

Election 2020: The State of the Workplace: Who is Legislating What?

By Susan E. Groff, Dorothy Parson McDermott, Talley R. Parker & John J. Porta

November 12, 2020

Meet the Authors



Susan E. Groff

(She/Her)

Principal

(213) 689-0404

Susan.Groff@jacksonlewis.com



Dorothy Parson McDermott

(She/Her • Dottie)

Principal

317-489-6940

Dorothy.McDermott@jacksonlewis.com

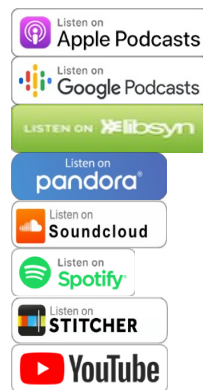


Details

November 12, 2020

State laws will have a real and immediate impact on the workplace, regardless of who wins the White House. Issues including minimum wage, family leave and pay equity are traditionally legislated by state and local governments, and we often see those same bodies step up in the absence of federal policy or leadership on the topic.

Jackson Lewis P.C. · Election 2020: The State of the Workplace: Who is Legislating What?



Takeaways

State law has a real and immediate impact on the workplace and will continue to regardless of who won the White House. Issues including paid sick leave, family leave and pay equity are traditionally legislated by state and local governments, and often those same bodies step up in the absence of federal policy or leadership on the topic.

What Employers Need to Know

- The paid leave benefits provided by the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, are set to expire on December 31, 2020. These benefits potentially will be extended in 2021, and if they are, it is possible that all companies will have to provide such benefits, not just those companies with fewer than 500 employees.
- Currently, the only type of leave taken under the Family and Medical Leave Act (FMLA) that is paid leave is expanded FMLA leave under the Emergency Family and Medical Leave Expansion Act and such leave can only be taken when the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. That said, we may see efforts by Congress and/or

Talley R. Parker

Office Managing Principal
214-520-2400
Talley.Parker@jacksonlewis.com



John J. Porta

(He/Him)
Principal
212-545-4043
John.Porta@jacksonlewis.com

President-elect Biden to make some or all of an employee's approved FMLA leave for other qualifying reasons paid leave.

- Some states did not wait for the federal government to enact legislation in the paid leave space:
 - New York state enacted a paid sick leave law effective January 1, 2021. Employers are required to start accruing time for employees now and the law provides up to 56 hours to larger employers. This sick leave can be used for the employee or to care for a family member.
 - Before the paid sick leave law was passed, New York state enacted emergency paid sick leave, which provided up to 14 days of paid leave to employees under quarantine depending on the size of the employer; this benefit will be available into 2021.
 - California, as did many cities in California, acted to fill the gap left by providing supplemental COVID sick leave benefits to certain employees outside of coverage of the FFCRA.
 - The Wisconsin Family Leave Act runs concurrently with the FMLA. It sets eligibility at 1,250 hours rather 1,000 under the federal law, and it eliminates the 50 or more employees within the 75-mile radius requirement.
- The New York Paid Family Leave provides short-term leave and partial compensation for the health condition or leave taken to care for a family member. It now provides up to 12 weeks of paid leave and job protection to employees who are caring for a family member and in some circumstances the employee as well.
- California likewise offers Paid Family Leave benefits, which is partial wage replacement for up to 8 weeks for workers to take time off to care for a seriously ill family member or bond with a child within one year of birth or placement, among other reasons. In addition, California offers employees up to 52 weeks of State Disability Insurance benefits if employees are disabled due to an illness or injury.
- The California Family Rights Act (CFRA) mandates certain employers to provide unpaid job protected family and medical leave for 12 weeks. Effective January 1, 2021, California will expand this benefit to employers with five or more employees. Under pre-existing law, employers were not required to provide family care and medical leave under the CFRA, if the employee seeking leave worked at a worksite with fewer than 50 employees within a 75-mile radius.
- Businesses operating in multiple states need to be aware of the patchwork of laws and regulations to remain compliant. Those companies should:
 - Conduct routine training; and
 - Ensure forms and notices are up to date. Customize forms to mirror state requirements as much as possible.
- Anti-harassment training and prevention is trending. Both New York and California as well as other jurisdictions have state mandated training requirements.
- In a continued effort to reduce gender and racial pay gaps, on September 30, 2020, California Governor Gavin Newsom signed into law Senate Bill 973, which creates massive pay reporting requirements for employers with

