

PROGRAM AGENDA

Employment Law Certificate

Program for HR Professionals

Day 1

8:00 am – 8:30 am: **Registration and Refreshments**

8:30 am – 10:00 am

Setting the Stage: How Law Impacts the Workplace

- Defining the employment relationship in the legal context
- Understanding the “employment at will” doctrine and the implications for employers today: Have the exceptions eaten up the rule?
- Distinguishing between employees, independent contractors, and contingent workers (leased, temporary, and part-time employees)
- How employment contracts impact the employer’s legal obligations
- Sources of employment law: Federal and state statutes, court decisions, government regulations, and enforcement agencies
- Examining common law issues and employment-related torts

10:00 am – 10:15 am: **Break**

10:15 am – 12:00 pm

Legal Recruiting and Hiring: Starting Out Right

- Carefully drafting ads for employment and job descriptions that comply with the law
- Ensuring that your Internet recruiting strategies comply with the law: Knowing the rules on who is an applicant
- Interview questions you should always ask, and questions you should avoid
- Taking the necessary precautions to avoid negligent hiring liability
- Legally and effectively using screening techniques in making hiring decisions
- Avoiding hiring documentation problems: I-9 requirements, HB-1 and other work visas, social security issues, new hire reporting requirements
- **Interactive Exercise:** Participate in a mock interview of a job applicant

12:00 pm: **Lunch**

1:00 pm – 2:00 pm

Document, Document, Document: Maintaining Legally Compliant Employee Records

- Maintaining personnel files and employee medical records that comply with the law: Employee rights and employer responsibilities
- Deciphering what should and should not be kept in personnel files
- Drafting employee handbook provisions that comply with the law: Which policies are most likely to result in legal problems?
- Handling third-party access to files and subpoena of records
- Understanding which government agencies can audit your files and what information they are permitted to obtain
- **Interactive Exercise:** Evaluate sample handbook policies and identify problem spots that may lead to trouble

2:00 pm – 3:00 pm

Labor and Management: How Labor Law Applies to Union and Nonunion Organizations

- Understanding the key provisions of the National Labor Relations Act and how they impact union and nonunion employers
- How to successfully deal with the National Labor Relations Board and avoid unfair labor practice charges
- What you need to know about collective bargaining agreements
- Maintaining a union-free workplace: Understanding the nonunion employer's rights when responding to union organizing

3:00 pm – 3:15 pm: **Break**

3:15 pm – 4:30 pm

Managing Employee Performance: Implementing Discipline Practices that Will Stand Up to Legal Scrutiny

- How legally sound and carefully documented performance appraisals can improve performance and can help defend a wrongful discharge suit
- Using progressive discipline procedures to focus on improving performance and eliminate misconduct
- Managing the hairy issues that can arise regarding representation during investigative interviews
- The critical task: Ensuring that your managers follow organization policy and the law prior to discharging an employee

4:30 pm: **Day 1 Concludes**

Day 2

8:00 am – 8:30 am: **Networking and Refreshments**

8:30 am – 9:30 am

Legally Compensating Employees: Deciphering Key Provisions of the Wage and Hour Laws

- Steering clear of common wage and hour law traps that employers fall into
- Grasping the complexities of new FLSA overtime regulations to ensure full compliance
- Determining who qualifies as exempt under the new DOL rules and how to apply the “duties” test
- Protecting your organization from liability for impermissible pay deductions for exempt employees: Examining the “safe harbor” provisions and clarification on the “window of correction”
- The boom in wage and hour litigation and how to avoid the risks
- How to prepare for a DOL audit and investigation
- Protecting yourself from individual liability for FLSA violations

9:30 am – 10:00 am

Mandatory Benefits Laws: Complying with ERISA, COBRA, and HIPAA

- Understanding the employer's obligations under ERISA, COBRA, and HIPAA
- Ensuring that your ERISA plan complies with legal requirements
- Tips for successfully tracking COBRA and staying in compliance
- What employers need to know about the new HIPAA medical privacy rules

10:00 am – 10:15 am: **Break**

10:15 am – 11:00 am

Whistleblower Protection and Codes of Conduct: Upholding Organizational Values and the Law

- The new importance of business ethics and compliance training and programs
- Teaching supervisors to be ethical leaders
- What do the U.S. Sentencing Guidelines require of all organizations?
- *Sarbanes-Oxley* compliance: Public companies, privately-held companies, nonprofit organizations
- How to handle whistleblowers: What kinds of conduct does the law protect?
- What you need to know about the Qui Tam provisions of the False Claims Act

