



Monthly Strategies

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Conducting an I-9 Audit

When companies establish and maintain effective Form I-9 compliance policies, employers can prevent potential liability and exorbitant fines as well as mitigate many potential violations. Employers should implement effective I-9 procedures that result in accurate, consistent and uniform preparation, maintenance and, ultimately, disposal of the forms.

When was the last time you conducted an I-9 Forms audit? Here are some guidelines to assist you and a complete checklist for the process can be found at www.hrstrategies.org:

- Employers must have an I-9 on file for every active employee hired after November 6, 1986.
- Employers must have an I-9 on file for terminated employees for three years following date of hire or one year following date of termination—whichever is later.
- The current version of the I-9 form as of the date of hire or reverification must be used.

Items Needed for Audit:

- List of current employees hired since November 6, 1986.
- List of employees terminated in the past three years.
- Original or electronic copies of all I-9 forms (both current employee forms, as well as forms for terminated employees within current retention requirements).
- Current version of Form I-9
- Audit Log
- [Employer I-9 Handbook M-274](#)

OSHA Filing

March 2, 2022 is the deadline for electronically reporting your OSHA Form 300A data for calendar year 2021. Collection began January 2, 2022.

Only a small fraction of establishments are required to electronically submit their Form 300A data to OSHA. Establishments that meet *any* of the following criteria **DO NOT** have to send their

information to OSHA. Remember, these criteria apply at the establishment level, not to the firm as a whole.

- The establishment's peak employment during the previous calendar year was 19 or fewer, regardless of the establishment's industry.
- The establishment's industry **is on this [list](#)**, regardless of the size of the establishment.
- The establishment had a peak employment between 20 and 249 employees during the previous calendar year **AND** the establishment's industry **is not on this [list](#)**.

PTO Pile-Up

For years, employees have neglected to take full advantage of their allotted paid time off. There are several reasons for this, including the fear of falling behind at work, not being able to afford a vacation, a lack of support from management and co-workers, the desire for promotion and the fear of termination.

The past two years has brought with it a unique set of circumstances that no one could have predicted. Covid-19 limited travel options necessitated social distancing and resulted in even more unused PTO than normal. As the years progressed and during it the virus continued to surge, uncertainty surrounding the reopening of businesses and schools has left employees fatigued and employers fearful. Here are some of the causes of and outcomes resulting from unused vacation time during the pandemic.

At first, many employees sheltered in place in order to prevent the spread of the coronavirus. The closeness required by airline travel was inherently risky, as were hotel stays with no guarantee of proper sanitation. Resulting in even more unused vacation time as employees opt to save their PTO for a later date.

There are several risks associated with employees that have not used their PTO due to the pandemic. The first is that without a proper break, many will suffer from burnout. Researchers determine that

workplace stress accounts for \$125 billion to \$190 billion in healthcare spending each year in the U.S., representing 5%–8% of total healthcare costs. With so many workers forgoing vacation time, these numbers could increase dramatically.

Another risk is that employees will be trying to use their carried over and newly earned PTO within the same timeframe, leaving companies severely understaffed. Those whose employers have a “use it or lose it” policy may be looking to take time off all at once during the summer vacation season or during holidays rather than see their vacation time go unused.

Finally, employers that normally pay workers for their unused PTO hours may find financial problems lie ahead resulting from unprecedented remaining vacation balances. In a typical year, a few isolated employees hoarding PTO can be expected. But as the pandemic winds down, millions of workers looking to cash in simultaneously could have a devastating effect on companies’ futures and the economy.

Though most employers won’t be able to avoid the PTO pile-up, there are a few things they can do to help ease the blow. One option is to require employees to start taking time off. Employers may not be able to take PTO away from those who have accrued it, but they do have some say in when workers use it. By “assigning” PTO days to employees, employers can remove some of the guilt workers may feel for taking time off while helping to disperse the PTO allotment.

Another option is for employers to allow workers to carry unused PTO hours over again or increase the number of hours they already allow to be carried over. While this could create some scheduling challenges, it could also help reduce staffing concerns by pushing back the expiration date on employee vacation time and giving companies another year to deal with the PTO surplus.

In an effort to preempt the problem, some employers have considered taking more drastic steps, such as closing companies briefly in order to force all employees to take time off or moving to an unlimited PTO policy. In a recent survey of employers by Willis Towers Watson, one-third of

respondents said they plan to make changes to their PTO or vacation programs due to the pandemic.

Every business owner knows the importance of paid time off to an engaged and productive workforce. Likewise, every experienced employee knows the risks of burnout resulting from overwork and fatigue. In any normal year, employers face the challenge of allotting and tracking employees’ PTO while ensuring companies operate at full capacity. However, the past two years have been anything but normal, and the coronavirus has brought with it a host of new PTO-related challenges. As the pandemic numbers start to decline, employers and employees will need to work together to ensure that everyone receives much-needed time off, companies remain fully staffed during the busy vacation seasons.

Time to Update Your AAP’s

Many Affirmative Action Plans (AAPs) expired on December 31, 2021. Under federal law, government contractors and subcontractors with 50 or more employees who have entered into at least one contract of \$50,000 or more with the federal government must prepare and maintain a written affirmative action program, which must be developed within 120 days from the commencement of the contract and **must be updated annually**.

AAPs should be submitted to DOL by the end of this month.

Mandated Training Available

HR Strategies, LLC can provide your organization with the mandated training required in Delaware. Contact our staff for scheduling and pricing:

- Delaware Harassment Prevention for Employees
- Delaware Harassment Prevention for Managers
- Drug and Alcohol Awareness
- Supervisor Reasonable Suspicion Testing Training

Contact HR Strategies staff at 302.376.8595 or info@hrstrategies.org if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.