100 or more employees that must file an annual Employer Information Report (EEO-1) under federal law. The journey to this new California requirement began in January 2016, when the EEOC announced a revision to the EEO-1 Report to include disclosure of aggregate employee pay data by gender, race, and ethnicity. The EEOC required employers to begin using the new EEO-1 Report in 2018. But, in 2017, the Trump Administration postponed this pay data collection indefinitely.

- Similarly in New York, recent legislative enactments include a new law expands existing law and protects against gender-based pay inequity by requiring equal pay for “substantially similar work” and prohibiting pay differentials based on a person’s membership in a host of protected class or classes, including age, race, sexual orientation, disability, and domestic violence victim status. The new law lowers the burden of proof for a person claiming wage or salary discrimination based on his or her protected class membership by not requiring a showing of “equal” work.

Transcript

Alitia (00:07):

Welcome to Jackson Lewis' podcast, We get work™. Focused solely on workplace issues everywhere and under any circumstances, it is our job to help employers develop proactive strategies, strong policies, and business-oriented solutions to cultivate a workforce that is engaged, stable, and diverse. Our podcast identifies the issues dominating the workplace and its continuing evolution, and helps answer the question on every employer's mind, how will my business be impacted?

State laws will have a real and immediate impact on the workplace, regardless of who wins the White House. Issues including minimum wage, leave and pay equity are traditionally legislated by state and local governments, and we often see those same legislative bodies step up in the absence of federal policy or leadership on the topic.

This episode of We get work™ identifies a few of the issues at stake in states including New York, California, Texas, and Indiana, that will be significantly affected by the upcoming presidential election, and analyzes how they could impact your business.

Our team of hosts today are Susan Groff, Dottie McDermott, Talley Parker, and John Porta, Principals, respectively, in the Los Angeles, Indianapolis, Dallas, and New York City offices of Jackson Lewis. Susan, Dottie, Talley, and John represent a diverse cross section of the firm's practices, as well as geographic locations, in order to deliver a well-rounded perspective from the states. Their full bios can be found at jacksonlewis.com.

Susan, Dottie, Talley, and John, the question on everyone's mind today is how could issues at stake in the states impact my business?

Dottie McDermott (02:03):

Hi, all. I'm Dottie McDermott. We are recording this on October 26th, 2020,

with Election Day about a week away. The first issue we'd like to cover that will most certainly be impacted by the election results is paid sick leave. I know this has certainly been a hot topic for employers given the patchwork of paid sick leave around the country, which can be really confusing and overwhelming at times. Talley, I know you're in Texas. I thought how about we start though with emergency paid sick leave? I know a lot of employers have been dealing with the FFCRA and that aspect of it. How have you been addressing it?

Talley Parker (02:41):

Yeah, sure. So FFCRA, this was a law, Dottie, that was passed at the beginning of the COVID pandemic. It seems like a long time ago, but back in March, but it's a law that doesn't apply to all employers. And so, in dealing with my clients back in March, the smaller clients, the organizations with few hundred or with 500 or fewer employees, those were the companies that needed to figure out what exactly the FFCRA required, and then the companies with more than 500 employees didn't.

Most of the employers, I assume, pretty much everyone who's listening to this now who does have fewer than 500 employees knows what the FFCRA requires, so I'm not going to go into all those requirements, but I do want to note importantly, since we are here almost into November, that the FFCRA is currently set to sunset at the end of this year, December 31st. And so, those requirements of paid sick leave and additional FMLA leave, unless Congress takes action, those are going to go away at the end of this year.

