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# Labor + Employment Workforce Watch – August 2026

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Labor + Employment Workforce Watch is a guide to the employment law developments most likely to impact your business. The Troutman Pepper Locke Labor + Employment team represents employers in the most sensitive workplace matters, enabling our clients to concentrate on their core business operations. Our team is adept at handling and managing labor and employment issues on national, international, and local levels. Recognized as a leading law firm by *Chambers USA*, our attorneys provide comprehensive advice on every type of employment issue a company may encounter, at every stage of the employment life cycle.

**IN THIS ISSUE:**

## EEOC'S 2026 NATIONAL ENFORCEMENT PLAN AND RELATED ACTIONS: WHAT CHANGED AND WHAT EMPLOYERS SHOULD DO NOW

By Emily Schifter and Sharlynne Mate

Private-sector employers covered by Title VII, the Age Discrimination in Employment Act (ADEA), and the Americans with Disabilities Act (ADA) should take note of the Equal Employment Opportunity Commission's (EEOC) new National Enforcement Plan (NEP), which signals where the agency will focus its investigative and litigation resources through 2029, as well as the EEOC's related actions to limit voluntary affirmative action plan safe harbors and EEO-1 data reporting requirements.

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## 2026 NLRB UPDATE: 3-1 REPUBLICAN MAJORITY COULD ACCELERATE DECISIONS DURING THE SECOND TRUMP ADMINISTRATION

By Paul Nason and Aaron Nava

Despite the hopes of employers, the National Labor Relations Board (NLRB or the Board) has been at a standstill for most of President Donald Trump's second administration. After nearly a year without a quorum, the Board regained its ability to decide cases when the U.S. Senate confirmed Scott Mayer and James Murphy as Members, and Crystal Carey as General Counsel, on December 18, 2025, all of whom were sworn in on January 7, 2026.

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## RETURN-TO-OFFICE MANDATES: WHAT ADA-COVERED EMPLOYERS NEED TO KNOW

By Seth Ford and Abolade Oyetunji

As employers across the U.S. continue to implement or increase return-to-office mandates, they should ensure compliance with their legal obligations under federal and state law. Chief among these obligations is compliance with the Americans with Disabilities Act of 1990, as amended (ADA), which requires that employers provide employees with disabilities reasonable accommodations that enable them to perform the essential functions of their jobs.

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## THE IMMIGRATION ENFORCEMENT STORM: I-9 AUDIT READINESS AND WORKSITE COMPLIANCE

By Yane Park McKenzie and Robert Lee

The regulatory landscape governing employment eligibility verification has shifted dramatically. For the first time in more than a decade, U.S. Immigration and Customs Enforcement (ICE) has updated its Form I-9 inspection guidance, reclassifying a wide range of technical errors that were previously considered minor — and curable — as serious, punishable violations. At the same time, worksite enforcement activity is on the rise, with ICE conducting worksite compliance investigations at an increasing pace.

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## THE EXPANDING PATCHWORK OF STATE PAID FAMILY AND MEDICAL LEAVE LAWS: WHAT EMPLOYERS SHOULD KNOW

By Conner Porterfield and David Constine III

The federal Family and Medical Leave Act (FMLA) has long served as the primary framework governing employee leave for family and medical reasons. But now, the FMLA is increasingly just a floor, as a rapidly growing patchwork of state paid family and medical leave (PFML) laws has fundamentally reshaped the leave compliance landscape, and the pace of change is accelerating. As employers reach the halfway point of 2026, more than a dozen states have enacted their own PFML laws, with several more on the horizon. For employers, particularly multistate employers, the challenge of staying current with this mosaic of laws has never been more pressing.

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## AVOIDING COSTLY WARN ACT MISSTEPS IN AN ERA OF ECONOMIC UNCERTAINTY

By Akilah Craig and Andrew Reed

As economic uncertainty prompts employers to evaluate workforce restructuring options, compliance with federal and state notification requirements should be top of mind. The federal Worker Adjustment and Retraining Notification (WARN) Act imposes strict advance notice obligations when a qualifying layoff or plant closing occurs. Failure to comply can result in significant back pay and benefits liability. Employers may face additional obligations under state “mini-WARN” statutes, which can create a patchwork of differing requirements for employers operating in multiple states.

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**CUTTING STAFF? YOUR RETIREMENT PLAN MIGHT PAY THE PRICE**

By Heather Heath Ryan and Josh Trawick

As companies across every major sector of the economy continue to announce significant reductions in force — with layoffhedge.com and other layoff trackers reporting an average of nearly 3,000 workers affected per day in 2026 — plan sponsors and benefits counsel face renewed pressure to navigate the complex intersection of workforce downsizing and employee benefit plan compliance. Layoffs or reductions in force (RIFs) can trigger more than just severance and Worker Adjustment and Retraining Act (WARN) obligations — RIFs may also create unexpected retirement plan liability. If a RIF causes a “partial termination” of a company’s 401(k) or other qualified plan, the employer may be required to treat affected employees as immediately and fully vested in any employer contributions. In those cases, the participants who otherwise would have terminated employment without full vesting would now be fully vested. When preparing for a RIF, employers should consider the effects of planned layoffs on the company’s retirement plan to avoid incurring unexpected liabilities.

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