11:00 am – 12:00 pm

Privacy and Confidentiality in the Workplace: Protecting Your Employees' Rights and Your Organization's Information

- Discover the latest legal issues confronting employers in the electronic workplace, including blogging and instant messaging
- Implementing Internet, voicemail, email, and cell phone use policies that will protect your organization
- Following legal guidelines for monitoring computers, emails, and telephone calls: Avoiding employee privacy rights violations
- How to protect trade secrets, customer lists, inventions and other intellectual property
- Update on noncompete agreements, restrictive covenants and nonsolicitation agreements

12:00 pm: **Lunch**

1:00 pm – 1:45 pm

Maintaining a Safe Working Environment: Health, Safety, and Ergonomics in the Workplace

- Defining employee rights and employer obligations under the Occupational Safety and Health Act: The employer's "general duty" requirements and "special duty" to inform
- How to prepare for an OSHA inspection: What to do when the government comes knocking
- Clarification on the OSHA recordkeeping rules
- Avoiding the consequences for noncompliance: Citations, violations and penalties
- The vital facts that every employer should know about workplace ergonomics and the employer's responsibilities under OSHA

1:45 pm – 2:30 pm

Workplace Violence and Terrorism: Protecting Your Organization

- Why every organization should have an emergency response plan: Security concerns, crisis management, and more
- Department of Labor and OSHA guidelines to protect your workplace from new and emerging threats of violence
- Adopting and enforcing a workplace violence policy that will protect your organization

2:30 pm – 2:45 pm

2:45 pm – 4:30 pm

Federal Antidiscrimination Laws: What You Need to Know to Protect Your Organization from Lawsuits

- Examining federal laws governing Equal Employment Opportunity (EEO) and prohibiting discrimination in employment practices
- Identifying the protected classes of employees under Title VII of the Civil Rights Act
- Understanding the theories of discrimination under Title VII: Disparate treatment, disparate impact, and mixed motive cases

- Lessons learned from court decisions in discrimination cases: Race, gender, religion, and national origin
- Avoiding liability under the Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act (ADA), Rehabilitation Act, Pregnancy Discrimination Act (PDA), and Equal Pay Act
- **Interactive Exercise:** Analyze case studies of recent discrimination cases

4:30 pm: **Day 2 Concludes**

Day 3

8:00 am – 8:30 am: **Networking and Refreshments**

8:30 am – 9:45 am

The Harassment-Free Workplace: Proactive Strategies for Preventing Harassment

- Examining the two types of sexual harassment cases: “Quid pro quo” and “hostile work environment”
- It’s not just about sex anymore: What the courts are saying about new forms of harassment claims—same sex, same race, and disability harassment
- Following EEOC guidelines for drafting strong antiharassment policies
- Critical steps to take to prevent workplace harassment: Implementing management training initiatives

9:45 am – 10:00 am: **Break**

10:00 am – 11:15 am

Avoiding the Minefield of Rising Retaliation Claims

- How the courts define unlawful retaliation: Examining the Supreme Court decision clarifying retaliation claims rules
- Examining EEOC guidance on retaliation claims
- Preventing retaliatory conduct through effective antiretaliation policies and careful management training
- How to resolve a retaliation claim before it ends up in court

11:15 am – 12:00 pm

EEOC and OFCCP: Ensuring Your Policies and Procedures Are in Compliance

- How to respond when an EEOC charge is filed
- Preparing for an EEOC investigation
- What are the advantages and disadvantages to participating in the EEOC’s mediation program?
- Maintaining a diverse workplace: Examining court decisions addressing affirmative action and reverse discrimination
- Clarification on OFCCP policies, regulatory initiatives and compliance audits

12:00 pm: **Lunch**

1:00 pm – 2:30 pm

Workplace Investigations: Protecting Your Organization from Costly Liability

- Responding to a complaint of improper behavior or suspected misconduct
- What are the employer’s obligations in conducting investigations?
- Determining whether to bring in a third party to conduct the investigation: Recent amendment to the FCRA
- Ensuring that your investigation is in compliance with the law
- Critical steps to follow when planning your investigation
- How to get the most out of your witness interviews
- Tips for drafting investigation reports

- **Interactive Exercise:** Take part in a mock investigation of employee misconduct

