PEO INSI

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25 NATIONAL PEO WEEK
MAY 18-24 2025

THIS MONTH'S FOCUS

LEGAL & REGULATORY OUTLOOK

RETIREMENT PLAN RULES & REGS

SHIFTING WINDS OF DEI POLICY

THE COMPLIANCE MAZE

COVER STORY

A Q&A WITH CHAIRMAN JASON SMITH

U.S. Rep. Jason Smith (R-MO), Chairman, House Ways & Means Committee

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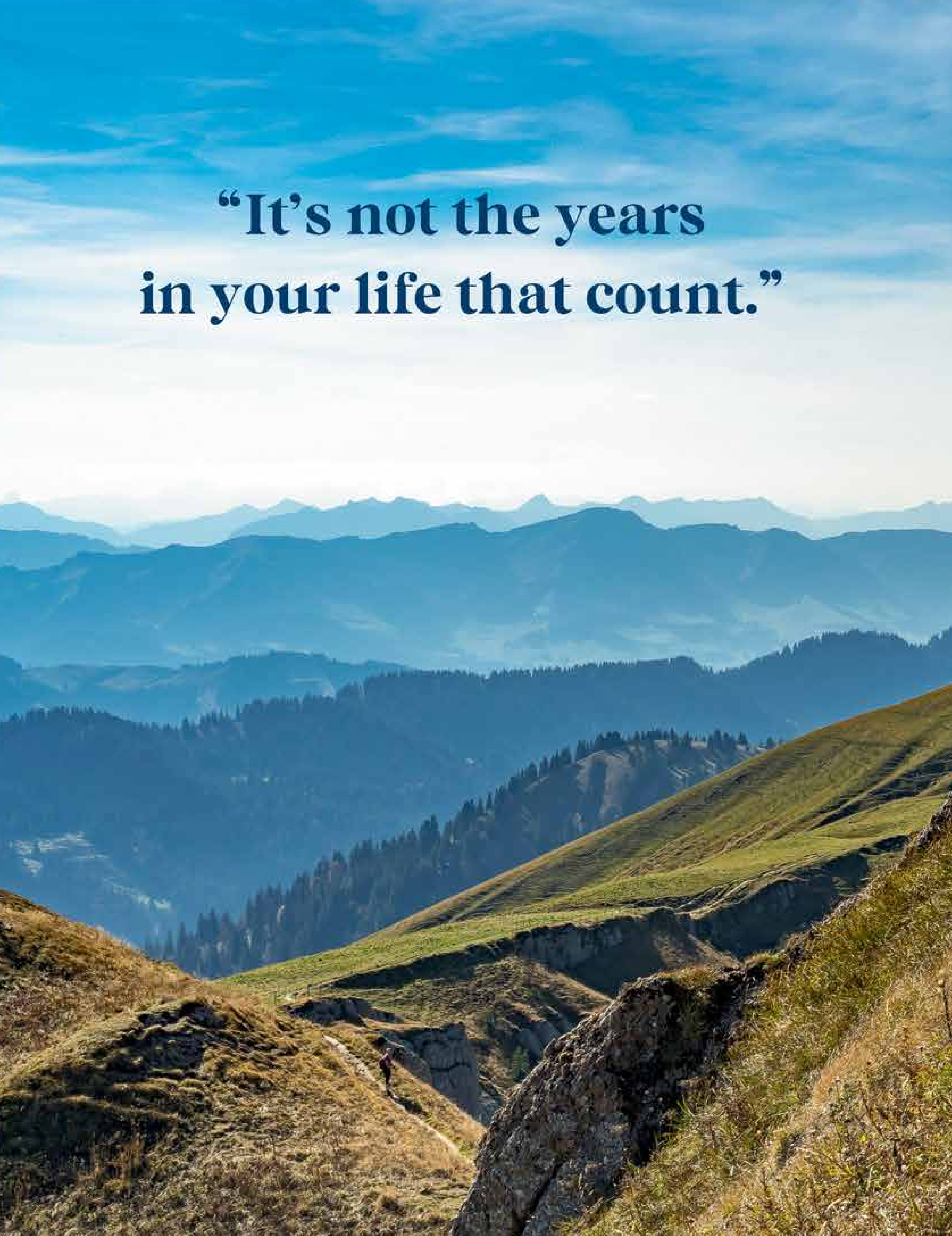
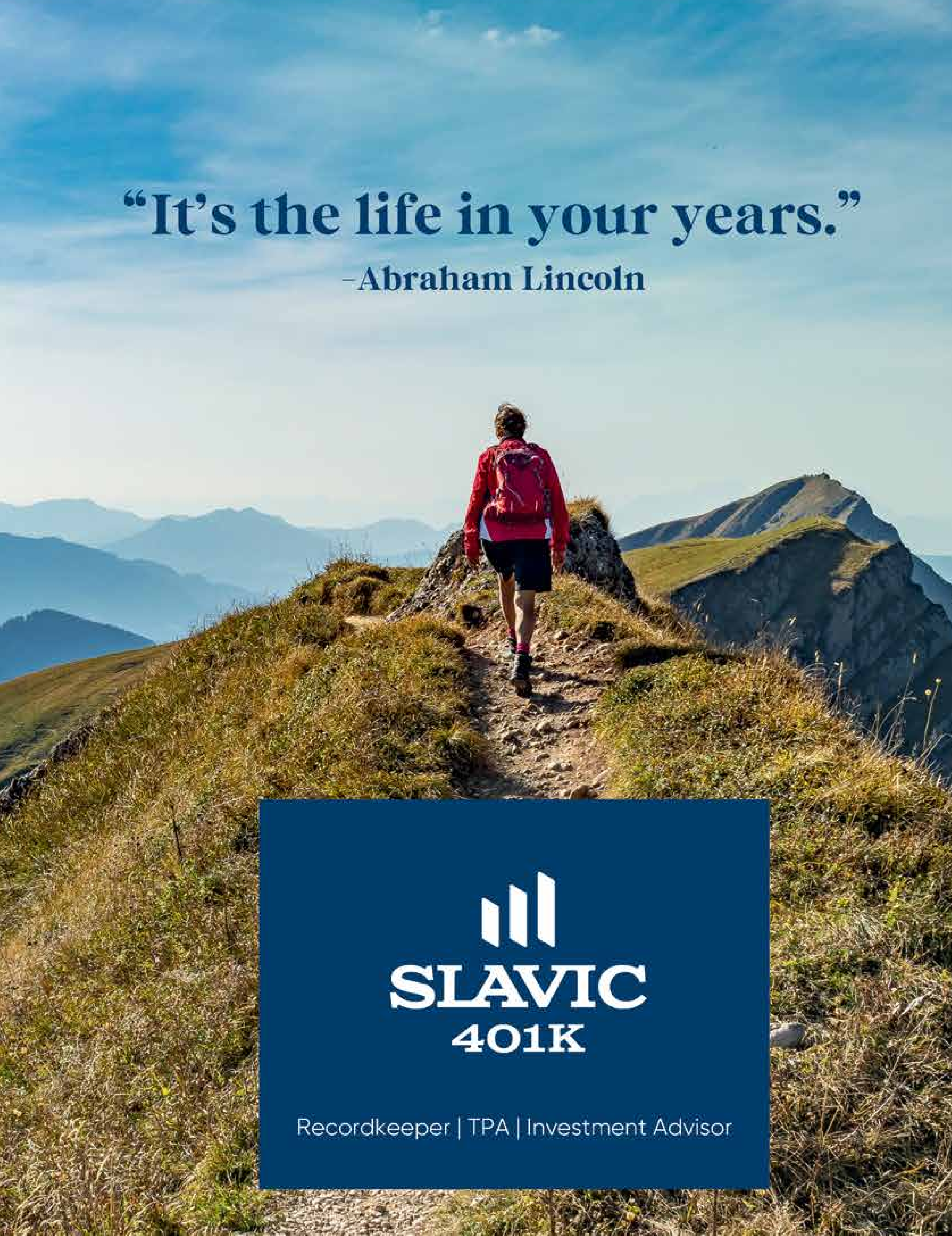


"It's not the years in your life that count."


"It's the life in your years."
–Abraham Lincoln
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THIS MONTH'S FOCUS: LEGAL & REGULATORY OUTLOOK

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MAY 2025

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TRACKS

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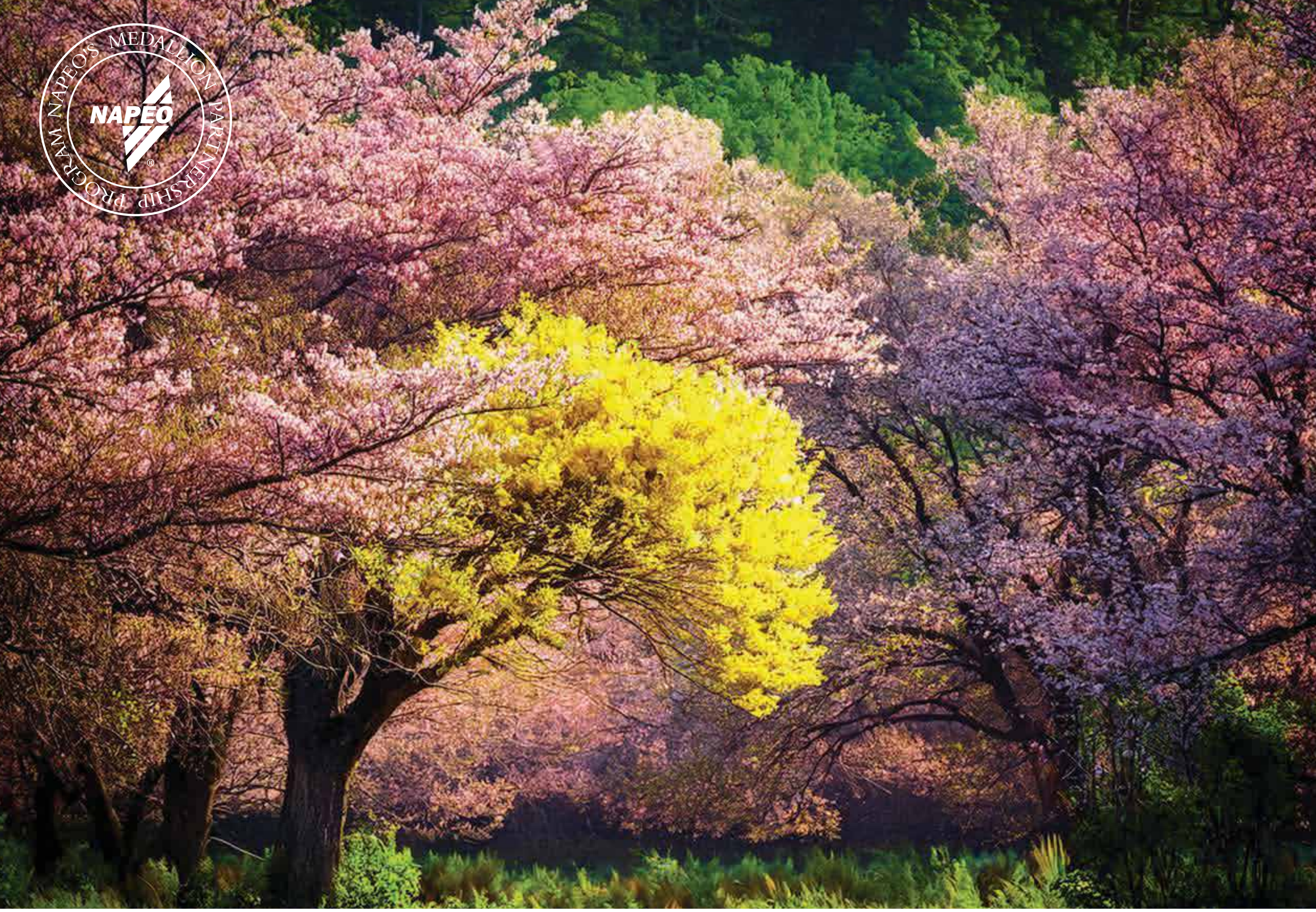

NAPEO'S MEDALLION PARTNERSHIP PROGRAM
NAPEO

WHY SMALL BUSINESS ADVOCACY STARTS WITH OUR PAC

BY DAVID FEINBERG

Small business leaders are expected to do it all—hire and retain talent, manage risk, maintain culture, and navigate policy changes that seem to shift by the day. Most of the time, they're doing it without a government affairs team on speed dial. That's where we come in.

At NAPEO, we talk a lot about how PEOs level the playing field. We help small businesses offer quality benefits, stay compliant, and focus on growth. But equally important—and often less visible—is the advocacy we lead on their behalf. That advocacy starts with our Political Action Committee (PAC).

The NAPEO PAC exists to make sure our industry, and the small businesses we serve, have a seat at the table. It gives us the ability to build trusted relationships with lawmakers, educate them on the power of the PEO model, and influence the policy decisions that impact our customers every day—from tax treatment to health benefits access to co-employment recognition.

Recent findings from a survey we ran underscore just how urgent this work is. A full 60% of working Americans believe *policy changes*—not AI—will have more of a direct impact on them personally over the next year. And workers at small businesses are even more likely to feel overwhelmed and under-informed, with 46% saying they don't feel knowledgeable about recent policy shifts. Nearly half (45%) say they're looking to their HR team to help them understand the impact on them.

The message is clear: policy is personal. And when our industry shows up in D.C. or a state capital, we're not just advocating for PEOs—we're standing in for thousands of small employers who can't be there themselves.

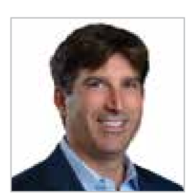
We've seen what this looks like in action: recognition of PEOs at the state level, fighting for timely ERTC payments and access to PPP loans, and pushing back on proposals that would weaken co-employment protections. These wins don't happen by accident—they happen because of the groundwork we've laid through PAC-supported engagement.

Our customers don't always see this work firsthand, but they feel the results. When a PEO is recognized in a new state, it means small businesses there can offer their employees high-quality retirement and health benefit options. When a burdensome proposal gets defeated, it's one less distraction pulling small business leaders away from their teams. And when relief funds and tax credits finally flow to the companies that earned them, that's our industry's advocacy at its best—showing what's possible when we give our customers a platform in D.C.

If you've contributed to the PAC, thank you. If you haven't yet, now is the time to get involved. The pace of change isn't slowing down—and neither is our responsibility to advocate for the businesses that count on us.

When we invest in the PAC, we're not just defending the PEO model. We're ensuring small business voices are heard, and shaping the kind of policy environment they need to succeed.

Let's keep showing up. They're counting on us. ■



DAVID FEINBERG

2024–2025 NAPEO Chair
SVP of Risk & Insurance
Justworks

EXPANSION

ExtensisHR EXPANDS PEO MARKET PRESENCE TO TEXAS

NAPEO member ExtensisHR announced recently that it has officially expanded into the Texas market. As part of this strategic expansion, the company has assembled a powerhouse of sales leadership with deep industry expertise and a proven track record serving the Texas market. "Texas is a thriving hub for businesses of all sizes, and we recognize the increasing need for flexible, high-quality HR solutions. We look forward to being at the helm of ExtensisHR's Texas expansion and are confident in our ability to provide business leaders with the expertise and resources they need to succeed in a competitive market," said Jason Ford, director of sales at ExtensisHR.

KUDOS

PAYCHEX COMPLETES ACQUISITION OF PAYCOR

NAPEO member Paychex announced recently that it has successfully completed its acquisition of HCM, payroll and talent software provider Paycor. "The Paycor acquisition unites two industry leaders with unrivaled AI-enabled technology supported by world-class service and advisory capabilities. Together, we are reimagining how companies address the needs of today's workforce with the most comprehensive, flexible and innovative HCM solutions in the industry. Our customers will benefit from more choice, more expertise and more flexibility than ever before," said John Gibson, Paychex president and CEO.

