



CHURCH AND
MINISTRY LAW

2023 *LEGAL UPDATE*

Robert Erven Brown

Jon Ruybalid

SOUTHWEST CHURCH SAFETY & SECURITY SUMMIT

OCTOBER 26TH

- Two-day summit to Establish or enhance your security and safety teams at your houses of worship.

- THURSDAY & FRIDAY

- Calvary Phoenix

- 12612 N Black Cyn Hwy, Phoenix, AZ 85029



CALVARYPHX



SOUTHWEST
CHURCH
SAFETY & SECURITY
SUMMIT

1. ARMED SECURITY GUARDS ON CHURCH CAMPUS.

Employee “Security Guards” must obtain an Armed Guard Card if they function as a watchman, patrolman, bodyguard, personal protection guard or private security guard or any other person who performs security guard services.

1. ARMED SECURITY GUARDS ON CHURCH CAMPUS.

Volunteers are Exempt.

Employees must be fingerprinted, take a 16 hour course, pass the test and shoot a 170/250 handgun test

Clothing is regulated.

2. DOL OVERTIME PROPOSED NEW RULES.

- White Collar Exemptions: Executive, Professional, Administrative
- Duties + Salary
- Proposed Rule Changes: Includes \$35,568 □ \$55,068 (weekly basis)
- Impact and Steps to Consider.

3. STATES OUTLAWING NONCOMPETE AGREEMENTS.

- Changes in Area of Law
- Review Agreements

4. FAITH BASED HIRING DEVELOPMENTS.

Bear Creek Bible Church & Braidwood Management, 5th Circuit Federal Court of Appeals (June 20, 2023)

- Title VII Religious Organization
- RFRA – Religious Freedom Restoration Act
- First Amendment

5. EMPLOYEE RETENTION CREDIT UPDATE.

- Moratorium
- Conduct Objective Assessment

6. BYLAWS REVIEW.

When?

Why?

Process?

7. RESPECT FOR MARRIAGE ACT

- Religious Nonprofits

Right to solemnization and
celebration of marriage

- Pre-empt local public
accommodations law

RESPECT FOR MARRIAGE ACT

- Acknowledges that Reasonable, sincere People can disagree on marriage

RESPECT FOR MARRIAGE ACT

Section 6(a): Nothing in Act diminishes any existing Federal right to freedom of religion or protection of conscience.

Section 6(b): Religious nonprofits & their personnel have a statutory right to decline involvement with a marriage solemnization or celebration of marriage.

Section 7: Not polygamous marriages; RMA has no impact on federal law “not arising from a marriage.”

8. RECORD RETENTION POLICY & PRACTICE: RISK MANAGEMENT.

- Retaining and Storing of Requisite Records
- Disposal and Deletion of Records.
- Adopt Proper Policy.

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PREGNANCY WORKERS FAIRNESS ACT AND PUMP ACT

Michael F. Edgell



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PWFA

- Effective June 27, 2023.
- Applies ADA protections to pregnant employees and employees with related conditions.
- Employers must provide reasonable accommodations for pregnancy related conditions.



PWFA – REASONABLE ACCOMMODATION



- "Reasonable accommodation" same term used in ADA.
- Change in the work environment or how things are usually done.
- Reasonable accommodation is reasonable if it is plausible or feasible.

PWFA – REASONABLE ACCOMMODATION

- Examples
 - Sit and drink water
 - Closer parking
 - Flexible hours
 - Uniform changes
 - Safety apparel
 - Breaks
 - Leave – for appointments - recovery
 - Light duty - Lifting limitations
 - Temporary reassignment

PWFA – PREGNANCY RELATED CONDITIONS



- Pregnancy (current and past)
- Childbirth
- Potential pregnancy
- Breastfeeding and pumping
- Use of birth control
- Menstruation
- Infertility
- Infertility treatments
- Endometriosis
- Miscarriage
- Stillbirth

PWFA – INTERACTIVE PROCESS

- Discussion or interactive communication.
- Determine the limitation.
- Types of accommodations to address limitation.

PWFA – EMPLOYER “DON'TS”

- Don't
 - Deny a reasonable accommodation
 - Require a reasonable accommodation without the interactive process
 - Deny an applicant a job because of a reasonable accommodation
 - Require leave if there is another reasonable accommodation that works
 - Take an adverse action because of a request of a reasonable accommodation



THE PUMP ACT

- Providing Urgent Maternal Protections
- Effective December 29, 2022



THE PUMP ACT - RIGHTS

- Reasonable break time
 - "Each time needed to express milk"
- Reasonable place (not bathroom)
- Shielded from view
- Express milk at work
- One year after birth
- No retaliation



THE PUMP ACT - LOCATION



- Not a bathroom – even if private
- Available when needed
- Shielded from view and free from intrusion

THE PUMP ACT - EXCEPTION

- Employer has less than 50 employees
- Imposes undue hardship
- Difficulty and expense of compliance



THE PUMP ACT – COMPENSATION

- Exempt
 - Employee must be completely relieved from work duties; or
 - Must be paid for PUMP break
- Nonexempt
 - No pay deduction for breaks



RECOMMENDATION:

Update your policies to account for these new protections





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