2:30 pm – 2:45 pm: **Break**

2:45 pm – 4:30 pm

The Family and Medical Leave Act: Avoiding the Legal Snares

- Understanding employer and employee rights and responsibilities under the FMLA
- Discover which FMLA issues are likely to result in litigation and how you can avoid the legal snares
- What is a “serious health condition” and how can you determine whether your employee (or his/her family member) has one?
- What are the employer’s obligations to give notice of FMLA leave designation?
- Dealing with employee requests for intermittent and reduced schedule leave
- Protecting yourself from the perils of individual liability for violations of the FMLA

4:30 pm: **Day 3 Concludes**

Day 4

8:00 am – 8:30 am: **Networking and Refreshments**

8:30 am – 10:00 am

The Americans with Disabilities Act: Making Legally-Required Accommodations

- Deciphering how the statute and the courts are defining the key terms: Disability, impairment, perceived disability, major life activity, qualified individuals, and more
- Ensuring that your job descriptions are in compliance with the ADA
- Determining when an employee is a “qualified individual” under the ADA
- What are the employer’s responsibilities to make “reasonable accommodations” for disabled employees or applicants
- Successfully managing mental disabilities and stress claims
- Dealing with drugs and alcohol in the workplace

10:00 am – 10:15 am: **Break**

10:15 am – 11:15 am

Workers’ Compensation: Legally Managing Workplace Injuries

- Who is covered under workers’ compensation laws?
- Defining injury and illness “arising out of employment” and “in the course of employment”
- Deciphering the exclusions and the exceptions to workers’ comp coverage: Intentional acts, intoxication, safety violations, horseplay, sexual harassment, and more
- Getting injured employees back to work as quickly as possible
- How to protect your organization: Tips on fraud prevention and detection

11:15 am – 12:00 pm

Untangling the Web: Navigating the Confusing Overlap of FMLA, ADA, Pregnancy, and Workers’ Comp Laws

- Distinguishing between an FMLA “serious health condition” and an ADA “disability”
- Managing the interplay between leave requirements under the ADA and FMLA
- Handling workers’ comp claims that have ADA and FMLA ramifications
- Determining when you can run leave times concurrently under FMLA and workers’ comp
- **Interactive Exercise:** Work through case studies of your most difficult overlapping leave and disability law dilemmas

12:00 pm: **Lunch**

1:00 pm – 1:30 pm

Other Leave Laws and Time Off Issues: Ensuring You Are in Compliance

- Examining state and federal laws addressing pregnancy leave and accommodation
- Military leave: What are the employee's rights and the employer's obligations under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA)?
- State laws impacting employee leave for pregnancy, jury duty, voting, bereavement, school activities, vacation, and more

1:30 pm – 2:45 pm

Terminating Employees: Preventing Wrongful Discharge Liability

Part 1: Conducting Lawful Terminations

- Critical steps to follow when severing the employment relationship
- Dealing with employees in protected categories
- Guidelines for conducting termination meetings and exit interviews
- Procedural due process and other legal issues impacting public employers
- Handling post-termination issues: Unemployment compensation, employee reference requests, and more

Part 2: Downsizing and Reductions in Force (RIFs)

- Guidelines for minimizing your liability when conducting RIFs
- Ensuring that you are in compliance with the Worker Adjustment Retraining Notification Act (WARN) and the Older Worker Benefits Protection Act (OWBPA)
- Avoiding constructive discharge liability by implementing safeguards for voluntary resignations and early retirements

2:45 pm – 3:00 pm: **Break**

3:00 pm – 3:30 pm

Litigation Alternatives: Arbitration and Alternative Dispute Resolution (ADR)

- What are the recent trends in employment law litigation and the potential costs to your organization?
- Taking a fresh look at alternatives to traditional litigation: An update on Alternative Dispute Resolution (ADR)
- Understanding the “pros” and “cons” of arbitrating employment disputes: Examining what the Supreme Court has said

3:30 pm – 4:00 pm

Employment Law Issues on the Horizon: Proposed Legislation and Trends in Employment Law

- Update on new employment legislation has been proposed in Congress
- Hear predictions about current legal trends in the workplace and how this will impact your organization
- Find out which employment law issues are likely to plague you in the coming year

4:00 pm – 4:30 pm

Question and Answer Session

During this final session, you will have an opportunity to get expert advice on any remaining employment law queries that you may have, as well as find out what complex legal issues your fellow HR professionals are struggling with.

4:30 pm: **Program Concludes**