NAPEO GIVES BACK

ANTHROPOS ARTS CHOSEN AS 2025 NAPEO GIVES BACK PARTNER

We're excited to announce that Austin, Texas-based Anthropos Arts has been chosen as our 2025 NAPEO Gives Back partner. The nonprofit organization's mission is to connect low-income youth with professional musicians, cultivating confidence, integrity and life-skills through musical instruction and mentorship. Anthropos Arts provides more than just music; they provide skills and mentorship for the kids to help them be successful in school and in the future. Some of you might remember that Anthropos Arts was the first charity NAPEO Gives Back partnered with in 2019, and we made a big difference in the group's ability to help at-risk youth and continue their program through the pandemic. Through this partnership this year, we will support Anthropos Arts in its mission, contributing to their efforts to inspire and empower the next generation of musicians.

Stay tuned for more details on how you can support the fundraising efforts for Anthropos Arts. Let's harness the power of many to leave Austin a little bit better than before we got there!

CONGRATS

SYNDEO WINS CLEARLYRATED'S 2025 BEST OF HR SERVICES AWARD FOR SERVICE EXCELLENCE

NAPEO member Syndeo recently won ClearlyRated's *Best of HR Services Award* for providing superior service. "We are honored to receive the ClearlyRated Best of HR Services Award for the sixth consecutive year. This recognition reflects our firm commitment to delivering exceptional service and support to our clients. At Syndeo, we take pride in building strong partnerships and providing HR solutions that truly make a difference for businesses and their employees," said Syndeo President & CEO Bill Maness.

PARTERNSHIP

VENSUREHR ANNOUNCES PARTNERSHIP WITH MEDCERTS, A STRIDE, INC. COMPANY, TO ADDRESS HEALTHCARE STAFFING CHALLENGES

NAPEO member VensureHR recently announced it will partner with MedCerts, a Stride, Inc. company, to address chronic staffing needs in the healthcare and IT industries. MedCerts provides online certification training in a range of high-demand medical and IT specialties—including Medical Assistant, Surgical Technologist, Medical Billing and Coding and IT Support Professional. Individuals who successfully complete a program earn nationally-recognized certifications and are ready to immediately begin administering services and delivering care. "We're excited to add even more value to our partnership with clients in the healthcare and IT sectors and open the doors to new clients in that industry. Healthcare is a very people-intensive category with a constant need for skilled individuals. Our technology fills a need to effectively connect clients with certified industry professionals. Our partnership with MedCerts is a significant part of the solution," said Kara Childress, President of VensureHR.

LEADERSHIP

BBSI APPOINTS MARK S. FINN TO BOARD OF DIRECTORS

NAPEO member BBSI recently announced that Mark S. Finn has been appointed to the company's board of directors, effective April 7. "We are thrilled to welcome Mark to our board. With his extensive background in finance and strategic insight, Mark brings a unique and invaluable perspective to our team. His experience will play a critical role in guiding our company through the next phase of growth and innovation. We look forward to the positive impact Mark will undoubtedly have on our organization," said Tony Meeker, BBSI's chairman of the board.

WEBSITE

HAVE YOU SEEN NAPEO'S NEW WEBSITE YET?

NAPEO's revamped and revitalized website is now live at **www.napeo.org**. It features an easy-to-navigate design, an improved search function that makes it easier to find what you're looking for and up-to-date information on key issues and NAPEO activities. It also serves as an important tool in our efforts to raise PEO visibility and comprehension, and is a reflection of the dynamic industry we represent. Please take a minute to check it out!

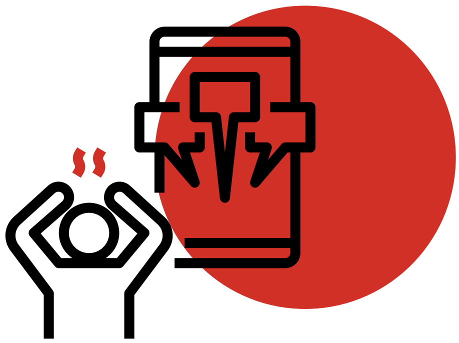
M&A

G&A PARTNERS ANNOUNCES ACQUISITION OF AMCHECK AUSTIN AND LAS VEGAS

NAPEO member G&A Partners recently announced the expansion of its human capital management division with the acquisition of the last two independently operated AmCheck franchises in Austin, TX and Las Vegas, NV. "This acquisition significantly strengthens our HCM division. Many small to mid-sized businesses are still burdened by manual HR processes, which hinder their growth and productivity. Our HCM capabilities provide them with the streamlined workflows and compliance management they need to thrive. We are excited to offer these powerful tools to an even wider client base," said John W. Allen, president and CEO of G&A Partners.

RESEARCH

SURVEY: DISTRACTIONS GROWING PROBLEM IN THE OFFICE



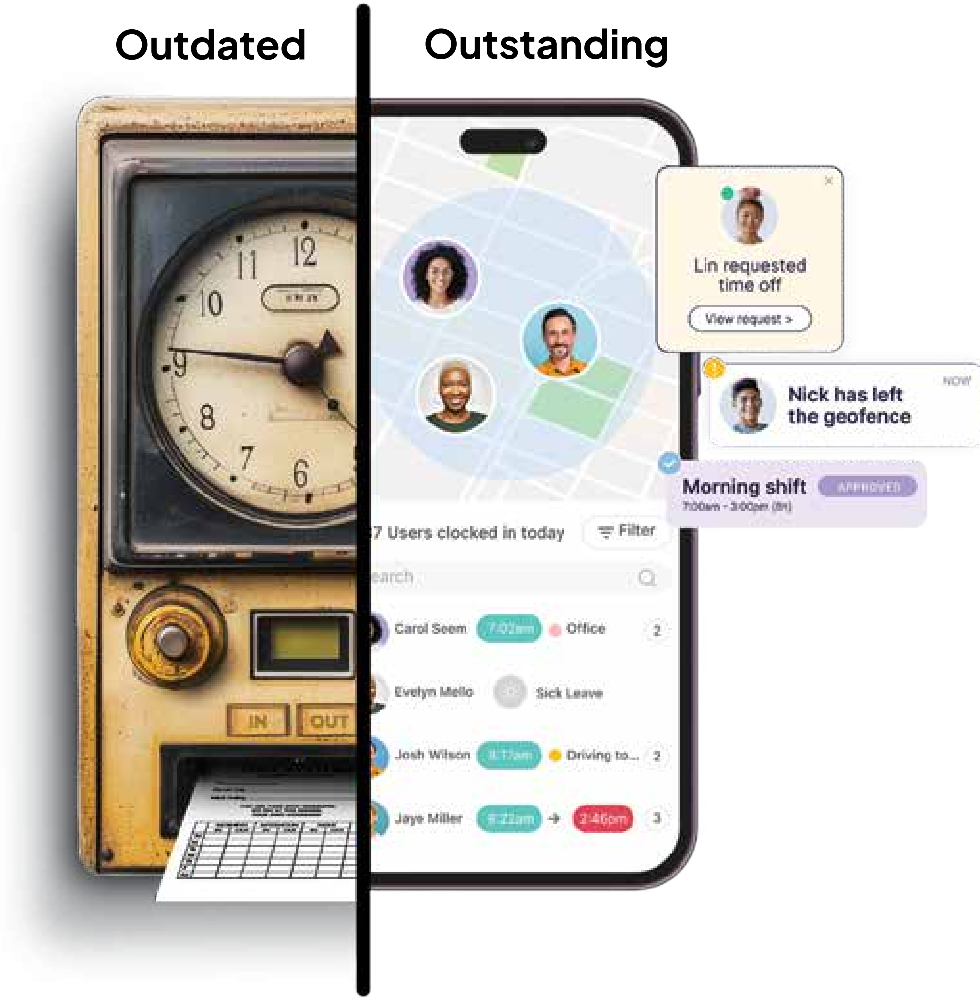
A new survey from Resume Now reveals the extent of a growing problem in the workplace: time-wasting. According to the 2025 Time-Wasting Report, 6 in 10 U.S. workers admit to losing up to an hour per day to distractions—including social media, personal emails, texts, streaming videos, and more—amounting to over a month of lost productivity each year.

Key findings include:

- 53% of workers admit to regularly posting selfies or social media updates during work hours.
- 27% say social media is their biggest distraction—ranking higher than meetings, personal emails, or online shopping.
- 41% say they attend daily meetings that feel like a waste of time.
- 47% say tools like Slack, email, and project management apps often contribute to time-wasting. ■

connecteam

How do your customers see their PEO?



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RETIREMENT PLAN RULES & REGS

THE ROTH CATCH-UP MANDATE IS COMING FOR YOUR 401(K) PLAN

BY MICHAEL HADLEY, ESQ.

Come 2026, PEOs will have a unique opportunity to further demonstrate their worth as an HR provider that sits at the crossroads of payroll and benefits. A new mandate for 401(k) plans that was created by the SECURE 2.0 Act and that takes effect next year – the Roth catch-up requirement – will require careful payroll programming, employee communication, and coordination with your 401(k) provider.

WHO IS ROTH, AND WHY IS HE IN MY 401(K) PLAN?

An employer can offer employees the opportunity to make their elective deferrals to a 401(k) plan on a Roth basis, meaning that the employee does not receive an exclusion from income when the contributions are made to the plan, but (if the distribution meets certain requirements) the contributions and earnings are tax free when distributed from the plan. These contributions are named after the late William Roth, the last Republican Senator elected from Delaware, who found a pretty neat way to ensure his immortality by having the original Roth IRA named after himself. Roth contributions are typically better for employees who expect their tax rate to be higher in retirement when the funds are distributed.

Beginning at age 50, employees can make "catch-up contributions." For example, in 2025, the normal elective deferral limit is $23,500, but an employee who is age 50 or older can make an additional $7,500 in elective deferrals to a 401(k) plan. Until the Roth catch-up requirement takes effect, employees can decide to make their elective deferrals, both the normal contributions and the catch-up contributions, on either a pre-tax or Roth basis. (Assuming the plan allows Roth contributions, which nowadays most do.)

PAYING FOR SECURE 2.0 ON THE BACK OF SENATOR ROTH

SECURE 2.0 was an expensive bill for Congress because of all the additional tax-preferred savings it generates, so to offset the cost Congress included what we call revenue raisers—and one of the biggest was the Roth catch-up requirement. Under this rule, a participant in a 401(k) plan must make catch-up contributions on a Roth basis and may no longer choose to do so on a pre-tax basis. However, this requirement is limited to a participant whose wages for the preceding calendar year exceed $145,000. (The $145,000 amount is indexed in future years.)

Example 1: Assume Trey A. participates in the Phish, Inc. 401(k) Plan, and is eligible to make catch-up contributions. Assume his wages from Phish, Inc. in 2025 were $200,000. In 2026, he can make his normal contributions of $23,500 (or whatever the limit is in 2026) on a pre-tax or Roth basis. But he must make any catch-up contributions above that on a Roth basis.

Example 2: Mike G. also participates in the Phish Inc. 401(k) Plan, but in 2025 his wages were only $130,000. In 2026, he can make both his normal contributions and any catch-up contributions on a pre-tax or Roth basis – it's his choice.

HEY MAN, IT'S HARDER THAN IT SOUNDS, SO HIRE A PEO

While the new Roth catch-up requirement can be described fairly simply – or at least I tried to do so in the prior section – in practice this is going to be harder to administer than it sounds. That's why PEOs are well positioned to help employers with compliance, because PEOs coordinate payroll and benefits so well.

Think for a minute how this needs to work. After the end of a calendar year, the employer needs to figure out which employees had wages in excess of $145,000 in the prior year. Wages for this purpose are based on the Form W-2 wages (more on that in a minute), and the final Form W-2 is often not sent until the end of January. For those employees who are over the limit, the payroll system must be programmed to prevent them from making pre-tax contributions in excess of the normal limit, and automatically switch them to Roth contributions during the year. This in turn is communicated to the 401(k) provider on the payroll feed as a Roth contribution for tracking purposes in the plan.

In some cases, the plan administrator might not know until after the end of the year which contributions are catch-up contributions. For example, if the plan fails its nondiscrimination testing, one correction is to recharacterize contributions as catch-up contributions, but this happens after the end of the year. It can get messy fast.

IRS GIVES US SOME BREATHING ROOM, AND NOW SOME GUIDANCE

Congress' original deadline of 2024 to implement the Roth catch-up requirement was way too optimistic, so in August 2023, the IRS released Notice

While the new Roth catch-up requirement can be described fairly simply – or at least I tried to do so in the prior section – in practice this is going to be harder to administer than it sounds.

2023-62, which provided an "administrative transition period" for 2024 and 2025. A normal person would just call this a delay. Meanwhile, the IRS began work on proposed regulations to fill in the gaps in the statute, and those proposed regulations were released in January 2025.

Although the regulations are only in proposed form at this time, they provide insight into how the IRS believes the Roth catch-up mandate will be administered. Importantly, the proposed regulations do not provide an extension of the Roth catch-up requirement. The regulations themselves generally are proposed to apply to contributions in taxable years that begin more than six months after final regulations are published, with a later date for collectively bargained plans, but the mandate itself is not delayed. Thus, it appears that unless the final regulations are issued very quickly, or unless the IRS provides another extension (which officials have said will not happen), the Roth catch-up requirement will apply in 2026, but the guidance in the proposed regulation is essentially optional for now.

Here are some of the key takeaways in the proposed regulation (there is lots more detail but it would easily consume the entire issue of *PEO Insider*®, so call your ERISA lawyer for more info):

1. In a PEO relationship, the key employer for purposes of determining wages is the "common law employer" even if the common law employer has contracted with a PEO or similar third party payor.
2. Wages for purposes of the Roth catch-up requirement are determined by reference to the FICA taxes imposed by Internal Revenue Code sections 3101(a) and 3111(a), which is the Social Security tax (Box 3 on Form W-2).
3. An individual who does not have FICA wages from the employer sponsoring the plan for the preceding calendar year (or whose FICA wages are at or under the $145,000 threshold) is not subject to the Roth catch-up mandate. This includes partners with only self-employment income subject to SECA taxes – those individuals are treated as having $0 wages and thus are not subject to the mandate.
4. A plan does not aggregate FICA wages from multiple common law employers that paid wages to the same employee in a year.
5. The proposed regulations would allow a plan to include a "deemed" Roth election under which an employee who has elected to make catch-up contributions would be deemed to elect to do so as Roth if the Roth catch-up requirement applies.
6. The proposed regulations include methods to correct errors in administering the Roth catch-up requirement, for example, when an employer allows a participant who is subject to the Roth catch-up requirement to contribute catch-up contributions on a pre-tax basis.
7. If a participant is subject to the Roth catch-up requirement and is eligible for the new "super" catch-up rule allowing even higher catch-up contributions when they are ages 60-63, then the Roth mandate requirement also applies to those enhanced contributions.

GETTING READY FOR 2026

If you have not already done so, now is the time to make sure that your payroll system is going to be ready to implement this new requirement in 2026, including quickly identifying employees subject to the requirement in early 2026 based on 2025 wages. By the way, if your 401(k) plan does not have a Roth contribution feature yet, it's time to add it. (While technically not required, if the plan does not offer Roth, then higher-paid employees cannot make catch-up contributions. And the higher-paid employees are also the complainers, right?) Finally, this will all be new to employees, and those who are in higher tax brackets may not be pleased to find out they now must make their catch-up contributions on an after-tax basis. Rolling out communications well in advance of 2026 is highly recommended. ■

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.

MICHAEL HADLEY, ESQ.

Partner
Davis & Harman LLP
Washington, DC

SECURE ACT 2.0 LEGISLATIVE OPPORTUNITY TO HELP SMALL BUSINESSES

BY JOHN SLAVIC

We are becoming acquainted with disruptions as this year unfolds. A new administration in Washington, a new composition of Congress and sweeping social and technological changes are contributing to a change in the business environment. Disruption comes in many forms, but the most significant for the PEO industry is regulatory change.