And so, that's one thing to keep an eye on as we head into the next year. And I think the election will have some impact on what ends up happening there, but employers should know that it's possible that even once we enter into 2021, as COVID's not going to have gone away on January 1st of next year, that it's possible that the requirements of FFCRA will be continued, that they will go over into 2021.

And also, one thing to note, depending on how the election shakes out. I said earlier that the law only applies to employers with 500 or fewer employees, but Congress could take action in the new year, certainly depending on if there's a change in the White House, and they could say this law applies to all employers, not just the smaller employers, those with 500 fewer employees. So that's something to be watching out for.

Although quickly, just in Texas where I sit, things are a little bit easy or easier for employers in terms of meeting their obligations. We currently don't have any paid sick leave laws. There were a few that sprouted up in Dallas and Austin and San Antonio, but those have all been enjoined by the courts. And right now, none are in effect, and those probably won't be taking effect anytime soon.

So that's kind of the federal lay of the land and the Texas lay of the land on paid sick leave. And John, I think you guys have some changes coming up in New York, so I wanted to toss it over to you to talk about what's going on up there.

John Porta (04:58):

Sure. Thanks, Talley. Again, I'm John Porta from the New York City office, and we have a lot going on in New York in terms of paid leave. And you're absolutely right in terms of the various different leave laws that are being passed on the state and local level.

New York state has followed in the tracks of California and other localities like New York City and Westchester County in New York in enacting a paid sick leave law that comes into effect as of January 1st, 2021. But before I summarize and sort of go through the paid sick leave law, I do want to mention that we also have, in New York, an emergency sick leave we call the Quarantine Law. And that law basically provides up to 14 days, depending on the size of the employer, it provides up to 14 days of paid leave to employees who are under a mandatory or cautionary order of quarantine, then that applies to employees or if somebody is the caretaker of somebody else who's under an order of quarantine.

It's interesting that this leave, sort of this interim emergency sick leave sort of fills the gap where the FFCRA does not apply. So the FFCRA, like you said, really applies to employers with 500 or less employees. This quarantine leave applies to any employer in the state of New York. So this quarantine leave fills the gap where the federal law sort of didn't have the coverage for all employers.

And the New York sick leave law, that is, in effect, employers are required to start accruing time right now, but that paid sick leave law is similar to all the sick leave laws out there, right? So the only thing is that it provides up to 56 hours to larger employers, meaning more than just five days. So there are accrual methods that are similar to what we have in other states and what we have in New York City. There's eligibility requirements. You could use this sick leave for your own health condition or for a family member's. So it's very similar to the sick leave laws out there, it's just providing for additional leave.

Interestingly enough, before the paid sick leave was passed, when the pandemic hit New York, there was emergency paid sick leave paid, and I call that the New York state COVID sick leave. Basically, that was passed right after [inaudible 00:07:22] about May, and that provided for up to, depending on the size of the employer in New York state, that provided up to 14 days of paid leave to an employee who was either under mandatory or precautionary order of quarantine. And there's certain specific requirements and definitions as to what exactly is quarantine, but that leave, that sort of interim leave provided for paid time off for employees who needed that time.

That, interestingly enough, ran consecutively with any existing paid time off that an employer has. So for example, if an employee was under an order of quarantine and they needed leave in order to either care for themselves or a family member who was under quarantine, they would first have up to the 14 days of leave, and then, they would be able to use any additional paid time off they had. So the law's very specific that this is in addition to any other paid leave that an employer may have under its policies.

So that, internally, really filled the gap, and I think California may have

something similar, but that filled the gap between those entities that were not covered by FFCRA, so those employers that have less than 50 employees or more than 500 employees. So this was really meant to cover all employers in New York. And that, interestingly enough, not like the FFCRA, the FFCRA is set to sunset, but the New York state emergency COVID leave is not set to sunset at the end of the year. So that leave will be available to employees into 2021.

