

WHEN HIRING SEASONAL WORKERS, REMEMBER DISCLOSURE FORMS

It's harvest time, and many farmers are hiring seasonal workers to help bring in our state's bountiful harvest. But remember that there are two forms – one federal and one state – which you may be required to provide to workers at the time of hire.

The federal form is the Migrant and Seasonal Protection Act agricultural worker terms and conditions form, known simply as the MSPA form. It must be given by agricultural employers to any migrant and seasonal worker at the time of hire, and a copy of the form must be posted on your employee bulletin board.

Failure to provide the MSPA form can mean that you will be subject to a fine and possible lawsuit by a worker who claims that he/she did not know the terms and conditions of employment. There is also a new form from the state this year; it is the Human Trafficking Disclosure form. All employers are required to provide this form to any worker hired if that worker is not a U.S. citizen but came to Washington based on an offer of employment.

Employers are confused about the Human Trafficking form. Although this law is targeted at employers who solicit workers from foreign countries, the law applies to all employers, and all workers who are non-U.S. citizens, provided that the workers came to Washington based on an offer of employment. Since it is not clear what this term means, the safest thing for employers is to have the forms available at the time workers are hired. And although it is not required, we highly recommend that you post a copy of this form on your employee bulletin board as well.

Instructions for completing these forms, as well as copies of the forms, in English and Spanish, are located at:
<http://wsfb.com/EmployerResources>

WA FAMILY LEAVE INSURANCE LAW POSTPONED

Implementation of the family leave insurance program, originally set to become effective on October 1, 2009, has been delayed until October 1, 2012. Benefits will be payable to eligible individuals who are unable to work because they are on family leave. There is currently no funding for this law, and no agency to implement it. Employees must have been employed for at least 680 hours during the qualifying year, and may receive benefits of up to \$250 per week for up to five weeks. Like FMLA, there is a job restoration provision.

JOB ANNOUNCEMENT

There is an opening for Assistant Director for the Commodity Inspection Division of the Department of Agriculture. For more information contact Linda Pentt at (360) 902-1979 or LPentt@agr.wa.gov.

Editor

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CONTROVERSY SURROUNDING THE EEO-1 REPORT

First, a friendly reminder that if you are an employer with more than 100 employees (or 50 or more employees and a federal contract of \$50,000 or more), you must file an Equal Employment Opportunity-1 (EEO-1) report by September 30, 2009.

In response to the belief that the Hispanic/Latino population has historically been underrepresented in the workforce, the Equal Employment Opportunity Commission (EEOC) recommends a two-question format for asking employees to self-identify race and ethnicity information. This format asks first whether employees identify as Hispanic or Latino. Only those employees who respond with a “no” are asked to supply a racial identity (White; Black or African American; Asian; Native Hawaiian or Other Pacific Islander; American Indian or Alaska Native; or Two or More Races).

Has the solution worsened the problem?

Unfortunately, the two-question format could be causing its own kind of misrepresentation. One argument is that while other categories would be reduced due to the subtraction of those who choose the “Two or More Races” category, the Hispanic/Latino category would not be reduced in this way, causing Hispanics/Latinos to be overrepresented.

Similarly, when Hispanics/Latinos are not allowed to select their racial identification, some racial categories could also go underrepresented. Employees who identify as Hispanic/Latino may feel singled out or worry that self-identification will cause them to become a target of immigration-related tension. Some employees may even feel offended that their ethnic heritage overrides their racial identification.

There is another way?

Though recommended by the EEOC, the two-question format is not required. You can choose to stray from the two-question format or collect more data than is required by the EEO-1 form. However, if you do choose to stray from the EEOC’s suggested format, you must still follow the EEO-1’s reporting requirements. This means that if you allow employees to choose all race/ethnicity categories with which they identify, Hispanic/Latino must override any other category for EEO-1 reporting purposes. For more information on EEO-1 reporting go to <http://www.eeoc.gov/eo1survey/>

ESSENTIAL TRAINING Webinar: Managing Leaves of Absence – What is your Plan? (Sept. 29 - 1P to 2:30P)

Disability Leave, FMLA, Pregnancy Leave, WFLA, Military Leave. How do you handle an employee who needs time off for pregnancy or a disability? Washington employers face a confusing set of state and federal laws, and they need a plan. This seminar tells you what you need to know to manage your obligations under the law. The seminar will:

- Cover all disability leaves that apply to Washington employers
- Review your obligation to provide leave and keep jobs open
- Provide tools to manage leaves and develop a company leave policy

The instructor is Kris Tefft, the general counsel of the Association of Washington Business. Kris is the author of “Managing Leaves of Absence Guide,” published in January 2009. He is also the AWB director of government affairs for labor and employment law, and he serves on the Employment Law Advisory Committee for the Department of Labor and Industries. Register before September 11 to receive the WFB early bird registration fee of \$40. After September 11, \$50. To register for this webinar please visit our website at www.wsfb.com