In looking back over the years, one of the most significant disruptive periods came when Obamacare was introduced in 2010. Small businesses across America struggled to comply with this new law and the regulatory requirements placed on the workplace. This regulatory disruption opened the door for PEOs to step forward and deal with simple solutions to this complex law. As a result, the ensuing decade saw the PEO industry grow from a fledgling upstart to new levels of maturity.

Next came the pandemic shutdowns and the universal threat that it represented to the population in terms of health and business survival. Once again, the PEO represented the lifeline for small businesses, assisting thousands of small companies in acquiring the critically needed PPP loans.

Now, PEOs have another opportunity due to regulatory disruption - the SECURE Act and SECURE Act 2.0. Some aspects of the laws were effective immediately, but most were phased in over time, especially in January 2025, when auto enrollment became mandatory. The intent of the SECURE Acts is to reach the 56 million Americans working for companies (with 50 or fewer employees) that do not have retirement savings plans. The total working population of the United States is estimated at 172 million. In simplest terms, one-third of all employees in the U.S. have no savings for retirement.

Demographically speaking, this is a rolling economic disaster worsening with each passing year. SECURE Act and SECURE Act 2.0 looked to build upon the proven efficiencies of the multiple employer plan (MEP). PEOs have utilized the MEP since the IRS Revenue Procedure of 2002.

The pooled employer plan (PEP) was introduced as a way for unrelated businesses to aggregate their assets for economy of scale like large corporate plans and MEPs. Along with the economies of scale, also came a new layer of complexity on the already complicated requirements of Employee Retirement Insurance Savings Act (ERISA), which in 1974, established the 401(k) retirement plan for the workplace. The complexity of ERISA is one of the primary reasons why so few small businesses offer a plan to their employees. SECURE Act 2.0 sought to incentivize small businesses to establish a retirement plan by providing a series of tax

GLOBAL EDGE TECHNOLOGIES, INC.

20 Employees
3 Highly Compensated (HC)
17 Non-HC

Auto Enrollment:	**$500**
17 Non-HC Employees x $250:	**$4,250**
$1,000 per participating employee:	**$17,000**
Annual tax credit to worksite employer:	**$21,750**

(if employer leaves PEO's plan, future tax credits may be forfeited)

The employer receives a new 401(k) with an $500 auto enroll tax credit, $250 per qualified employee (non-HC), and $1,000 per participating employee for employer match. Virually all costs (including employer matching) are covered by the tax credits.

credits for automatic enrollment, employee count and matching costs borne by the employer. Despite the presence of these incentives, there has been very poor traction among small businesses; once again the complexity of ERISA and now the added complexity of the SECURE Act and SECURE Act 2.0 are a deterrent to making inroads to the 56 million American workers without a retirement savings plan.

The primary underlying principle is still at work in this environment, the PEO can make the complex simple for small businesses. The PEO is uniquely equipped to handle all workplace related complexities, through the technology of the payroll and HR platforms, but the proven experience of over two decades of HR expertise; hence the 401(k) dilemma facing America is directly in the PEO wheelhouse. For the average PEO client of 20 employees, the total tax credits are just under $22,000 in annual tax credits for up to three years. Here is how it works:

Under SECURE Act 2.0, a new retirement plan for a small business is essentially tax subsidized, creating a virtuous cycle for all concerned.

First, and foremost, the employee receives a payroll-deducted retirement benefit that was not previously available. Because the matching contributions are offset by the tax credit, the employee also receives the benefit of the matching contribution. In many cases, this doubles the contribution for each paycheck.

Second, in a traditional 401(k) set up, brokers, agents and other providers are generally compensated based on plan assets. If there are little to no assets, there is no commission revenue, which can lead to no sale and therefore no plan for a small business. Using the PEOs plan alongside the tax credits available, a small business has access to a 401(k) plan that is both competitive with larger employers and is cost-effective, making it easier for small businesses to attract and retain top talent. Further, the company owner can also participate in the plan and build their own retirement savings as well as his or her employees.

Lastly, the PEO benefits in numerous ways.

1. The tax credits lock in a new client for at least three years. If the client company were to leave the PEO, the 401(k) would leave the PEO plan trust and would no longer considered a new plan, therefore, forfeiting the remaining tax credit benefit under SECURE Act 2.0.
2. It is proven that the presence of the 401(k) plan substantially increases retention by two-fold in the first two years of the client relationship, and four-fold in subsequent years. The addition to EBITDA is increased materially to the valuation of the PEO.
3. Historically the 401(k) has generally been an appendage to the PEO sales process, but now through the tax credit advantage of SECURE Act 2.0, the 401(k) is a leading value proposition to the small business. Not only are tax credits attractive to prospects, but the cost structure of the PEO retirement plan (MEP or PEP) is generally half or less than half or a single employer plan.

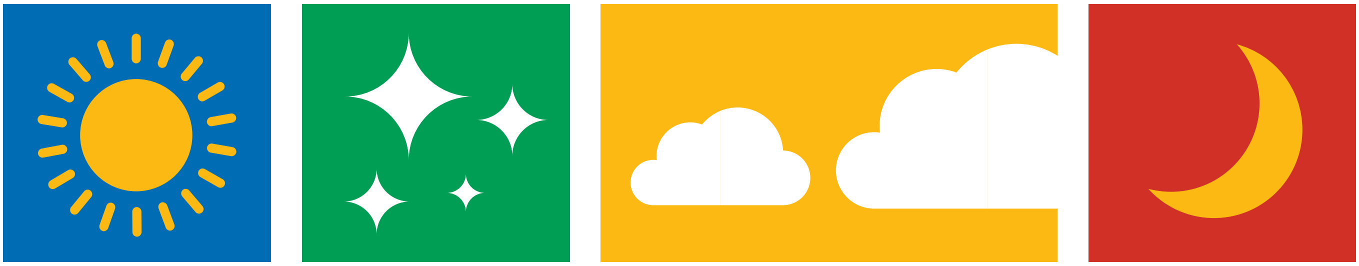
THE HORIZON

Last year, while in Washington for NAPEO's PEO Capitol Summit I had the privilege of hosting a dinner for a dozen members of Congress. Casey Clark, representing the PEO industry, and John Allen of G&A Partners joined me in presenting the effectiveness of the PEO in delivering the 401(k) benefit to small businesses. The PEO is unique in its ability to serve small businesses through its expertise and technology. Nothing in the PEO model is cheap, technology and people are ultimately expensive, and that should be incentivized in the tax structure. I advocated at that dinner that a new additional tax credit was necessary to complete this virtuous cycle - a tax credit directly to the PEO. At the conclusion of the dinner Jason Smith, the Chairman of the Ways and Means Committee stood up and asked the question; "Who is going to write the bill and who is going to sponsor it?" Since then, many more congressmen and women have pledged their support as well as a widening circle of influential organizations. Parenthetically, the NAPEO PAC is a vital voice among Washington policy makers and deserves full support from the membership.

It is my hope that our industry will continue to be the vanguard of small businesses in America. I look forward to the year ahead with increasing momentum to serve shoulder to shoulder with you on behalf of our industry and the vital interests of every small business in America. ■

JOHN SLAVIC

Founder & CEO
Slavic401(k)
Boca Raton, FL



SHIFTING WINDS OF DEI POLICY

IS DEI LEGALLY DEAD?

BY KERIM FIDEL, ESQ.

The role of diversity, equity, and inclusion (DEI) in American corporate culture expanded greatly over the last decade, especially following the murder of George Floyd. That DEI was important to recruitment/retention and contributed to superior financial performance was widely accepted (though arguably supported by thin science). Companies touted their DEI policies and training, sought diversity in their workforces, leadership, and supply chains, and otherwise let it be known that they were all-in on DEI.

But a backlash was brewing and has now boiled over; the Trump administration moved swiftly to eradicate DEI in the public and private spheres through a slew of executive orders, declaring it "illegal" and "dead." Of course DEI means different things to different people, ranging from a general sense that everyone should be welcome to outright preferences. To the Trump administration DEI is antithetical to meritocracy, makes offensive generalizations, and promotes false "gender ideology." While the administration's blitzkrieg approach drew the DEI backlash into sharp relief, it was already well underway in courts of law and public opinion.

Recent cases attempt to balance equal opportunity and free speech interests with mixed results. For example, Florida's "Stop WOKE Act," enacted in 2022, banned workplace training teaching that people are inherently prejudiced or privileged because of protected class status. The 11th Circuit held that portions of the law, now permanently enjoined, violated business's First Amendment free speech rights. But in *American Alliance for Equal Rights v. Fearless Fund Management* the same Circuit held that a contest awarding grants to majority Black female-owned businesses was not "expressive" (entitled to First Amendment protections) but rather violated Section 1981 (prohibiting race discrimination in contracting). In *Henderson v. Springfield R-12 School District* the Eighth Circuit rejected employees' claims that they were "forced to assume the pejorative white supremacist label for their 'white silence'" in mandatory training, which it viewed as a minor inconvenience. Contrastingly, in *Young v. CO. Dept. of Corrections* the 10th Circuit reluctantly affirmed dismissal of a white employee's complaint that DEI training created a hostile work environment saying, "If not already at the destination, this type of race-based rhetoric is well on the way to arriving at objectively and subjectively harassing messaging."

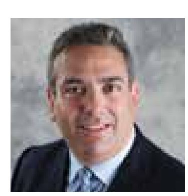
> **While it may be premature to sign DEI's death certificate, winds have clearly shifted. Fundamentally the law has not; discrimination based on protected class status was already illegal, being all-welcoming remains legal (if sometimes unpopular).**

Several "reverse discrimination" claims made legal news in recent years and they will continue to do so. For instance, in *Duvall v. Novant Health* a white male won a $10M punitive damages award (later reduced on appeal) after being fired from a hospital system where executives were incented to meet race- and sex-based targets. The Supreme Court will likely use the upcoming *Ames* case to resolve a circuit split and clarify that the standard of proof in discrimination cases is the same regardless of whether the plaintiff belongs to a "majority" classification.

The Supreme Court's 2020 *Bostock* decision, holding that Title VII prohibits discrimination based on sexual orientation and gender stereotyping, has had far-reaching implications placing it squarely in the crosshairs of DEI's opponents. For example, it was cited in *Lange v. Houston County, Georgia* and *Kadel v. Falwell* for the propositions that welfare plans cannot categorically exclude gender-affirming care and treatments connected with sex changes/modifications. Seeking to limit *Bostock's* application, in a January 2025 press release the EEOC disclaimed previous guidance under *Bostock* relating to gender identity as having exceeded its authority.

The threat of negative customer sentiment over DEI is palpable. Famously, in 2023 Bud Light was boycotted for a minor advertising campaign featuring a transgender influencer causing it to lose an estimated $1.4B in sales and its 20-year position as the top-selling beer in the US and triggering a 20% drop in AB InBev's stock price. Also in 2023, several Republican Attorneys General publicly (and falsely) warned Target that Pride Month merchandise, which it had featured before without incident, could violate child protection laws prompting people to post videos of themselves knocking store displays over and confronting employees. Target concluded that quarterly sales fell for the first time in six years due to "strong reaction to this year's Pride assortment." A walk-back of DEI initiatives followed, and Target ended its DEI program entirely after Trump's January 2025 executive orders (triggering a boycott from supporters of DEI). A lawsuit led by Florida's Attorney General, who ironically decried Target's "offensive political theatre," now alleges Target concealed from shareholders the risks of what a press release called its "radical LGBTQ activism." Other companies that have publicly backed away from DEI include Amazon (citing "outdated programs and materials"), Meta (citing a changing "legal and policy landscape"), McDonalds (citing the Supreme Court's *Students for Fair Admissions v. Harvard* decision ending affirmative action), Walmart, Boeing, and Loewes. Several prominent law firms have discontinued DEI-related programs such as mentorships for women or minority attorneys, sometimes in response to a lone letter from a special interest group.

While it may be premature to sign DEI's death certificate, winds have clearly shifted. Fundamentally the law has not; discrimination based on protected class status was already illegal, being all-welcoming remains legal (if sometimes unpopular). But there is vast interpretive space between those guideposts and things are moving fast; as of this writing, a federal court temporarily enjoined parts of two executive orders aimed at combating DEI because of unconstitutional viewpoint discrimination and vagueness. There is a small but growing groundswell of cases predicated on employees' outrage over some flavors of DEI, as well as similarly-motivated shareholder initiatives and derivative actions. The Trump administration and some states loudly proclaim their intention to prosecute companies that they believe engage in illegal DEI, and the market can punish companies that misread how DEI resonates with their investors and customers. Littler's 2025 Inclusion, Equity, and Diversity C-Suite Survey Report suggests that many companies still support DEI, though they anticipate it playing an attenuated role. But they will actively assess litigation, enforcement, and reputational risk and will be more circumspect in their goals, methods, and messaging. ■



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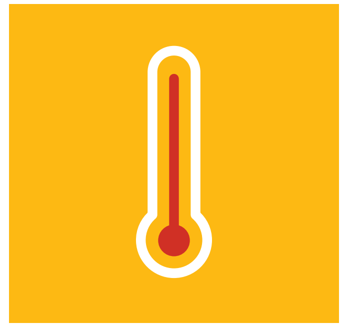
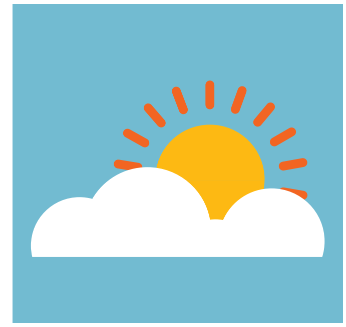




CHANGES AT THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

BY GORDON BERGER, ESQ.

So far there have been few dull moments with the second Trump Administration. In particular, there have been significant changes at the Equal Employment Opportunity Commission ("EEOC" or "Commission"), which this article will address.

First, as is fairly common with a change of administration, President Trump appointed Commissioner Andrea Lucas (R) as Acting Chair and left one Democrat, Kalpana Kotagal, on the Commission. At press time, the five-member EEOC currently has only two members and accordingly lacks a quorum. Bye rule, this means that the EEOC cannot issue new regulations or guidance, nor withdraw or replace existing regulations or guidance. However, all enforcement activity may proceed, which includes investigating charges of discrimination or filing lawsuits on behalf of aggrieved individuals.

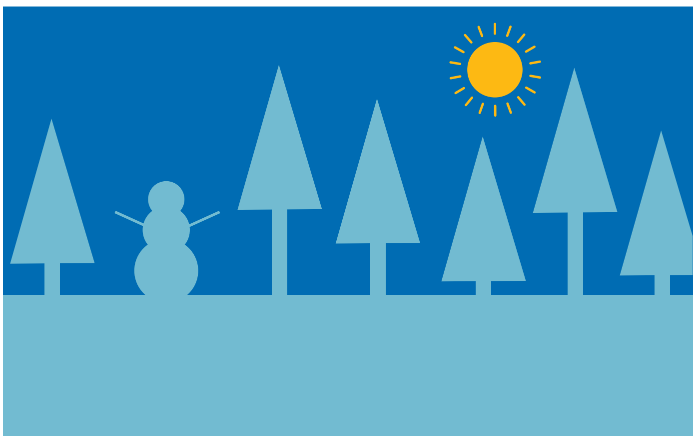
WITHDRAWAL OF TRANSGENDER LITIGATION

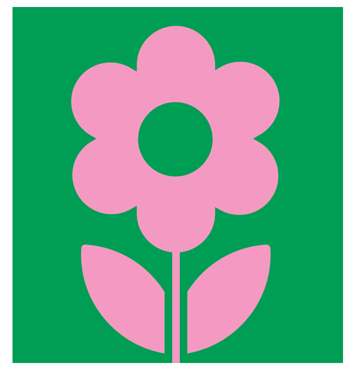
Earlier this year, the EEOC dismissed seven transgender/non-binary discrimination lawsuits that had been filed during the Biden Administration. The charging parties are left to retain private counsel if they choose to continue the litigation on their own. In one of the cases, the EEOC stated that the litigation "may be inconsistent with" positions taken by the Trump Administration.