And we're also starting now with the New York city sick leave. The employees are required to start accruing time as of September, and then there'll be able to start using it as of January 1st. This sick leave provides up to 56 hours of paid sick leave a year to any 12 month period of time to employees.

So what's interesting here is what we're seeing, that where the federal government has not acted in the past administration, the past four years, so we've seen a lot of activity, but not much activity in the way of workplace legislation that provides additional rights to employees on the federal level. So New York, I always think of it as, if you look at the preamble to the New York City human rights laws, those rights laws basically say we want to be the most protected in the nation, right? So we're slowly seeing where the federal government did not act or enact legislation such as paid sick leave, we see New York state really stepping it up over the past couple of years during this administration to really provide a whole [inaudible 00:10:01] of benefits to a New York state employee.

[inaudible 00:10:04] sick leave is very similar, and we'll have Susan go into it's similar to the California sick leave, there's similar requirements for eligibility, but it's not so much different than what we currently have in New York City and in Westchester County. So, Susan, I understand that sick leave has always been, well, for years, it's been in California. There's been mandatory sick leave and then there's different requirements in various different jurisdictions. It's my understanding that there's going to be an expansion of that or there is an expansion of that?

Susan Groff (10:30):

Yes. Thank you, John. I'm Susan Groff from the Los Angeles office. And California, as many of you know, is frequently on the forefront of pro-employee laws. We have a governor who's a Democrat, Gavin Newsom, and the Democrats have a super majority, a veto proof majority in our legislature. So it makes it quite easy to move forward a pro-employee agenda, and that includes supplemental COVID sick leave that is currently in effect. It passed this fall and it was an emergency law in effect immediately. And it applies to employers with 500 or more employees.

And so, like New York, California was attempting to fill the gap that was left on the national front, so to provide supplemental COVID sick leave benefits to those employees who were outside of coverage of the FFCRA. In addition, it applies to employees who were excluded as a healthcare provider or an employee of an emergency responder. So the attempt was to provide coverage there as well. It provides 80 hours of supplemental time off, but there's no tax

credit like with the FFCRA. And so, many employers, I think, to the extent they were looking to avoid coverage under the FFCRA have found maybe that's a better thing because of the tax credit nuance.

But this is something where, again, California was attempting to step in and try to provide coverage for sick leave reasons for if an employee was quarantining or if their employer felt that they were a health risk. They provided an answer to when those questionnaires employees are completing at the start of their shifts and said they had been exposed to someone with COVID. The California supplemental sick leave is there to provide coverage.

But this is just, I know, one area of leave that's a concern to employers. There's also family and medical leave. Dottie, what can you tell us on the federal front and in Indiana do employers have to be concerned about?

Dottie McDermott (13:00):

Well, so from a federal perspective, the Family Medical Leave Act, we've been helping clients on that for years now. I mean, no new surprises there. The rules haven't really changed, and I can share in Indiana falls along that same spectrum. It's really fairly straight forward. When we're working with employers on updating their policies, we just follow the federal standard here in Indiana.

I'm actually also admitted in Wisconsin. And there, I can say there's a little bit of a distinction where Wisconsin does have a mini FMLA, or they call it the WFMLA. And subtle differences, not real major ones. The two leaves would run concurrently. And I guess one of the main differences would be that [inaudible 00:13:43] of eligibility at 1,250 hours. Under the federal law, eligibility is that a thousand hours instead.

And another interesting component of the WFMLA over the FMLA is it gets rid of that component of 50 or more employees within the 75 mile radius. So it's pretty much applicable when you get started. So otherwise, really straightforward. I think, Talley, is Texas like that as well? Is it like Indiana where you don't have a separate statute on hand, or how do you handle it?

