



# WorkSmarts

Spring Into Action



SpencerFane®

# NLRB Top Tips

*Paul Satterwhite and Matthew Morrison*

Under the Trump Administration, the National Labor Relations Board took an employer-friendly approach, reversing numerous decisions and guidance from the Obama era. Employers who revised their policies or practices consistent with the NLRB's positions under the Trump Administration should prepare for the pendulum to swing back to an approach more favorable to employees and labor unions. In particular:

- The NLRB under the Biden Administration will likely make it easier for employees to unionize. Employers should, therefore, evaluate and address pay practices and employee policies that leave them vulnerable to union organizing.
- Because independent contractor relationships will likely be more difficult to establish, employers should consider whether their independent contractors meet the current test for independent contractor status and the more rigorous "ABC Test" that could be adopted.
- Because the Board will likely take a broader view of protected concerted activity, employers should review and prepare to revise employee handbooks and other policies, including those relating to social media, use of the employer's computer and email systems, and access to the employer's premises.

# Leave Management Top Tips

*Sue Willman and Ruthie White*

- Leave management is far more challenging today than ever before.
- State and local governments have become increasingly active in passing their own leave laws and this trend is expected to continue.
- COVID-19 has resulted in additional leave laws (temporary in nature) that have made leave management even more challenging.
- Employers must remain vigilant to ensure that they do not inadvertently violate a leave law.
- New leave issues are emerging including issues related to the definition of “leave,” use of PTO, compliance with FLSA, and impact of working from home.

# Employer Recommendations

*Fred Johnson and Elizabeth Wentz*

- Prepare for minimum wage increases
- Conduct a pay equity/compensation analysis (under the attorney-client privilege)
- Anticipate changes to questions about pay in the hiring process
- Review, or set, a compensation strategy
- Provide training on pay issues to all employees who interview or make decisions related to hiring or promoting employees
- Educate on, and revise policies to include, a prohibition on sexual orientation and gender identity

# WorkSmarts Seminar Team

## May 12 Seminar Team

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# Save the Dates!

Be sure to mark your calendar for our “**WorkSmarts**” half day virtual conference series.

February 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

May 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

November 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
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