Why? Look no further than President Trump's Executive Order ("EO") "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" and subsequent guidance document from the Office of Personnel Management instructing federal agencies about compliance with the EO.

Under the Biden Administration, the EEOC considered it discriminatory and harassing to deliberately refer to a transgender or nonbinary employee by birth name instead of their chosen name (i.e., "dead-naming"), or to deliberately fail to use the employee's preferred pronouns. Then, the EEOC had a long-standing position that transgender employees must be allowed to use the restrooms for the gender with which they identify.

Now, the Trump Administration is going back to the use of binary "male" and



"female" based on biological sex and has even banned the use by federal employees of preferred pronouns in their email signature blocks.

PREGNANCY ACCOMMODATION

Going forward, the EEOC may no longer enforce regulations issued under the Pregnant Workers Fairness Act ("PFWA"), which is currently being challenged by a number of states with Republican attorneys general. The basis of such lawsuits is their position that the PWFA regulations list elective abortions as "pregnancy-related conditions" entitled to accommodation – for which they found objectionable.

Last year, Commissioner Lucas publicly opposed the regulations based on her opinion that the definition of "pregnancy, childbirth, and related conditions" was overly broad and could include just about anything gynecological.

"ANTI-AMERICAN" DISCRIMINATION

Commissioner Lucas issued a press release confirming that the EEOC would pursue employers who discriminate against applicants and employees of American national origin. Lucas said:

"The EEOC is putting employers and other covered entities on notice: if you are part of the pipeline contributing to our immigration crisis or abusing our legal immigration system via illegal preferences against American workers, you must stop. The law applies to you, and you are not above the law. The EEOC is here to protect all workers from unlawful national origin discrimination, including American workers."

The EEOC has said that this stance applies to staffing agencies, so logically it would also apply to PEOs.

EXECUTIVE ORDER 14168

"Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" (i.e., EO 14168), reverses the EEOC's April 2024 workplace harassment guidance (the "Guidance"). The January 20, 2025 Order seeks to end federal enforcement of sex-based laws based upon gender identity and tasks

The EEOC came out with new guidance on "diversity, equity, and inclusion-related discrimination." This guidance contains a new interpretation on DEI initiatives intersect with respect to anti-discrimination protections.

federal agencies to enforce sex-based antidiscrimination laws without regard to gender identity because gender identity "improperly transforms laws and policies designed to protect sex-based opportunities into laws and policies that undermine them."

Note that the Guidance expanded Title VII's protections for LGBTQ+ employees in response to the Supreme Court's decision in *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020), which held that Title VII's protections include sexual orientation and gender identity. And, the Guidance mentions denying an employee access to a bathroom consistent with their gender identity as well as the repeated and intentional use of a pronoun inconsistent with an employee's known, preferred pronouns as a form of sex discrimination.

DEI UNDER SIEGE

The EEOC came out with new guidance on "diversity, equity, and inclusion-related discrimination." This guidance contains a new interpretation on DEI initiatives with respect to anti-discrimination protections.

The EEOC's guidance tasks employers to reassess their DEI programs to ensure they are crafted in a manner consistent with longstanding protections. Highlights:

- **Disparate Treatment and Unequal Access to Opportunities:** The EEOC's guidance places a new focus on excluding individuals from training, mentoring, fellowships, or interview slates based on protected characteristics.
- **Segregation and Classification:** The guidance warns against separating employees into separate groups for DEI-related activities on the basis of race, sex, or other protected characteristics.
- **Harassment:** The EEOC affirms that DEI training should not create a hostile work environment.
- **Retaliation:** Title VII's anti-retaliation provisions may apply when an employee objects to DEI training based upon a good-faith, fact-specific belief that the training violates anti-discrimination laws.
- **Employee Resource Groups (ERGs):** The guidance also affirms that ERGs and affinity groups must be inclusive and open to all employees and should not limit access based on race, sex, or other protected traits which may raise concerns of exclusion or unlawful segregation.

Here's the main takeaway: review policies and procedures and update them accordingly, but there may be more changes coming, so continue to monitor changes to EEOC policy. ■

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THE COMPLIANCE MAZE

TAKE BACK WHAT'S YOURS

A PEO'S GUIDE TO WORKERS' COMPENSATION SUBROGATION

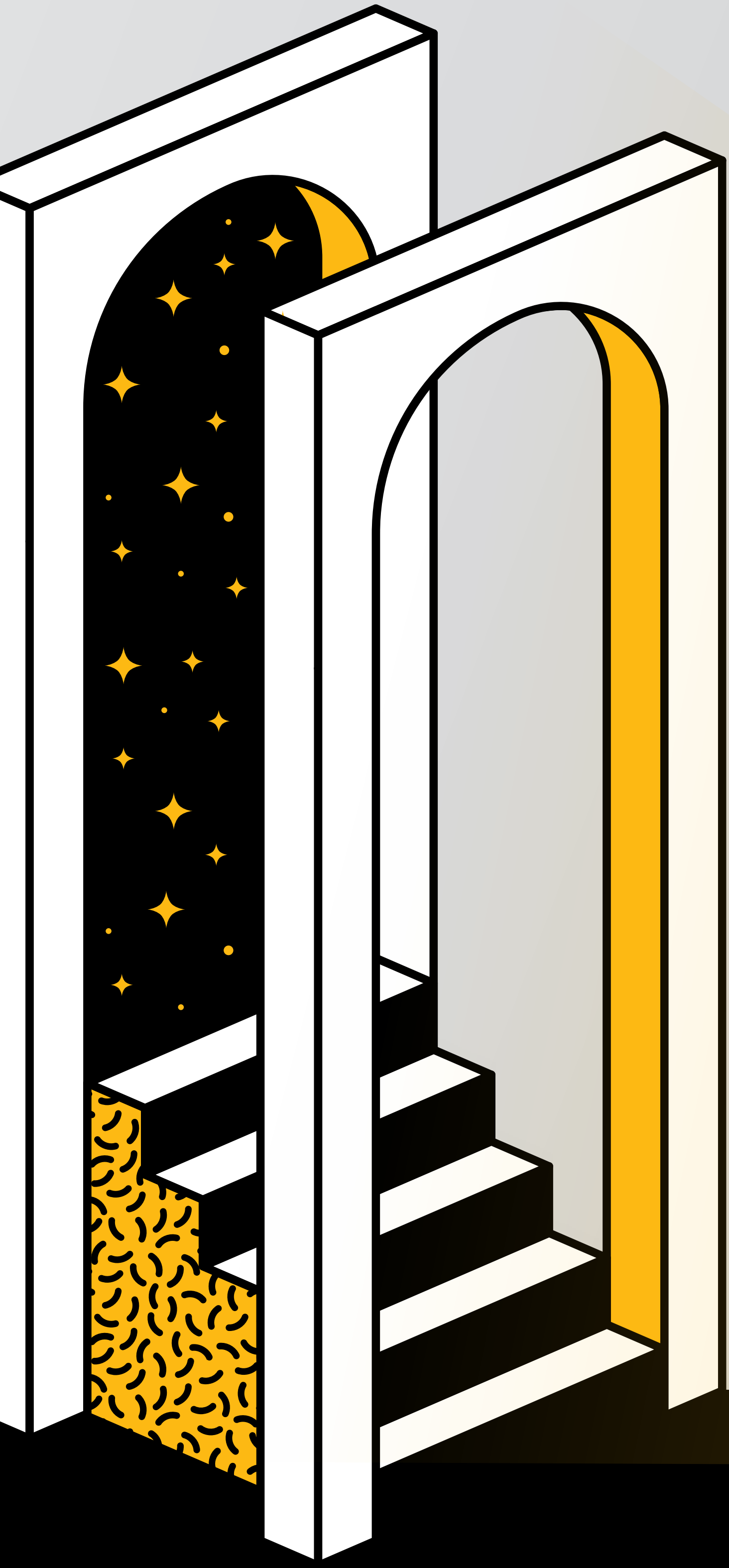
BY DUSTIN W. OSBORNE, ESQ.

While often overshadowed by flashier concepts—if such things truly exist in the world of workers' compensation—subrogation remains one of the most powerful tools in claims management. For PEOs, the ability to recoup benefits previously paid in a workers' compensation claim can be a game-changer, helping to control expenses and reduce claim losses. Yet, many PEOs miss out on this significant opportunity due to a lack of proactive identification or a full understanding of the process, which varies widely by state.

This article breaks down the essentials of workers' compensation subrogation for PEOs, including key red flags, its role in claim mitigation, and strategies for maximizing recoveries. With a more intentional and strategic approach, PEOs can finally take back what is rightfully theirs.

THE LEGAL LANDSCAPE OF WORKERS' COMPENSATION SUBROGATION

At its core, subrogation allows a PEO to recover workers' compensation benefits—both indemnity and medical—paid to an injured worker when a third party is ultimately responsible for the injury. This right exists to prevent double recovery by the injured worker and to shift the financial responsibility to the at-fault party rather than the PEO. Sounds great, right? Just one caveat—the specifics of subrogation rights, procedures, and limitations vary wildly across states, making it critical for PEOs to understand these jurisdictional nuances to ensure recovery.



Some states are certainly more favorable than others, granting strong subrogation rights that allow PEOs to recover a significant portion of the total benefits paid on any given claim. In others, recovery is far more restricted, with additional hurdles such as employer negligence defenses, limitations on lien recovery, or procedural barriers that chip away at a PEO's ability to recoup costs.

For PEOs operating across multiple states, these inconsistencies create additional complexities. For example, New York allows PEOs to assert a lien against an injured worker's third-party recovery, though they must contribute to litigation costs; in practice, and subject to some nuance, this typically results in a recovery of approximately two-thirds of benefits paid to date. Meanwhile, Georgia follows the "made-whole" doctrine, placing the burden on the PEO to prove that the injured worker has been fully compensated before enforcing a subrogation lien. This contrast highlights why understanding the legal landscape in each state where a PEO operates is crucial.

By staying actively informed on evolving case law and statutory changes—something PEOs are well-accustomed to at this point—they can proactively position themselves to capitalize on subrogation rights wherever available. High-level differences across states (e.g., some states allow broader recovery rights).

IDENTIFYING SUBROGATION OPPORTUNITIES

Recognizing subrogation potential early in a workers' compensation claim is crucial to maximizing recovery. Unfortunately, because subrogation is often lower on the priority list when triaging a new claim, many viable third-party claims go unnoticed. PEOs that know what to watch for and incorporate subrogation awareness into their claims-handling processes can help put an end to leaving this money on the table.

As a general rule, the most common subrogation opportunities in workers' compensation claims arise in cases involving:

Motor Vehicle Accidents (MVAs): When an employee is injured in a work-related car accident caused by another driver, the at-fault party (or their insurer) may be liable for reimbursing workers' compensation benefits paid.

Defective Equipment or Machinery Failures: If an injury results from a faulty machine, tool, or piece of equipment, there may be a viable product liability claim against the manufacturer or distributor.

Premises Liability: If an employee is injured due to allegedly unsafe conditions on a third party's premises—such as a slip-and-fall at a client site or job location—the property owner or another responsible party may be liable.

Contractor and Subcontractor Negligence: In construction and other contractor-heavy industries, employees may be injured due to the negligence of a third-party contractor or subcontractor, creating potential liability outside of the workers' compensation system.

Early and proactive identification of these opportunities allows PEOs to capitalize on subrogation and reclaim funds that might otherwise be ignored.

OVERCOMING SUBROGATION CHALLENGES

As powerful as subrogation can be as a cost-recovery tool, actually securing repayment is often far from straightforward. Various legal, procedural, and practical hurdles can make it difficult for PEOs to enforce their subrogation rights effectively. The key to overcoming these challenges is—stop me if you've heard this before—proactiveness!

One of the most common obstacles is state-specific limitations on subrogation rights. Look no further than the aforementioned differences between New York and Georgia—while New York allows PEOs to assert a lien against an injured worker's third-party recovery (subject to contributing to litigation costs), Georgia follows the "made whole" doctrine. This means a PEO can only enforce its subrogation lien if the injured worker has been fully compensated for all economic and non-economic damages—a notoriously difficult and fact-intensive burden to prove.

Another major hurdle is employer negligence defenses, which can significantly reduce or eliminate subrogation recoveries. Some states bar or limit subrogation if the employer is found partially at fault for the injury, even indirectly (e.g., failing to maintain safe working conditions or providing insufficient training). For PEOs, this risk is heightened since they often share some level of responsibility for workplace safety alongside their client companies.

Finally, and perhaps most commonly, practical challenges also impede recovery efforts. Failing to properly identify claims with possible subrogation not only leaves significant money on the table, but also misses a prime opportunity to negotiate a potential lien reduction or waiver in exchange for resolving the workers' compensation claim.

BEST PRACTICES FOR PEOS

The "TL;DR" moment you have all been waiting for! To maximize subrogation recovery, PEOs should integrate the following best practices into their claims-handling process:

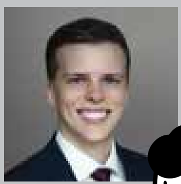
Early Identification: Assess subrogation potential from the outset of a claim to avoid missed opportunities.

Collaboration with Insurers and Legal Teams: Work closely with carriers and subrogation professionals to ensure claims are properly pursued.

Preserving Evidence: Secure key documentation, witness statements, and physical evidence to strengthen third-party liability claims.

Negotiation Strategies: Explore opportunities to leverage subrogation liens in settlement discussions, potentially reducing workers' compensation exposure and shutting down sticky claims entirely.

While subrogation comes with plenty of legal and practical challenges, PEOs that take a proactive and strategic approach can turn it into a valuable cost-recovery tool. By identifying opportunities early, preserving evidence, and working closely with subrogation recovery experts, PEOs can take back what is rightfully theirs—maximizing financial recoveries and strengthening the bottom line. Happy recovering! ■



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PAY EQUITY IN THE SPOTLIGHT

HOW STATE-LEVEL CHANGES COULD IMPACT YOUR CLIENTS

BY LILLIAN M. CHAVEZ, ESQ.

As federal pay equity initiatives stall, states are stepping in with their own legislation, creating a rapidly evolving compliance landscape for employers. State lawmakers are passing measures that redefine compensation transparency, wage reporting and hiring practices — often without the labor law posters or handouts that typically signal regulatory changes. This means businesses must proactively track new laws to avoid compliance gaps and potential penalties.

THE EVOLUTION OF PAY EQUITY LAWS IN THE U.S.

The push for pay equity is not new. The federal Equal Pay Act of 1963 was one of the earliest efforts to address wage disparities, followed by Title VII of the Civil Rights Act of 1964. However, significant gaps remained, leading to the Lily Ledbetter Fair Pay Act in 2009, which extended the timeline for filing pay discrimination claims. Despite these federal efforts, the gender and racial pay gap persists, prompting states to act where Congress has not.

THE GROWING MOMENTUM BEHIND PAY TRANSPARENCY LAWS

Pay equity and transparency laws are gaining traction across the country. In 2024 alone, New Jersey, Massachusetts, Vermont, Minnesota and Maryland passed robust pay transparency legislation, with Illinois set to follow in 2025. These laws impact everything from recruitment and retention strategies to compensation frameworks, making compliance increasingly complex for multistate employers.

For instance, some states now require salary ranges to be disclosed in job postings, while others mandate disclosure only upon request. Meanwhile, several states impose reporting requirements on businesses, compelling them to analyze and submit pay data based on job classification, gender and race. Employers must navigate this patchwork of laws carefully, as failing to comply can result in penalties and reputational risks.