Talley Parker (14:15):

Yeah, so in Texas, another benefit for employers not having to kind of keep track of all the laws, we do not have a state family medical leave law. Employers in Texas just simply follow federal law here, the FMLA. And Dottie, as you noted, there's really no big changes on the horizon for FMLA as we enter into 2021, but there was just one thing I wanted to mention because I think this is relevant regardless of who ends up being our president next year, is there's the possibility at some point that there could be a push for time off taken under FMLA to be paid. I don't know if that would be all 12 weeks, but a portion of that time to be paid. You'll probably remember that was something that, when President Trump was first inaugurated, that, that his daughter, Ivanka Trump, was going to push for. That was something that was a big issue for her.

So I think if he's reelected, that's still on the table, and I think if Joe Biden's

elected, that's on the table as well. And I think with the FFCRA providing for some portion of the FMLA that is provided for under that law to be paid, I think that kind of paves the path for some FMLA at some point in the future to be paid as well. So something to stay tuned that I don't know if it'll happen or not, but it's a possibility in my view. So that's really it under the federal level. John, any changes going on up in New York with FMLA?

John Porta (15:32):

Basically, New York has had a paid family leave statute for a number of years now, but there have been some changes in the past year to that statute. The New York Paid Family Leave is a benefit to employees where it's similar to short-term disability for an employee's own health condition, but it's for the health condition or leave taken for a family member. So it's separate and apart from short-term disability. And what it provides, and the changes that have actually happened over the past 12 months, is that it now provides up to 12 weeks of paid leave and job protection to employees who are caring for a family member. I mean, there's various different reasons why you would take the leave, but obviously all the COVID related things would fall under that.

There's also an increase in the weekly amounts of the PFL benefit. So basically, there is a certain amount maximum each week that an employee would get under the program. So that maximum amount has also increased along with the number of weeks that somebody has. And it's also expanded during this time that it not only, paid family leave typically just generally applies to employee's family members, but under the new changes to the law, basically, in light of COVID, an employee can, under certain circumstances, take the time for themselves.

So it provides an interesting thing in New York for New York employers on what we have to deal with, because one of the things is that there's this myriad of statutes. So you have paid sick leave on one hand, you have unpaid FMLA or FMLA on the other hand, and then you have paid family leave. So one of the biggest challenges that we deal with with a lot of New York state employers and New York City employees in particular is, well, how do I manage these different types of leave?

So the challenge is really upon human resources and in-house counsel to really take a look at what am I required to do, right? So if you're looking at all of these laws, basically a good, easy takeaway is, okay, what provides the most benefit to the employee, right? And whatever provides the most benefit, that's what I have to follow up.

So we are seeing obviously an increase in use of this paid family leave, obviously we're going to see an increase of use of the sick leave, but one of the things that I see, we're talking about federal law, Dottie was just talking about Indiana and Talley was talking about Texas, one of the big challenges, and I want to shoot this over to Dottie and see what she thinks, Dottie, I know you service clients for the firm that are national in scope and they are in virtually every jurisdiction in the United States. You said you're licensed to practice in New York [inaudible 00:18:05] in Indiana and in Minnesota, right? Minnesota or

Wisconsin?

Dottie McDermott (15:32):

The cheese state, Wisconsin.

John Porta (18:11):

Okay. Similar, they're right near each other. But this is the challenge, right? Because Susan and I are talking about the two extremes of the universe, which is California and New York in terms of compliance obligations. What are you doing with your national clients who have offices nationally? How are they managing this? What do you recommend to them? Because I think that's a big issue for national employers in dealing with all of these different statutes.

Dottie McDermott (18:34):

Yeah, that's a great question, John. It's such a headache for employers particularly with national practices. You might have a mix of in-house counsel trying to keep a handle on each of the various federal and state laws, or maybe even some HR professionals that are also maybe just trying to get the big picture right and administer that with their team directly.

So it's really tough. I mean, one thing we do of course is provide advice and counsel on those issues as needed. And trainings in particular, I think that that could be really helpful to implement some kind of routine training so that everyone can make sure that they're staying compliant and right and up to date given all the numerous changes. And of course, I don't think that's going to change with the election. Either way, I feel that this is still going to be a huge burden to administer and we're going to see a lot more changes.

