

Locke Lord QuickStudy: Key Employer Updates for 2024/2025 – Part One in This Series: Offer Letters and Job Descriptions

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As Q4 approaches, many employers are completing 2024 goals and setting 2025 goals, including updating their key employment policies and agreements to ensure they align with ever-evolving federal, state, and local laws and changes to business needs. In this series of articles, we explore key updates to offer letters, job descriptions, employee handbooks, and restrictive covenant agreements. This article is Part One, and focuses on offer letters and job descriptions.

Offer Letters

Offer letters take many forms and can include various terms and conditions of employment. When drafted well, offer letters can provide certainty to both employer and employee and avoid potential legal disputes. Beyond the basics of job position and pay, offer letters can also include:

- Post-offer conditions for the position, such as passing background checks and other screens, including compliance with restrictive covenants and other obligations to prior employers.
- Notification of other post-offer employment conditions such as signing and complying with a non-compete or confidentiality agreement or code of conduct, an arbitration agreement, relocation or in-person work requirements, or other critical employment terms. Some state laws require specific notice of these provisions.
- Key conditions for receiving severance (including a release of all claims), or conditions for earning a bonus, commissions, or other incentives, such as company or individual revenue or other performance goals, continued employment, compliance with fiduciary duties, restrictive covenants, and other obligations to the employer, and more. Some states require specific notices of these conditions, and some employers may choose to address these terms or conditions in employment agreements rather than offer letters.

Employers whose business conditions or needs have changed, or who are hiring employees in new states, or who are interested in including more terms and conditions in the offer letter – should consider adding “offer letter updates” to their Q4 goals.

Job Descriptions

Up to date and accurate job descriptions assist employers in many employment decisions and procedures. Job

descriptions can:

- Set expectations for attendance, skills, productivity, work environment, duties, or other job-related criteria, which may play a role in performance evaluations, pay decisions, disciplinary actions, terminations, and restructuring decisions, among others.
- Distinguish positions that have different pay ranges.
- List the essential and other job functions, which can be used to guide employee accommodation requests and discussions related to disabilities, pregnancy and related conditions, or religious beliefs, including requests for supporting medical or other documentation when applicable.
- Meet or support legal tests that depend on job duties, including the white collar exemption status for overtime pay under the Fair Labor Standards Act (and any applicable additional state law requirements) (note these duties tests are not impacted by the proposed federal minimum salary changes for these exemptions)
- Address the safety-sensitive nature of some positions, which could further support additional drug testing or other screening requirements (note definitions of safety sensitive could vary under state laws, for example, as in Oklahoma and Washington, D.C.).

Employers with recent changes to any positions, including exemption status, job duties, essential functions, skills, productivity, locations (new states) or work environment (in-person, remote, or hybrid), may want to consider job description updates before year-end. These changes could be addressed as policy updates if the impact is company-wide, or employers can choose to address this information in other documents as well.

For updates related to offer letters and job descriptions, now is a good time to get started!

Stay tuned for the rest of the series – 2024/2025 Updates to Employee Handbooks and Restrictive Covenant Agreements (including non-competition, non-solicitation, or non-disclosure terms).

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