EXPANDING PAY DATA REPORTING REQUIREMENTS

A growing number of states are implementing pay data reporting laws, requiring businesses to submit detailed compensation reports to regulatory agencies. California has led the charge with stringent reporting mandates, and states like Colorado and Oregon are quickly following suit. These laws require companies to break down pay data by factors such as gender, race and job level, increasing administrative burdens and compliance costs.

Beyond the legal risks, these laws introduce operational challenges. Many businesses lack the necessary data tracking infrastructure to compile and submit reports accurately. Compliance requires strong HR systems, clear pay structures and ongoing legal monitoring. Without these measures, businesses risk noncompliance, which can lead to fines and enforcement actions.

Key Takeaway: Tracking state-level pay data reporting laws is essential to mitigating risk and staying ahead of changing regulations.

PAY TRANSPARENCY'S GROWING INFLUENCE ON HIRING PRACTICES

As pay transparency laws expand, they are reshaping hiring and compensation strategies. Requiring salary range disclosures in job postings has a ripple effect, forcing businesses to reassess internal pay structures, job leveling and market competitiveness. Transparency requirements can also impact employer branding, workforce morale and talent acquisition strategies.

Multistate employers face the added challenge of creating standardized yet compliant job posting policies. The nuances of state laws mean that a single nationwide approach may not work. Some states demand more than just salary disclosure, requiring information on benefits, bonuses or pay progression. HR and legal teams must stay informed on each state's specific mandates to avoid missteps.

Additionally, companies must be mindful of how pay transparency laws influence employee expectations. Internal pay audits and equity adjustments may become necessary to ensure compliance and maintain workforce satisfaction.

Key Takeaway: New pay equity laws are changing hiring and compensation practices. Businesses must adapt to ensure compliance and avoid penalties.

COMMON COMPLIANCE CHALLENGES EMPLOYERS FACE

Navigating state-level pay equity laws comes with several hurdles:

Inconsistent State Requirements: Employers operating in multiple states must balance varying compliance obligations, creating a complex regulatory puzzle.

Lack of Standardized Data Practices: Many companies do not have streamlined processes for collecting, analyzing and reporting pay data, increasing the risk of errors.

Legal Gray Areas: Some states' pay equity laws leave room for interpretation, making it difficult for employers to determine the best course of action.

Internal Resistance: Changes in pay disclosure policies and reporting requirements may face pushback from leadership, finance or legal teams, complicating implementation.

To address these challenges, businesses should invest in compliance training, update payroll and HR systems, and establish clear protocols for responding to new pay equity regulations.

THE FUTURE OF PAY EQUITY REGULATIONS

While state laws continue to gain momentum, federal action on pay equity remains uncertain. The Paycheck Fairness Act, which would have strengthened pay transparency and reporting at the national level, has wavered in Congress multiple times. In the absence of sweeping federal legislation, experts predict more states will enact their own pay equity laws.

Looking ahead, businesses should anticipate:

- More states adopting pay transparency laws, following the lead of 14+ states with such legislation.
- Expanded pay data reporting requirements that could include more detailed workforce segmentation.
- Increased enforcement efforts as state agencies ramp up audits and penalties for noncompliance.

STAYING AHEAD OF REGULATORY CHANGES

State-level compliance shifts can happen quickly, and businesses that remain reactive instead of proactive may find themselves at risk. Keeping an eye on emerging legislation ensures organizations stay ahead of the curve and maintain a legally sound approach to compensation management. ■

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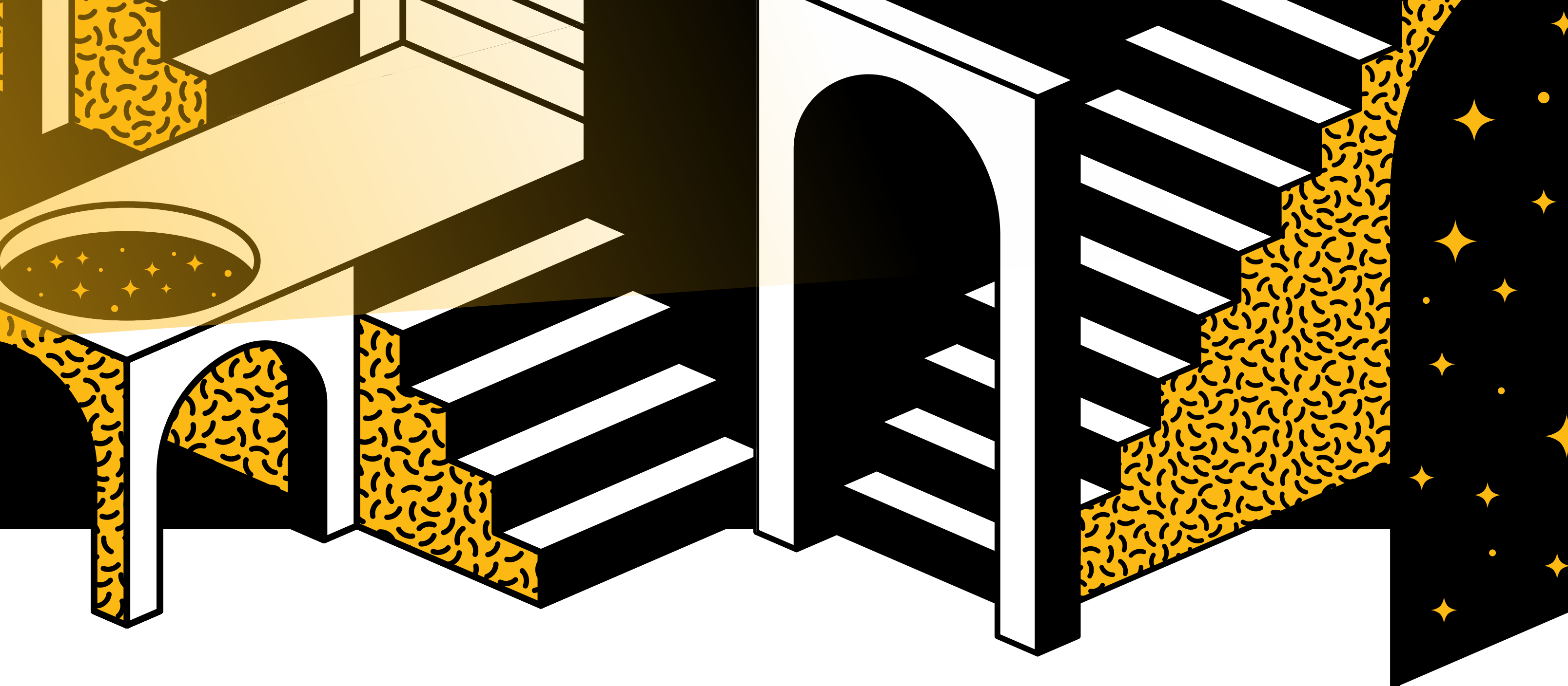


THE EVOLUTION OF PEOS AS COMPLIANCE CHAMPIONS FOR SMALL BUSINESSES

BY ELISABETH SHAW, ESQ. AND CARRIE PILON, ESQ.

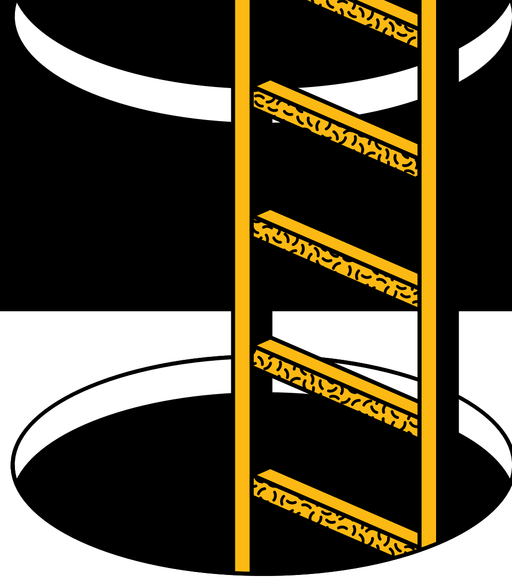
In a time of shifting political dynamics, economic uncertainty, and a compliance spiderweb at both the state and federal levels, small and medium-sized businesses can now more than ever benefit from the steady beacon the PEO relationship provides.

A brief analysis of the evolution of the PEO industry is necessary to better understand the confidence this relationship provides to businesses. Today's PEOs are derived from the 1960 and 1970s versions of employee leasing companies. Primary to this relationship was the outsourcing, or leasing, of the client businesses' workforce to the employee leasing company, which in turn allowed the leasing company to become the legally responsible employer for tax and insurance purposes. This arrangement was the predecessor of today's PEO.

One of the first federal legislative acts to impact the industry was the Employee Retirement Income Security Act (ERISA), which was passed in the mid-1970s. ERISA did not require organizations to be aggregated under a common owner, which allowed leasing companies to maximize the opportunity to offer more generous benefits to employees from unrelated entities. The employee leasing business model was further developed to provide small to medium-sized companies with a variety of services, including payroll management, benefits, and workers' compensation administration, and assistance with a number of other compliance-related matters.

In 1991, the National Association of Insurance Commissioners (NAIC) adopted an Employee Leasing Model Regulation and the Employee Leasing Registration Model Act to recognize the employee leasing relationship and help regulate data collection, policy forms, and experience rating plans among companies using employee leasing companies. Over time, these models were discontinued, new guidance was issued, and the terminology was updated to professional employer organizations. In 1993, the Internal Revenue Service recognized PEOs as co-employers for purposes of employment taxes. However, this early lack of a strong regulatory framework generated the need for further oversight.

In 1994, the National Staff Leasing Association (NLSA) was rebranded into today's National Association of Professional Employer Organizations (NAPEO). As the industry found its footing over the next two decades, it was able to further develop the PEO Model Act,



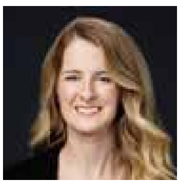
allowing states to regulate the industry and the industry to show its commitment to small and medium-sized businesses. The regulatory framework surrounding the modern PEO structure provides the necessary guardrails within the industry like never before – instilling confidence in employers and employees alike.

With the help of NAPEO's advocacy, the Tax Increase Prevention Act of 2014 (TIPA) was passed in 2014, which formally recognized a new category of PEOs known as Certified Professional Employer Organizations (CPEOs). In 2017, under the Small Business Efficiency Act (SBEA), part of the TIPA, the Internal Revenue Service (IRS) rolled out the CPEO program. The CPEO program allowed CPEOs to assume federal tax liability for their clients' payroll taxes. This provided legitimacy and a path forward for PEOs to show small businesses the industry's commitment to tax and regulatory compliance.

PEO awareness on the national front continues to gain traction, rising by 48% since 2018. During 2020, the global pandemic again showed the PEO industry's value add for our clients. Suddenly, every business was thrust into uncharted territory, and regulations, rules, and guidelines were changing daily. PEOs had a unique opportunity to come alongside small businesses to assist with their Paycheck Protection Program (PPP) applications, Employee Retention Tax Credits (ERTC), and other pandemic relief programs. PEOs also provided key human resources assistance to clients who had to make critical employment decisions, including reducing staff and changing how they ran their businesses. PEOs were able to offer strategic guidance and assistance in navigating the unknown.

As of today, our influence with the federal and state governments has grown exponentially. Today, 48 states have some form of PEO recognition in law. NAPEO's State Government Affairs Committee has a dedicated state action plan that it enacts yearly to broaden our influence and advocacy in specific states. NAPEO and its members regularly testify on behalf of the industry in state capitals, write articles targeted to professional bases, and industry experts have even written various books on leadership and HR. NAPEO has established its own PAC to support our federal advocacy priorities by strengthening and establishing relationships with influential policymakers.

The future is bright for the PEO industry. As federal and state actions continue to influence employers' day-to-day actions, PEOs continue to represent our small business clients, and our industry continues to grow in recognition and stature. ■



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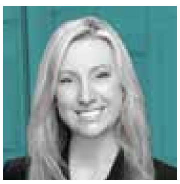

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A Q&A WITH CHAIRMAN JASON SMITH

Representative Jason Smith (R-MO) serves as the Chairman of the House Ways & Means Committee. As Congress continues working on the budget reconciliation bill to extend the 2017 Tax Cuts and Jobs Act, Chairman Smith and his committee are leading the charge. He spoke with *PEO Insider*® to share a little about his background, policy goals and explain why this legislation is so important for small businesses.

PEO INSIDER®: CAN YOU SHARE WITH OUR MEMBERS A LITTLE BIT ABOUT YOUR BACKGROUND AS A SMALL BUSINESS OWNER?

Chairman Smith: I'm a 7th generation Missourian, and a 4th generation owner of my family farm that I purchased when I was in law school—something I would not have been able to do today under the current regulatory framework and state of the American economy. That experience has taught me what it takes to start, grow, and expand a small business, and as Ways and Means Chairman I am focused on delivering policies that create an environment with less regulation and more opportunity that allows small businesses to thrive.

PEO INSIDER®: WHAT MOTIVATED YOU TO GET INVOLVED WITH PUBLIC SERVICE AND RUN FOR CONGRESS?

Chairman Smith: Like many who serve, I saw that the laws and policies coming out of Washington were harming the well-being of the working families, farmers, small businesses, and communities in my state. That recognition that change was needed to ensure a brighter, more prosperous future for the people of Missouri led me first to the State House and then to Congress.

PEO INSIDER®: AS THE CHAIRMAN OF THE HOUSE WAYS & MEANS COMMITTEE YOU'RE ONE OF WASHINGTON, D.C.'S MOST INFLUENTIAL POLICYMAKERS. WHAT ARE YOUR MAIN POLICY GOALS AND PRIORITIES?

Chairman Smith: My biggest priority right now is delivering on President Trump's campaign promises that more than 77 million Americans voted for. The 2017 Trump tax cuts were incredibly successful, and we can build off the success of that law with new policies to further benefit working class Americans, small businesses, and farmers while protecting the American people from a higher tax burden. Delivering pro-growth, pro-worker tax policy like no tax on tips and overtime, tax relief for seniors, securing and restoring tax relief for small businesses, and incentives for domestic manufacturing is my biggest priority.

PEO INSIDER®: AS THE BUDGET RECONCILIATION PROCESS HEATS UP, CAN YOU EXPLAIN WHY EXTENDING TCJA IS SO IMPORTANT TO AMERICAN TAXPAYERS?

Chairman Smith: Extending the Trump tax cuts will fuel significant economic growth and prosperity. Just protecting the 20 percent small business deduction alone will create 1 million new jobs, and American manufacturers will generate $284 billion in new economic growth. But if Congress does nothing, and allows the Trump tax cuts to expire, the average taxpayer will see a 22 precent tax hike, 6 million jobs will be lost, 40 million families would see their child tax credit slashed in half, and 2 million family farmers would see their Death Tax exemption cut in half.

PEO INSIDER®: OUR MEMBERS REPRESENT SMALL BUSINESSES ACROSS THE COUNTRY. AS A FELLOW SMALL BUSINESS OPERATOR, CAN YOU EXPLAIN HOW THE BUDGET RECONCILIATION FRAMEWORK (AS IT STANDS NOW) WILL IMPACT SMALL BUSINESSES?

Chairman Smith: The tax provisions in this reconciliation bill are all proven, pro-growth policies that will incentivize small businesses to expand, to invest, and to hire more workers. The track record of the 2017 tax cuts is impossible to dispute. Workers' wages grew at the fastest rate in 20 years; GDP growth was a full percentage point higher than the Congressional Budget Office's pre-TCJA forecast; and real median household income rose by $5,000—a larger increase in just two years than in the prior eight years combined. Congress must act quickly to deliver on the president's economic priorities and build on the success of the 2017 tax cuts.


Chairman Jason Smith (R-MO).]

