Exempt classifications.

Being Salary doesn't mean exempt and hourly doesn't mean non-exempt.

Exempt employees shall be paid for a full workweek.

What to look out for...

- Don't treat exempt employees as non-exempt and visa versa.
- Keep your eyes open for possible changes to the FLSA minimum salary threshold



Landmine #2: Compensation – Meal + Rest Periods

Non-exempt employees shall have required meal and rest periods.

Tipped employees may be able to sign a meal break waiver.

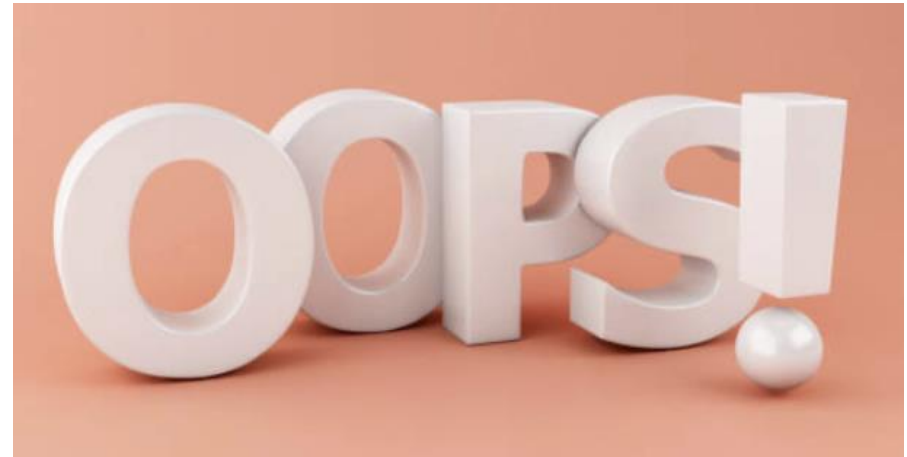
Minors have different laws.

There are laws regarding rest periods for nursing mothers.

It is possible to navigate.

What to look out for...

- Different states and locals have different laws about meal and rest periods.



Landmine #3: Compensation – Pay Equity

Pay equity is not about departments or groups of similar jobs.

There are federal and state laws about Pay Equity.

Pay Equity is about aligning positions with comparable pay for equal or comparable work.

Employers are obligated to be able to explain 'why' an employee is paid what they are paid under the law.

What to look out for...

- Different states have different laws about pay equity, but there is also a federal law under department of labor.
- Bonus' and many other compensation programs must be included in total compensation. *Sept 28, 2022
- Review long term pay decisions with new pay offers.

Landmine #4: Compensation – Paid family leave

Beginning in 2023 employers and employees must begin paying into Oregon's Paid Family Leave fund.

Some employers may not have to contribute; employees will contribute.

Employers have the option to enroll in a private plan.

Beginning September 2023, employees may begin utilizing PFL.

What to look out for...

- Final rules are still coming out.
- Aligning PFL with OFLA/FMLA or other leave like Sick Time Pay.
- Qualifying family members are different under PFL than OFLA.
- Stay in touch with Aldrich (hint, hint), often.

Landmine #5: Culture & Performance Management – Leaves & ADA Management

Oregon Sick Time

Worker's Comp

OFLA/FMLA

Paid Family Leave

ADA

What to look out for...

- Shooting from the hip on non-approvals
- Lack of proper documentation
- Overlap of leaves and ADA
- Tracking and leave “year”
- “Perceived as Disabled” trap.



Landmine #6: Culture & Performance Management – Investigations

Employer obligations to 'look into' things like claims of harassment, discrimination, hostile work environment, bullying, safety, etc.

Who is your 'investigator'?

Do you have an employment attorney, like Jordan Ramis (hint, hint)?

OWFA

What to look out for...

- What is a complaint?
- Managing those involved
- Proper documentation
- Confidentiality
- Retaliation Claims
- Wrongful Terminations
- Aiding and Abetting Claims

Landmine #7: Culture & Performance Management – Separations

At-will employment

Performance coaching
and feedback versus
corrective feedback
and documentation

Considerations for
separation decisions

Post-separation
obligations

What to look out for...

- Separation coinciding with leaves, ADA, or complaints
- Final pay, PTO/Sick/Vacation
- Messaging to the team and others
- References
- Unemployment Claims

Landmine #8: Policy – Non-Competes/Non-Solicits

Laws have changed regarding non-competes

Salary threshold

Grandfathering

Enforcement

What to look out for...

- Updating policy and documents with legal review
- Severance Agreement language



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Landmine #9: Policy – Social Media + Call Out Culture

Oregon Social Media
laws

Social media call outs

Social media posting
policies

Influencer programs
and requiring
employees to post

What to look out for...

- Using social media as 'background checks'
- Using social media as 'performance discipline' and/or separation decisions
- Responding to social media call outs
- NLRB Issues

Landmine #10: Policy – Handbooks and Policies

Handbooks should be reviewed at least annually

Policies should be signed off on, posted and tracked (addendums)

Multi-state laws

Norms versus policy

Consistent language among management

What to look out for...

- Using out of date language, legal updates, and considerations of company size, location and multi-state compliance
- Not applying policy and setting precedent
- Updated signatures and receipt of understanding

Landmine #11: Policy – Multi-State Compliance

Remote Work has increased
the numbers of multi-state
employees

Laws are different depending
on state and location,
employer size, industry

What to look out for...

- Payroll laws, workers comp, benefits, leaves depend on state and locale



Landmine #12: Policy – Manager Training

Culture and Communication

Recruitment and Hiring

Leaves and ADA

Documentation

Anti-Harassment and Respectful Workplace

Performance Communication

Separations

What to look out for...

- Manager liability
- Managers choosing employee advocacy instead of the employer
- Unionization



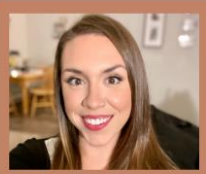
Q&A - Thank You!


Upcoming Events:

WEBINAR

**What's the Difference?
Job Ads vs. Job
Descriptions**

OCTOBER 12, 2022 | 11 AM - 12 PM PDT


BROOKE BOHAN


JESSICA ORTMAN

VIA ZOOM

Oct. 12

HR Annie presents the

**MANAGER
CRASH
COURSE**

2-Day Training

NOVEMBER 8TH & 9TH, 2022 | 9AM-4PM

Nov. 8 & 9

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