So that's one way I've been handling it. I don't know, Talley, how about you with respect to your clients? What do you see them doing to tackle and get a handle on all of these issues?

Talley Parker (19:34):

Working with us is an advantage, just given that we have offices all over the country. So what I'm doing is really just connecting the clients who have presences all over the country with our attorneys in the firm who have that local knowledge, and utilizing our attorneys who kind of have 50 state surveys on hand, because I think it's very helpful for clients as they're just drinking out of a fire hose here trying to figure out what they're going to do with all of these laws popping up around the country. So I think a lot of the resources we have actually are really beneficial to clients. And I mean, for example, Susan, you've got this new expanded FMLA that just took effect out in California, and that's probably something that a lot of your clients are grappling with, that you're probably advising folks about all the time.

Susan Groff (20:16):

Yeah, no, it's been quite a fall with the California legislature, but we have had, in California, the California Family Rights Act, which is essentially the FMLA

on a statewide basis. Prior to this fall, that law was similar to the FMLA in that it provided for job protected leave for 12 weeks unpaid. So you had the right to reinstatement, but you had to work for a location that had 50 employees within 75 miles.

The legislature and Governor Newsom came together and passed a law that would expand this [inaudible 00:21:00], what we call an entitlement to employers with five or more employees. So a significant expansion. So essentially, employers with very few employees within California must now comply with our state FMLA. I say this FMLA, the state FMLA, the CFRA is unpaid, but with the caveat that California has a state disability plan provides partial income replacement for up to a year, or a paid family leave program that provides income replacement for caring for our family member or baby bonding for up to eight weeks. So an employee can get income replacement through the state of California during this time period. And then also, employers will be required to provide insurance benefits as if the employee were otherwise employed, much like the FMLA.

So this is a big development effective January 1st. So employers have some time, but don't procrastinate. You want to make sure that you have the CFRA policy that's been updated for these changes. There's also additional family members employees take time off for under the sea CFRA. They can care for a grandparent or a grandchild or a sibling. These are also areas of expansion.

And employers, I'm also cautioning them, you will want to make sure your forms and notices are up to date. And I always caution employers in California, do not use the DOL forms in California. Use a California customized leave packet. It gives notice of the California entitlements, which the DOL forms of course will not. And then also, the DOL forms ask for a bit more information than we recommend in California. So something to put on the to-do list, if you have employees in California, to ensure you have your policies and your forms and notices up today.

So that's just another topic that's creating havoc or challenge for employers. Another, switching gears, switching to Talley, tell us about pay equity. What are you seeing on the national stage in Texas? What can you share with us?

Talley Parker (23:29):

Well, I mean, pay equity, top of mind for a lot of employers, right? And has been for some time. I think pay equity really rose to the top of employers minds at the start of President Obama's administration. You'll probably remember the first law that he actually signed was the Lilly Ledbetter Fair Pay Act, right? And during his presidency, OFCCP was certainly aggressive in terms of initiating audits looking into pay equity issues. And that's calmed down somewhat, but OFCCP has still been very active under President Trump and looking forward, and that's really what we're talking about today. Again, I think regardless of who wins this presidency, this election coming up, that OFCCP is still going to be looking into pay equity issues and trying to make sure that men and women and minorities and non-minorities are all paid the same for doing the same type of work.

And so that's something that really all employers need to be focused on, being proactive to don't just wait until OFCCP, if you're a federal contractor, comes knocking at your door, or don't just wait until you get a pay discrimination lawsuit. Be proactive. Go out and conduct a pay equity analysis. I think maybe it was the prior episode of this podcast focused on pay equity. And so, you can get more information by listening to that podcast. But it's something that you want to do in consultation with counsel. You want to make sure that the results of the pay equity analysis are privileged. But it's something that I recommend that all of my clients do, again, whether they're a government contractor or not because a plaintiff's lawyer is lurking at any point in time to come after him and bring a pay equity lawsuit.