PEO INSIDER®: CAN YOU SHARE SOME INSIGHTS ABOUT YOUR COMMITTEE'S WORK ON IRS MODERNIZATION? ONE OBSTACLE OUR MEMBERS CONTINUE TO ENCOUNTER WITH THE IRS IS SLOW, OUTDATED AND INEFFICIENT PROCESSES AND TECHNOLOGY LIKE THE REQUIRED USE OF THE FAX MACHINE.

Chairman Smith: Every member of Congress will tell you that the biggest complaint their constituents have is the IRS. One thing is clear: American taxpayers have not seen a return on investment from the billions of dollars that was pumped into the IRS by the previous administration. Any additional funding for the IRS should be focused towards improving customer service, not increasing audits on middle-class families. The Ways and Means Committee held a hearing earlier this year where we learned that only 31 percent of phone calls to the IRS were answered by a live human being during the last tax filing season. That is unacceptable. More must be done to improve efficiencies at the agency and to modernize and move on from antiquated systems. The IRS needs an overhaul to ensure it works for the American taxpayer, not the other way around. ■

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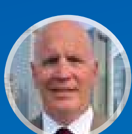

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—Don Cahalan, CEO, Armhr

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—Brent Tilson, CEO, Tilson

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NEXTEP: A PEOPLE FIRST COMMITMENT

BY EVAN FALLOR

> For 2025, the team is focused on several partner organizations, including The Beacon Project, an organization that provides food and other resources to local teens in need.

For its nearly three decades of existence, Nextep has prided itself on its people-first commitment.

That mantra has extended both to its employees as well as to the communities it serves in the Norman, Oklahoma area and beyond. For years, Nextep employees gave back in myriad ways, often on their own time and their own accord.

Nextep Founder, President and CEO Brian Fayak said he was proud of his selfless team, but also said he faced a conundrum: the company had no way to measure the impact they were having in their communities.

"If you don't measure it and have some kind of goal and budget, how do you make sure it gets done consistently and done in the best way possible?" Fayak asked. "Basically, how do we make sure we're measuring time and money and have a well-rounded program to positively affect our corporate culture?"

So, after some thinking, the company in 2018 launched the Nextep Charitable Foundation as a way to have a coordinated and measured way to give back in the ways they had always done.

The foundation has raised hundreds thousands of dollars for area organizations, but Fayak said just as importantly, employees have put in countless hours of their time to lend personal expertises to causes they are passionate about.

On top of organized quarterly foundation volunteering efforts, Nextep employees are each given eight hours of paid time to volunteer on their own, which is used for everything from coaching sports teams to school activity volunteering to leading local scout groups. In one year alone, they dedicated more than 1,600 volunteer hours to causes of their choice.

"Everyone thinks of charitable giving as giving money," Fayak said. "But there's definitely the other side of giving time. We feel like part of our culture is making people better people and making people feel better about themselves."

The foundation's initiatives are spearheaded by the Nextep Gives Back Committee that is composed of employees both at its Oklahoma headquarters and those who work remotely across the country who volunteer in the communities where they live and work. The committee, in tandem with company leadership, crafts a list of charities to target for the year.

Led by Nextep Director of Risk Management and Legal Compliance Hank Johnson, the committee also includes six subcommittees that work on specific projects throughout the year: Equity Council, Future Philanthropists, Make-a-Wish, Nextep Gives Back Week, Corporate Conference and Service Hours. Each team volunteers with the group they've chosen, completes a project for the organization and makes a monetary donation funded by the foundation.

Not long after the 2018 foundation launch, Nextep joined the Pledge 1% corporate philanthropy program where companies donate 1% of its product, profit or employee time to improve

The Oklahoma City Police Department Youth Leadership Academy makes a presentation to the Nextep Gives Back Committee earlier this year. The group has become a close partner for Nextep to support.

communities. As part of its pledge, Nextep committed to achieving all three goals: 1,000 community service hours, $100,000 in charitable donations to organizations in need and free services to select nonprofits and startups.

It was another way to provide the tracking structure and measurability Fayak had longed for.

"It's a big piece of who we are and it will be for years to come," Nextep Chief Operating Officer Melissa Grimes said of the foundation. "It's important not only to Brian and the leaders of our organization, but to our employees as well."

There is no singular focus for Nextep's efforts, though a guiding principle is to target charities that help children and single mothers. Most importantly, the team looks for a diverse swath of

The Nextep Gives Back Committee volunteers at The Beacon Project, a Norman organization that provides food and other resources to local teens in need. The team filled 80 boxes that were given away in February to teens in need.

charitable recipients to help different groups in need.

For 2025, the team is focused on several partner organizations, including The Beacon Project, an organization that provides food and other resources to local teens in need. The Nextep team filled and gave away 80 boxes of food to high school students in need this past February.

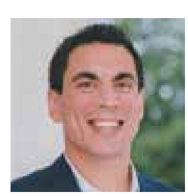
And each year, Nextep works with the local Make-a-Wish Foundation chapter to support a child's wish—but this year is especially special. The recipient is a connection of a Nextep employee, and to honor them, Nextep is throwing a party at the company office with the theme of her choice.

Over the years, the foundation has continued to expand the number of organizations it has reached: Big Brothers Big Sisters of Oklahoma, Meals on Wheels, the Houston Food Bank, United Way and St. Jude Children's Research Hospital to name a few. Employees have also forged close ties with the Oklahoma City Police Department's Youth Leadership Academy, which mentors select high-achieving students.

Fayak said that since the start of the COVID-19 pandemic, there has been a greater need and demand to support mental health initiatives, including The Virtue Center, an addiction treatment and mental health facility in Norman. In 2021, the foundation donated $30,000 to the nonprofit to build a new outdoor therapy space, staying true to its commitment to its own employees to stay mentally healthy.

To ensure Nextep's charitable efforts continue into the next generation, the company launched the Future Philanthropists program for the children, grandchildren, nieces and nephews of Nextep employees. Each spring and fall, the children color a picture and in return the foundation sends a $50 donation to the organization of the child's choice.

"It was started initially to get children of employees involved," Grimes said. "And it's helped create pride within Nextep's future philanthropists." ■



EVAN FALLOR

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THE ART OF WRITING: AMIE REMINGTON'S JOURNEY AS AN AUTHOR

BY CHRIS CHANEY

For the past few years, Saturday mornings for Amie Remington looked a bit different than most. The 20-year PEO industry veteran spent the early hours of the day writing, editing, and re-writing drafts of her recently published book, *The Art (and Science) of HR: A Legal Guide for New Managers, CEOs and Leaders in Between*.

Through storytelling, Remington's book provides information, facts, legal insights and HR guidance that leaders need to be effective. The inspiration for writing the book comes from a simple truth she's learned as an employment law attorney in the PEO industry.

"If you're a good employer and follow best-in-class HR practices, you have the chance to change people's lives for the better," Remington, Chief Legal Officer of Peoplease, believes.

She notes that employees who work a standard 40-hour work week are likely to spend 2,000 hours at work each year. With that much time dedicated to the office, a bad leader or employment culture can have disastrous consequences on employees' personal and professional relationships, and physical and mental health. On the other hand, good HR and employment practices can significantly improve employees' lives.

With chapters like "Do Not Friend Me on Social Media," "If You're Curious Why I Quit, Just Ask Me," and "Your Generosity Makes A Lasting Impact," Remington draws on her years of experience and expertise to assemble this how-to-guide for leaders at all levels—from newly promoted leaders to leaders in the C-Suite. The laws, rules and lessons Remington writes about stem from actual employment scenarios she's experienced, observed or handled.

You might think then that putting this book together would be an easy process. You'd be wrong. It was a tough process that consumed nearly two full years and a lot of Saturday mornings. Yet, when asked if she'd do it again, she answers with an enthusiastic yes. Overall, she found the process to be fun and rewarding even if there were times she struggled to stay motivated. When she first held a printed copy, she felt a sense of accomplishment and pride.

A LABOR OF LOVE

Once Remington had decided to write the book, she kicked off the process by talking with a friend, Quint Studer, who has written *New York Times* Best Sellers, including *Results That Last*. He offered advice and insights about the writing process and helped sift through ideas for the book.

"The most important thing Quint did was very generously introduce me to his editor, who quickly became a friend," Remington says.

Remington connected with Dottie DeHart and shared her initial draft of sections of the book with her. Over breakfast, DeHart laid down a hard truth: this doesn't work; you have to start over. Not exactly the words any author wants to hear, but often times the words an author needs to hear. Remington took the advice in stride and pored over her editor's suggestions.

When she offered a fellow employment lawyer and friend the chance to read the second draft, her friend loved the idea of the book, but thought the tone was off. So, on to draft number three. Studer read this version and thought Remington was close, but not quite home yet.

All while writing and re-writing the book (including a title change), Remington was also focused on other aspects of publishing. She had to make decisions about fonts and paper thickness and even the exact shade of gray to use. What about sub-headlines and chapter sections? Where should call-out boxes go?

She leaned on her publisher's in-house researcher for fact checking. Since the book uses data to underpin all of Remington's claims on best HR practices, it was important that everything was sourced and accurate.

Her editor, Dottie, guided her through each step and offered encouragement and advice along the way.

By the time Remington had finished the fourth draft, she got a signal that she had hit the mark.

Bert Thornton, the retired President/COO and the Vice Chairman Emeritus of Waffle House, Inc., read the fourth draft and told Remington that if he had read her book when he was young manager his career would have been better because he would have been a better manager.

This is exactly how Remington hopes managers react after reading the book.

"Every story in the book is a from a real situation," she explains, "even if just one leader makes a positive change and improves the life of an employee, that's a win."

Remington's book is available on Amazon, at the Bodacious Bookstore in Pensacola, Florida and at Page and Palette in Fairhope, Alabama. ■

CHRIS CHANEY

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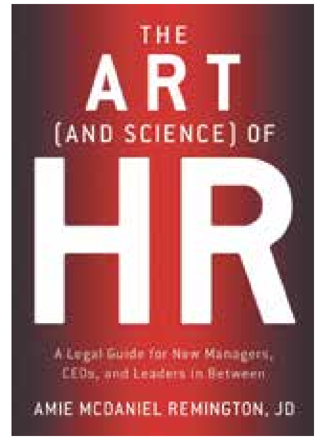

Remington will discuss her book during the WIN Reception on Wednesday, May 21, 2025 at NAPEO's PEO Capitol Summit. Don't miss it!

FROM WISH LIST TO BILL TEXT

BY ALEX MILLIKEN

The NAPEO federal government affairs team—which includes NAPEO staff and our outside lobbying firm Mehlman Consulting—is working to advance our industry's priorities in the reconciliation bill moving through Congress. But what does that actually mean?

Back in January, NAPEO's Federal Government Affairs Committee gathered in Washington, D.C. to discuss our federal legislative and regulatory priorities for the year. One issue clearly rose above the rest: tax reform. The committee agreed our federal priorities for 2025 should focus on IRS modernization, payroll tax liability clarification and business tax credits such as 199A, WOTC, and R&D tax credits.

From the outset, we anticipated that 2025's marquee legislative battle would center on tax reform, led by the Republican majority in Congress and advanced through the reconciliation process. We saw this as a prime opportunity for PEOs to build on the goodwill and relationships we've spent the past two years cultivating on the House Ways and Means Committee.

Reconciliation, in theory, is a straightforward legislative tool, but in practice it's anything but simple. It's like building a plane mid-flight. The process begins with the passage of an identical budget resolution in both the House and Senate. This resolution sets topline numbers for spending, revenue, and the debt limit, and can include instructions to specific committees to change spending levels in their areas of jurisdiction. The legislative output that follows these instructions is what becomes the reconciliation bill—first voted out of committee, and eventually by both chambers.

With a narrow Republican majority in Congress, the GOP controls the reconciliation process. Even though reconciliation is a partisan political exercise, NAPEO continues to take a bipartisan approach to federal advocacy. That means navigating a politically complex landscape with strategy, precision and care to ensure our priorities are not just heard, but included.

NAPEO laid the groundwork for tax reform as early as the summer of 2024, meeting with members of the House Ways and Means Committee on both sides of the aisle, attending key PAC events, and continuing to educate lawmakers and staff about the PEO industry. These efforts weren't just about visibility they were about building the

Rep. Beth Van Duyne (R-TX) addressing NAPEO's 2023 PEO Capitol Summit.

trust and familiarity needed to make progress when the time came.

In January, NAPEO President and CEO Casey Clark sent a letter to the incoming administration, outlining practical areas for improvement—highlighting, among other things, the need to retire outdated technologies like the IRS fax machine and to streamline the cumbersome Employee Retention Tax Credit (ERTC) process.

Then, in February, an opportunity emerged to spotlight these issues when the House Ways and Means Subcommittee on Oversight scheduled a hearing titled "*IRS Return on Investment and the Need for Modernization*." Ahead of the hearing, NAPEO met with Representative Max Miller and his team to brief them on the broader need for IRS modernization, using the fax machine as a tangible example of legacy systems still in use.

Rep. Mike Thompson (D-CA) spoke to attendees of NAPEO's 2023 PEO Capitol Summit.

> *Even though reconciliation is a partisan political exercise, NAPEO continues to take a bipartisan approach to federal advocacy.*

The message landed. During the hearing, Rep. Miller devoted his entire 5 minutes and 37 seconds of allotted time to this very issue. He underscored the absurdity of relying on a fax machine in 2025 and using it as a clear call to action for broader IRS reform.

To this point, we have made steady progress—gaining traction with lawmakers and building real buy-in for our priorities. But one issue still loomed largest: payroll tax credit liability clarification.

After years of diligent work by the NAPEO Liability Working Group, we finally reached consensus on legislative language. Even more importantly, we had secured two committed champions: Rep. Mike Thompson (D-CA) and Rep. Beth Van Duyne (R-TX). Both agreed to introduce the bill on a bipartisan basis as original co-sponsors. This was a major milestone and represents the product of years of technical negotiation and stakeholder alignment.

In March, we shifted into high gear. Over the course of several weeks, we met with 17 offices across the House Ways and Means Committee and the Senate Finance Committee to lay the groundwork for our liability bill. These meetings focused on education, explaining the mechanics of the proposal, the real-world risks PEOs face, and why this fix is essential for ensuring compliance and confidence in tax credit administration. Support is growing, but continued engagement is critical.

That brings us to this May and NAPEO's PEO Capitol Summit, where more than 60 PEO professionals will take to Capitol Hill to meet with their states' congressional delegations. They won't just be talking about our industry; they'll be driving home the importance of passing our liability bill. With coordinated advocacy, strong messaging and growing momentum, we're well-positioned to turn years of work into a legislative win. ■

ALEX MILLIKEN

Director,
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NAPEO
Alexandria, VA

WORKERS' COMP ON OUR MINDS:

UPDATES & TRENDS FROM KEY STATES

BY HANNAH WALKER

The first few months of 2025 have been filled with legislative and regulatory activity in the states. One particular area of interest to PEOs is workers' compensation insurance. We've seen quite a bit of activity in this area, and the NAPEO state government affairs team has been actively engaged in Oregon and Georgia on this issue. We've also seen trends emerge across the Southeast, Midwest, and the Heartlands regions of workers' compensation legislation aimed at improving worker protections, addressing mental health issues, and adapting to new hiring trends. Driven by improved workplace safety, many states are seeing a trend towards reducing workers' compensation insurance premium rates.

There is also a growing recognition of the importance of mental health in the workplace. Legislation is increasingly focused on providing coverage for mental injuries, particularly PTSD for high-stress occupations. The rise of temporary, contract-based work is leading to efforts to address the unique challenges created by this shift in hiring trends. States are exploring ways to provide adequate workers' compensation coverage for these workers. NAPEO is monitoring such legislation to assess any impact on PEOs and determine when and where to engage if needed.

Here are some additional highlights and updates from key states you'll want to keep in mind.

GEORGIA

We had our work cut out for us in Georgia as we worked to advance our Model Act legislation in the state. We were up against strong opposition from the Trial Lawyers Board, "Big Insurance" and the Board of Workers' Compensation due to the misconception that the PEO relationship leaves injured workers without coverage. In Georgia, employers provide workers' compensation coverage to all known and unknown workers and have asked PEOs do the same even if those workers are not known by the PEO and the PEO does not have an insurable interest in the worker under the PEO agreement with the client employer. NAPEO does not support this position, so as a compromise we stripped all workers' compensation language from our bill to keep the status quo in the state.

Unfortunately, even with the stripping of this language and the bill passing out of the state House with enormous support, we still faced heavy opposition in the Senate's Labor and Insurance subcommittee due to political rhetoric surrounding the workers' compensation insurance provision of the bill, albeit no workers' compensation provisions remained in the bill. However, because the subcommittee meeting did not end in a negative vote against our bill, our efforts are paused as the bill carries over to the 2026 legislative session. We will work over the summer to further clear up the false rhetoric surrounding the PEO relationship and work to find agreement with the opposition so we can get the bill across the finish line.

OREGON

In Oregon we are working with the state's Workers' Compensation Division to update and modernize existing statutory definitions that were originally passed in 1993. Currently, Oregon refers to PEOs as "worker leasing companies" and HB 2800 will update this terminology to the more modern PEO terminology, so Oregon statutes more adequately reflect current PEO practices.

This bill will also steer toward a rulemaking that looks to move Oregon away from purely a master policy state to more of a MCP or hybrid state. NAPEO shared its strong desire to have Oregon become a hybrid workers' compensation state, rather than a MCP state, and the Division has said it will work with us during rulemaking to move in that direction.

MISSOURI

A 2018 statutory change regarding experience modification factor (EMOD) calculations for PEOs operating under a master workers' compensation policy has caused some issues in Missouri. Currently, Missouri applies the PEO's entire three-year experience history to its EMOD, even for former clients who have left the PEO master policy. This can result in higher workers' compensation rates for current and future clients, which can make PEOs in Missouri less competitive compared to those in states where the EMOD follows the client. We will work with the Missouri working group of NAPEO members to explore possibilities to address this issue.

EAST COAST

Across the mid-Atlantic and New England regions, state legislatures have introduced, but not passed, a variety of bills related to workers' compensation that fall into two categories. First, efforts to expand the workers' compensation benefit schedule. Second, requirements for the administrative agency of workers' compensation to study the system and make recommendations. This is in line with post-pandemic efforts to stamp out fraud in statewide benefit programs. The first category of bills is generally led by Democrats and the second is generally led by agencies and/or Republicans. NAPEO is keeping watch of these issues for any implications for PEOs. ■

HANNAH WALKER

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THE HIRING COMPLIANCE TIGHTROPE

BY JOSHUA SILER

Hiring compliance is a balancing act for PEOs. One wrong move can lead to steep penalties, lawsuits, and reputational damage—not only for the PEO itself but also for its clients. With new regulations emerging and existing ones evolving, compliance risks are more hidden and complex than ever. From salary reporting requirements to the ethical use of artificial intelligence in hiring, PEOs must stay vigilant to protect client relationships and maintain operational integrity.

Fortunately, modern recruiting technology can be a valuable safeguard. By streamlining compliance processes and offering built-in protections, recruiting tech helps PEOs reduce the risk of costly missteps while delivering seamless hiring experiences.

THE HIGH COST OF COMPLIANCE FAILURES

Compliance failures in hiring aren't just minor mistakes—they carry severe financial and reputational consequences. In 2025, regulatory updates such as salary reporting and pay transparency laws now require salary ranges in job postings. States like California, Colorado, Illinois, and Washington have implemented strict pay transparency laws, with penalties for non-compliance reaching thousands of dollars per violation. New York City's AI recruiting law, which mandates bias audits for automated hiring tools, sets a new precedent for AI oversight in employment decisions.

Another growing concern is the inappropriate use of AI in hiring. As AI tools become more common in recruitment, regulators are keeping a close eye on how these technologies affect decision-making. Biased algorithms or opaque AI models can expose PEOs and their clients to discrimination lawsuits, potentially costing millions in settlements. A striking example is the 2023 case against iTutor Group[1], a tutoring company that agreed to pay $365,000 to settle an EEOC lawsuit after its AI-powered recruiting software automatically rejected female applicants aged 55 and older and male applicants aged 60 and older. The software unlawfully disqualified more than 200 qualified applicants, highlighting the legal and ethical risks of unchecked AI in hiring.

For PEOs, these risks aren't hypothetical. Recent cases show that non-compliance with salary transparency requirements has led to substantial penalties, and misuse of AI in recruitment has triggered class-action lawsuits alleging discriminatory practices. PEOs must take proactive steps to prepare for today's compliance challenges—and those on the horizon.

HIDDEN COMPLIANCE TRAPS THAT PEOs MUST AVOID

1. **Form I-9 and E-Verify Mistakes**. Form I-9 and E-Verify processes are essential for verifying employment eligibility. However, incomplete or incorrect documentation can lead to audits, fines, and reputational damage.
2. **State-Specific Hiring Laws**. PEOs operating across multiple states face the challenge of navigating diverse regulations. For example, Delaware's minimum wage increase to $15/hour and Oregon's expanded Paid Leave Oregon (PLO) program require tailored compliance approaches. Additionally, states such as New York, California, and Illinois have implemented pay transparency laws that require salary disclosures in job postings. Failure to comply can result in fines and lawsuits that impact both the PEO and its clients.
3. **Background Checks and FCRA Compliance**. Improper background checks can result in violations of the Fair Credit Reporting Act (FCRA), opening the door to lawsuits. Issues like failing to obtain proper consent or provide necessary disclosures can cost companies millions.
4. **Salary Reporting and Pay Transparency Compliance**. New pay transparency laws are gaining traction, requiring employers to list salary ranges in job postings to promote wage equity. Non-compliance can not only result in fines but also hurt a company's employer brand.
5. **The Inappropriate Use of AI in Hiring**. AI can streamline hiring, but unregulated use can introduce bias and result in discriminatory practices. Regulatory bodies are increasingly focused on making AI-driven hiring decisions more transparent and fair.

HOW TALENT TECHNOLOGY SUPPORTS COMPLIANCE FOR PEOs

Recruiting technology isn't just about hiring efficiency—it plays a critical role in compliance. Here's how it helps PEOs navigate regulatory complexities:

Fair Chance Hiring & Pay Equity Features: Helps promote fair hiring practices by removing restricted questions and supporting salary transparency in job postings.

Data Privacy and Security Protections: Secure data storage supports compliance with GDPR, CCPA, and other data protection laws, minimizing exposure to data breaches and related liabilities.

Configurable Workflows: Customizable workflows help maintain compliance across hiring steps by automating tasks like background checks, document submissions, and approval processes.

Digital Document Management: Centralized, secure storage for compliance-critical documents such as I-9 forms, offer letters, and background check disclosures, all audit-ready.

E-Signature and Audit Trails: Legally binding e-signatures and detailed audit logs provide verifiable proof of compliance, making regulatory audits smoother and less stressful.

Ethical AI Safeguards: Avoiding AI features prone to bias helps maintain fair hiring practices and mitigate compliance risks.

THE COMPLIANCE GAME PLAN FOR PEOs

Compliance is a competitive advantage. In 2025, PEOs face heightened scrutiny, with new regulations targeting everything from pay transparency to the ethical use of AI in hiring. Failing to meet these standards can result in severe penalties, broken client relationships, and a tarnished reputation.

The solution? Invest in recruiting technology that automates compliance processes, mitigates risks, and enhances hiring efficiency. Platforms offering configurable workflows, ethical AI features, and robust document management systems give PEOs the systems they need to stay compliant and competitive.

Now is the time for PEOs to evaluate their tech stacks, ensuring their recruiting technology partners are equipped for the compliance demands of 2025 and beyond. With the right systems in place, PEOs won't just navigate the compliance maze—they'll lead the way through it. ■

1 https://www.eeoc.gov/newsroom/itutorgroup-pay-365000-settle-eeoc-discriminatory-hiring-suit.

JOSHUA SILER

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FINALLY, SOME GOOD NEWS ABOUT ACA REPORTING: LESS PAPERWORK (POTENTIALLY)!

BY MALCOLM SLEE, ESQ. AND WILLIAM FISCHER, ESQ.

The ACA reporting requirements (i.e., Forms 1095-B and -C) always create a lot of work and headaches for PEOs, so anytime the government offers relief—we'll happily take it. Just as many PEOs were working to help their clients with yet another round of federal tax information reporting under the Affordable Care Act, President Biden signed into law the Paperwork Burden Reduction Act on December 23, 2024. In contrast to many other laws, the Paperwork Burden Reduction Act is a law that might actually do what it claims—reduce paperwork! It may provide PEOs with additional flexibility for furnishing Forms 1095-B and -C to individuals on behalf of clients while still meeting their ACA obligations.

In many ways, the Paperwork Burden Reduction Act continues the trend of reducing the burden of ACA reporting. This new law expands certain flexibilities that the Department of the Treasury and the Internal Revenue Service previously provided through regulations at the end of 2022. Those regulations provide for an *alternative method of furnishing* Forms 1095-B and -C. This alternate method allows a reporting entity to provide a notice regarding the *availability* of Forms 1095-B or -C, rather than directly providing the Forms 1095-B and -C to the responsible individuals. However, as noted below, this previous regulatory flexibility was limited—it could not be used by all employers for all individuals. The new law hopefully will give additional employers (and PEOs) the ability to access the relief.

PREVIOUS TREASURY REGULATIONS

In 2022, the Department of the Treasury and the Internal Revenue Service released final regulations that allow for limited flexibility in furnishing Forms 1095-B or -C to responsible individuals. The regulations provide specific rules for the notice. Under these rules, reporting entities must post a notice in a location on their website that Forms 1095-B or -C are available upon request. In addition, the notice must be written in plain, non-technical terms and the notice must remain in the same location on the website until October 15 of the following year. In addition, the reporting entity must provide an email address, a physical address, and a phone number to field these requests. Under this regulation, the reporting entity must provide the form to the individual within 30 days upon request.

While the flexibilities provided in the regulations were well received, this *alternative method of furnishing* was limited to reporting entities that furnish Forms 1095-B and self-insured applicable large employers that furnish forms to part-time employees and non-employees enrolled in the employer's self-insured plan. Interested parties requested that the IRS extend this *alternative method of furnishing* to full-time employees, because the individual mandate requirement had effectively been eliminated, and also for administrative ease. However, the Department of the Treasury and the Internal Revenue Service declined to extend the relief to all employers for all individuals in the final regulation.

NEW LAW EXPANDS THE ALTERNATIVE METHOD OF FURNISHING STATEMENTS

While the Department of the Treasury and the Internal Revenue Service declined to extend this furnishing flexibility across the board, Congress stepped in to pass the Paperwork Burden Reduction Act at the end of 2024. The Act was signed into law by President Biden and allows all reporting entities to take advantage of a similar alternative method of furnishing statements for all entities furnishing Forms 1095-B and -C to responsible individuals. Under the new law, an employer will be able to simply post a notice to their website informing individuals that Forms 1095-B or -C are available upon request. Provided certain rules are followed, we think client employers may even be able to provide notice by providing a link to their PEO's website. But employers will need to follow the rules set forth in Notice 2025–15...

THE IRS RELEASES NOTICE 2025–15

In order to provide additional guidance following the Paperwork Burden Reduction Act, the IRS released Notice 2025–15 to provide additional clarity on what reporting entities must do to use the *alternative method of furnishing* statements for Forms 1095-B and -C. Notice 2025–15 provides that if reporting entities comply with the 2022 final regulations relating to the alternative method of furnishing (subject to a few changes), then the reporting entity will satisfy their furnishing obligations under the statute. Note that, although the deadline to furnish Forms is generally March 2 under the Paperwork Burden Reduction Act, the deadline for requested forms is the later of January 31 or 30 days after the request. This means that, if, for example, someone requests a Form relating to 2025 coverage before 2026 begins, the employer must furnish the Form by January 31, 2026—which is earlier than the regular deadline (March 2, 2026). Reporting entities should think carefully about how they draft the notice informing individuals that they can request a Form in order to avoid these types of premature requests.

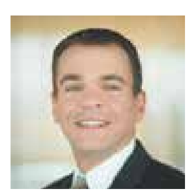
TAKEAWAYS FOR PEOs

PEO clients that are "applicable large employers" under the ACA rules (i.e., generally 50 or more full-time employees) were previously unable to use the *alternative method of furnishing* for their full-time employees. Now, thanks to the new law and IRS Notice 2025–15, they may be able to fulfill their ACA furnishing obligations by going the paperless route. This could make ACA furnishing both simpler and cheaper for PEOs and their clients. But PEOs and client employers taking advantage of these flexibilities will need to coordinate on the website notice, and ensure that they set up appropriate systems to timely respond to requests for these forms.

> *In contrast to many other laws, the Paperwork Burden Reduction Act is a law that might actually do what it claims—reduce paperwork!*

While the flexibility for furnishing these forms will be helpful to PEOs, it is important to note that these flexibilities do not change any of the ACA *filing* obligations relating to Forms 1095-B and -C (and the accompanying transmittal Forms 1094-B and -C). In other words, employers may not have to *furnish* forms if they use the relief, but they will still have to complete the forms and file them with the IRS. In addition, nothing in the new law or notice changes any reporting obligations under state laws. ■

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



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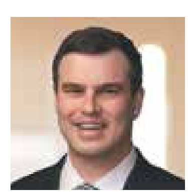

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2025 PEO Capitol Summit

May 20 - 22, 2025

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Join us at NAPEO's 2025 PEO Capitol Summit, where we'll gather to celebrate National PEO Week, tell the PEO story on Capitol Hill, and focus on emerging compliance and legal issues impacting the PEO industry. Visit **NAPEO.org/capsummit** to register today!

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ARE YOUR CUSTOMERS RIF-READY?

BY JOHN POLSON, ESQ. AND RICH MENEGHELLO, ESQ.

Economic uncertainty and turmoil inevitably are leading to PEO customers thinking about whether they need to downsize their workforce—and the support you provide can make or break the process. A misstep can trigger legal exposure, damaged reputations, or degraded client relationships. Here are six key things PEOs should keep in mind as customers request guidance.

STEP ONE: IDENTIFY DESIRED GOALS AND OBJECTIVES

This might be better categorized as "step zero," because you should work with your customer to determine whether a RIF or series of layoffs is even necessary. What is their business rationale for the planned action? What is the intended result? Do they hope to achieve cost savings or improve efficiency? Are there less-drastic alternatives that would help achieve the same results (temporary furloughs, compensation reductions, worksite relocations, etc.)?

STEP TWO: MAKE INITIAL LOGISTICAL DECISIONS

Help your customer make some initial decisions about key matters like:

- How many positions to reduce
- Whether they will solicit voluntary separations
- Their RIF budget (legal fees, severance payouts, unemployment insurance, etc.)
- Timing

STEP THREE: CREATE A SELECTION PROCESS FOR INVOLUNTARY LAYOFFS

Perhaps the most scrutinized part of any RIF—and therefore the most critical—is the selection process used to determine which employees will be let go. There are a whole host of legal standards to consider in such a decision, and therefore only proceed once you have clear guidance from workplace law counsel. What criteria will be used to make the selections? Will your customer use different selection criteria for different types of jobs – such as hourly and salaried positions?

STEP FOUR: DON'T SKIP THE DISPARATE IMPACT ANALYSIS

No matter the size of your customer, they need to assess whether their selection criteria disproportionately affects protected groups (age, race, gender, etc.). And while the current administration has indicated federal agencies may not prioritize disparate impact claims, courts and state regulators will still apply this theory. Work with your customers early to:

- Collect and analyze demographic data
- Justify selection criteria (objective, documented, consistently applied)
- Adjust selections where patterns raise red flags

STEP FIVE: CREATE LEGAL DOCUMENTS

Work with legal counsel to develop applicable severance policies for your customer. These crucial documents need to take into consideration company policies, federal benefits law (ERISA), and other related factors. You also need to help develop applicable release agreements that might be used in exchange for severance benefits. There are a number of individual questions that need to be answered for each worker, focusing on vacation and other PTO benefits, retirement/severance overlap, unemployment, and other potential legal requirements depending on customer size.