So I think it's important regardless of where you are, but I know that there's even more requirements up in some jurisdictions, New York and California being some of those. So, John, what do you guys have on the state level with pay equity?

John Porta (25:11):

New York sort of blew it out of the box a couple of years ago in 2018 when it passed this omnibus legislation, that pay equity was a piece of it, but it was really out to combat sexual harassment in the workplace. So over the past couple of years with the last presidential election, the New York legislature went from predominantly Republican majority to Democratic majority. So with that, and with Governor Cuomo's insistence, and one of his big agenda items is fair pay and legislation meant to eradicate harassment in the workplace.

So in 2018, we saw a whole slew of different things in New York that are sort of in line with pay equity and to level the playing field at the workplace, right? So we saw restrictions on use of non-disclosure agreements and settlement agreements in New York. We saw a restriction on or requirements for sexual harassment policies and mandatory sexual harassment training in New York, expansion of certain statute of limitations connected to harassment claims. New York, the legislature passed a law that basically lowered the standard and made it easier to establish a prima facie case of discrimination under the law, much easier than under federal law.

So there's been a number of things that were passed in the past couple years with this legislature, and then in 2019 and 2020, equal pay was on the list. And the equal pay provisions under New York state, it's not so much different than the federal equal pay law, but again, similar to probably what Susan will talk about, is that it expands beyond, right? We have the federal floor in terms of pay equity and what those rules are, but New York took it a step further and New York basically says that it mandates equal pay for employees who perform substantially similar work. So that definition is something different than what we have under the federal law.

The federal law is a little bit more specific. The federal law basically, the way that we generally would analyze these claims would be, or a comparison would be those in similar job titles, right? But this substantially similar really broadens the scope of who we actually would be comparing for pay equity purposes,

right? So it's in the direction of it makes it easier to prove or establish a claim of pay inequity based upon what these definitions are. And in addition, the New York pay equity law also expands beyond just gender discrimination and gender pay equity, right? It covers every protective characteristic under the New York state human rights law, which basically protects almost everything. Susan, what are we seeing in California, something similar?

Susan Groff (27:54):

Yes, no, probably the most noteworthy development, in addition to, you know, we've had our pay equity laws similar to New York's since 2015, and there's been expansion of anti-harassment training, but the latest development on the California stage was, effective in 2021, California employers are going to be required to submit annual information on its employees' pay data by gender, race, and ethnicity to the California Department of Fair Employment and Housing. That's the agency where employees can bring anti-harassment and discrimination charges.

If this law sounds familiar, it should. You may have satisfied it on a federal basis. In January, 2016, the EEOC had mandated these requirements. President Trump withdrew them. So this is essentially very similar to what many employers responded to a couple of years back. So if you have a hundred or more employees, this is a reporting requirement you will have to satisfy by March of 2021. This is something we should keep an eye on also on the national stage, since, if there is a new president elected, I would anticipate President Biden may bring this requirement back on a national level.

So with that, I'm going to turn it over to Dottie to conclude our program. Thank you.

Dottie McDermott (29:28):

Thank you, Susan, and everyone. We covered a lot of issues today. And for all of them, what is so striking to me is the different level of entitlements our clients have to balance on a daily basis. But rest assured, you're not alone. You have us here at Jackson Lewis. And from here, I know that we will all stay tuned and stay aware following the election for changes that could affect your business. Thanks, everyone.

Alitia (29:55):

Thank you for joining us on We get work™. Please tune in to our next program where we will continue to tell you not only what's legal, but what is effective. For more information on today's topic, our presenters, and other Jackson Lewis resources, or to subscribe to our podcast, visit jacksonlewis.com. As a reminder, this material is provided for informational purposes only. It is not intended to constitute legal advice, nor does it create a client/lawyer relationship between Jackson Lewis and any recipient.

Transcript by Rev.com

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.