STEP SIX: COMMUNICATE

Your customers may not know where to start when it comes to messaging, and might default to radio silence. But when layoffs hit, silence creates chaos. Make sure to help your customers prepare coordinated messaging. This includes preparing consistent talking points to answer questions (without avoiding the hard truths or otherwise overpromising), and ensuring all necessary documents (separation agreements, benefits info, final paychecks) are correct and timely delivered. Some RIFs will trigger federal or state laws that could impact timing and notification responsibilities, so make sure your legal counsel provides key guidance.

BONUS GUIDANCE: PEOPLE ARE WATCHING (AND FILMING)

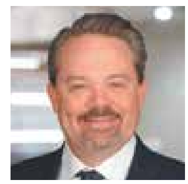
Layoffs are no longer whispered about—they are broadcast as content. TikTok, Instagram, and YouTube are filled with viral "watch me get fired" videos—and sometimes the worst PR nightmares come from secondhand accounts. Your customer's process needs to assume it will have an audience. That means guiding them on such concepts as:

- Avoiding impersonal Zoom firings or form emails
- Training those delivering the message on empathy, clarity, and tone
- Planning internal and external messaging to stay consistent and humane

BOTTOM LINE FOR PEOs

With mishandled customer RIFs potentially impacting the PEO's EPLI claims experience, preparing for downsizings and ensuring strong compliance in advance is very valuable. ■

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



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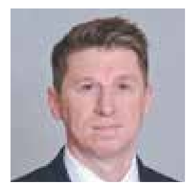

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PEOs AS KEY PARTNERS IN AI COMPLIANCE AND RISK MANAGEMENT

BY CRISTINA FAHRBACH-CONNORS, J.D., PHR

AI is revolutionizing the way employers operate, providing powerful tools that enhance efficiency, drive automation, and deliver data-driven insights. Increasingly, HR professionals are turning to AI to streamline the preparation of employment-related documents and analyze vast amounts of data to uncover patterns and trends shaping the workplace. In fact, according to a survey conducted by SHRM, nearly 1 in 4 organizations now leverage AI to support HR functions.

However, while AI can significantly optimize processes, it also introduces substantial compliance risks, particularly when it comes to safeguarding employee privacy.

As trusted advisors, PEOs are uniquely positioned to guide their clients through the complexities of integrating AI into HR operations. The goal should be to improve efficiency, but also to ensure that legal and ethical responsibilities are met.

To truly unlock its potential, HR solutions must be built on a solid foundation of compliance, fostering trust and transparency within the workforce. In this article, we'll explore key strategies that empower you to mitigate these risks effectively, ensuring your clients harness the transformative potential of AI while safeguarding their legal and ethical obligations.

ESTABLISH CLEAR AI POLICIES AND TRAINING

PEOs should advise client companies to include AI-specific guidelines in their workplace policies. These policies should outline:

- Approved AI tools and their specific uses
- Who can access AI-generated information
- What employee data AI systems can process
- How AI-generated information may be disclosed
- Applicable federal, state, and industry regulations

Employees interacting with AI systems must be trained in these policies to ensure compliance and proper data handling.

AVOID USING OPEN AI SYSTEMS FOR EMPLOYEE DATA

Open AI systems (such as ChatGPT's free version) do not restrict how input data is stored or used. Entering sensitive employee information into these systems could result in unintended data exposure or violations of state and federal privacy laws. PEOs should guide clients toward closed, proprietary AI systems with robust security controls.

VET AI VENDORS THOROUGHLY

Employers should carefully evaluate AI vendors before implementation. You can advise clients to ask vendors:

- How is employee data secured and stored?
- Under what conditions is data shared with third parties?
- Does the AI tool comply with relevant data privacy laws?
- Are external validation studies available to verify system accuracy and bias mitigation?

MONITOR AI SYSTEMS FOR COMPLIANCE AND FAIRNESS

Many AI-driven HR tools function as "black boxes," making it difficult to understand how decisions are reached. Advise clients to:

- Regularly audit AI-generated outputs for biases or inconsistencies
- Review AI decision-making processes to ensure compliance with anti-discrimination laws
- Maintain transparency with employees about AI's role in HR processes

IMPLEMENT AND MAINTAIN STRONG DATA SECURITY PROTOCOLS

AI systems must align with an organization's broader cybersecurity framework. PEOs can help clients ensure AI platforms comply with existing data security policies, conduct risk audits to identify potential data exposure risks, and regularly update software to address security vulnerabilities

USE AI FOR EMPLOYEE MONITORING WITH CAUTION

AI-powered employee monitoring—such as tracking productivity, GPS locations, or digital activities—raise legal and ethical concerns. Many states regulate workplace surveillance, restricting video recording, location tracking, and keystroke monitoring. PEOs should guide clients in understanding these regulations and obtaining employee consent where required.

COMPLY WITH STATE-SPECIFIC PRIVACY LAWS

State laws vary regarding employee data protections. Some require employee consent before data collection, notification about how personal information is stored and used, and secure disposal of employee records.

Additionally, consumer data privacy laws in states like California (CCPA) may apply to employment data, requiring businesses to adhere to strict security and privacy standards. Employers should stay informed about evolving regulations to maintain compliance.

ENSURE COMPLIANCE WITH BIOMETRIC PRIVACY LAWS

AI tools that process biometric data—such as facial recognition, fingerprint scans, and physiological monitoring—are increasingly regulated at the state level.

To mitigate risk and ensure compliance, advise clients to obtain explicit employee consent before collecting biometric data, verify AI vendors comply with biometric privacy laws, and implement strong security measures, including encryption and restricted access controls

BE MINDFUL OF AI USE DURING OPEN ENROLLMENT

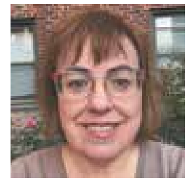
AI-powered benefits platforms help employees navigate open enrollment, but they also collect sensitive health and financial data. Professional employer organizations (PEOs) should ensure clients:

- Comply with HIPAA and other relevant regulations to protect employee data
- Are transparent with employees about how AI tools collect, store, and use personal information
- Follow proper data retention and disposal policies that align with legal requirements

AI SHOULD COMPLEMENT, NOT REPLACE, HR AND LEGAL EXPERTISE

Given AI's immense potential, it's important for employers to acknowledge the risks and establish clear policies and safeguards to protect their workforce. While it can be an invaluable asset in HR, it should serve to enhance—not replace—human decision-making.

With a thoughtful strategy, you can help clients leverage AI to improve efficiency, strengthen compliance, and build employee trust. ■



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KEY COMPLIANCE DEVELOPMENTS PEOs MUST NAVIGATE IN 2025

BY JENIFER DUGGAN, J.D., SPHR-CA, SHRM-CP

If your head spins due to the breakneck pace of regulatory changes that have taken place since President Trump took office for the second time on January 20, 2025, you are not alone. As PEOs navigate the world of HR and payroll compliance in 2025, we face an increasingly challenging compliance landscape. The most common question we receive here at Armhr, particularly from owners of multi-state businesses, ask: "How do I become an expert on the laws of each state quickly and comfortably enough to focus on my business rather than the noise surrounding it?" The answer requires strategic planning and specialized expertise.

Drawing from my legal background and current role as Director of Client Services at Armhr, I've identified the most significant compliance developments that PEOs should prepare for this year. These changes not only affect how we operate but present both challenges and opportunities in how we serve our clients.

1. THE E-VERIFY+ EVOLUTION

Digital Transformation of Employment Verification

E-Verify+'s expansion significantly shifts employment verification processes. This digital platform integrates Form I-9 completion into the verification service and allows employees to carry their verification to subsequent employers. Since its trial launch in May 2024, adoption has grown substantially with over 2,500 employers registered by November.

For PEOs, this transformation creates an opportunity to differentiate service offerings. While the current system has limitations and remains invitation-only by USCIS for now, expected improvements in 2025 will make E-Verify+ increasingly valuable. PEOs should prioritize mastering this system and developing implementation strategies for their clients, particularly as we may see dramatically increased I-9 audit activity under the new administration.

2. HEIGHTENED PRIVACY LAWS

Navigating the Multi-State Privacy Maze

Several states have enacted laws regarding employer privacy, including California, Colorado, Connecticut, Florida, Indiana, Maryland, Minnesota, Montana, New Hampshire, Nebraska, New Jersey, Oregon, and Rhode Island, with varying levels of protection and regulation.

Most recently, California proposed the California Location Privacy Act, which would severely restrict the use of GPS and other tracking tools to manage California employers' workforce. For employers that rely on such technology to monitor timekeeping and productivity, this will necessitate partnership with PEOs to adhere to the law while exploring new performance management tools.

3. HEIGHTENED IMMIGRATION ENFORCEMENT IMPACT

Preparing Clients for Renewed Scrutiny

The return to heightened immigration oversight under the current administration will directly impact PEO operations. During the previous Trump administration, ICE initiated nearly 6,500 Form I-9 audits in 2019 and targeted 15,000 in 2020 before the pandemic. This represents a six-fold increase compared to recent years.

PEOs must prepare clients for this renewed scrutiny by implementing rigorous I-9 compliance protocols, conducting internal audits, and considering voluntary E-Verify adoption as a preventative measure. This creates an excellent opportunity for PEOs to demonstrate value through compliance expertise.

4. EXECUTIVE ORDERS AND STATE LAW CONFLICT

Navigating Legal Contradictions

On his first full day in office, President Trump penned an executive order entitled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity." This order includes provisions seeking to end "DEI discrimination and preferences" throughout the government and in the private sector. Another executive order released the same day requires federal agencies to "remove all statements, policies, regulations, forms, or other internal and external messages that promote or otherwise inculcate gender ideology." Shortly after this order was signed, the EEOC removed numerous guidance documents from their site, including those regarding the enforcement of Title VII in a manner that protects LGBTQ employees.

In keeping with "the only thing constant is change," a federal court judge issued an injunction against several elements of the orders two months after they were signed. Further complexity arises from the overturning of *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc*, which shifts interpretation of ambiguous agency rules (including EEOC and DOL) to the courts rather than the agencies themselves.

PEOs will play a crucial role in bringing employers up to speed with these rapid changes and helping them determine which take precedence for their workforce.

5. PFML PROGRAM COMPLEXITY
Coordinating Across State Lines

The Paid Family Medical Leave landscape continues to evolve rapidly with Delaware and Maine launching programs on January 1, 2025, Maryland's program starting July 1, 2025, and Minnesota joining in 2026. This brings the total to 13 states plus Washington, D.C. with mandatory PFML programs.

Delaware's program presents particular complexity for PEOs, as contributions begin after small employers reach 10 active in-state employees and increase when they reach 25. However, the state's quarterly reporting structure doesn't account for mid-quarter rate changes or employee terminations, creating potential reconciliation challenges for PEOs.

Of special concern to our industry is whether the PEO or client is defined as the employer for PFML purposes. Thanks to NAPEO's advocacy, Delaware and Maine have clarified that clients—not the PEO—are considered the employer, maintaining client flexibility for private plans. However, Oregon takes the opposite approach.

6. STATE PAY DATA REPORTING REQUIREMENTS
Adapting to Expanded Reporting Obligations

The trend of state-specific pay data reporting continues to grow, with Massachusetts joining California and Illinois in requiring large employers to submit detailed reports on employees' race, ethnicity, gender, wages, and hours worked.

PEOs should anticipate ongoing changes to these requirements. California has revised its requirements every January since inception in 2021, and New York City is considering adopting its own standards. Moreover, the new state laws in this area will likely differ from existing EEO-1 requirements due to the aforementioned changes in federal law regarding nomenclature on gender designations. PEOs that streamline and automate this reporting process at a state level will provide significant value to clients with operations in multiple jurisdictions.

PROACTIVE COMPLIANCE AS A COMPETITIVE ADVANTAGE

The 2025 compliance landscape presents significant challenges for PEOs but also creates opportunities to deliver exceptional value to clients. By staying ahead of these regulatory changes, developing robust compliance processes, and leveraging technology effectively, PEOs can transform compliance from a burden into a competitive advantage.

At Armhr, we focus on creating systematic, repeatable processes, establishing governance frameworks for platform-wide configurations, and standardizing critical workflows to navigate this environment efficiently. Our approach emphasizes not just compliance, but using our high-touch expertise to help clients focus on growing their businesses with confidence.

As we face these challenges together, PEOs that invest in compliance capabilities and effectively communicate their value to clients will position themselves to thrive in 2025 and beyond.

CALL TO ACTION

1. **Conduct a Compliance Audit**: Assess your PEO's readiness for each of these seven compliance areas.
2. **Prioritize Technology Integration**: Implement systems that can adapt to rapid regulatory changes across multiple jurisdictions.
3. **Engage with NAPEO**: Support industry advocacy efforts to clarify PEO-specific regulatory interpretations.
4. **Communicate Your Value**: Develop client-facing materials that highlight your PEO's compliance expertise as a competitive differentiator.
5. **Invest in Ongoing Education**: Ensure your team stays current through regular training on evolving compliance requirements. ■

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AD INDEX

Boldface type indicates NAPEO Medallion Partner

NAPEO PAC: ADVOCATING FOR OUR FUTURE

BY CASEY M. CLARK

As someone who has lived in and around Washington, D.C. for 26 years, I suspect that talking politics is a bit more normal for me than most of our *PEO Insider®* readers. I can appreciate the inclination to keep politics out of your business, especially with the volume of political noise cranked up higher than I can ever remember. It is eliciting a real and emotional response from all sides of the political spectrum, and, coupled with the market volatility, it is having a real impact on your businesses and, importantly, on people.

However, as I wrote a few issues ago, this disruption can open a few windows for action. I know there is a forest through the trees and there are unique opportunities to move the needle on issues that have haunted our industry for a long time.

We're working extremely hard to make sure we capitalize on those, and your support and active involvement will strengthen our efforts and improve our chances of success. One way you can play a part is by supporting NAPEO PAC, our federal political action committee.

The PAC allows us to establish, maintain and strengthen relationships with lawmakers. In order to seize on the opportunities in front of us, we rely on Capitol Hill allies who understand the value of PEOs to small and mid-sized businesses. These are the folks who will champion and push for our legislative and regulatory priorities.

For example, just this month, Reps. Mike Thompson (D-CA) and Beth Van Duyne (R-TX) plan to introduce a bill to clarify in federal statute that tax credit liability belongs with those who benefit from it, not a PEO. I think everyone reading this column understands how significant a legislative change this would be for PEOs. Our creative use of PAC dollars was instrumental in building relationships with Reps. Thompson and Van Duyne that led to them supporting this bill.

If we're going to move the needle on other issues, like IRS modernization, Form 5500 disclosures and others, we have to keep developing relationships with lawmakers. That's why I encourage you to learn more about NAPEO PAC and to become involved. Like most things PEOs deal with, there's paperwork involved. If you haven't already, you can visit **www.napeo.org/pac** to learn more about how you can support the PAC, and the difference it will make.

I appreciate the support of everyone who has contributed to NAPEO PAC, and welcome all of you to contribute to the cause.

I've said frequently in these pages and all across the country that a PAC contribution is an investment in the future of our industry. As we celebrate National PEO Week this month, we should be proud of how far the industry has come, but as our profile grows so does the regulatory target on our back. It's a double-edged sword, and the reason we need Congressional champions and allies. A strong NAPEO PAC makes this possible. We have real opportunities now—and real obstacles to overcome—and success requires everyone's support. I hope you'll join us. ■

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