

THE COMPLETE GUIDE
TO HUMAN RESOURCES
AND THE LAW

2017 Edition

DANA SHILLING



Wolters Kluwer

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Dana Shilling

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PREFACE

This book, originally published in 1998, is reissued each year, in revised form, to deal with the cases, statutes, and administrative rulings affecting HR issues. This 2016 edition went to press in April 2016, so it reflects events from mid-2015 to mid-2016.

The death of Justice Antonin Scalia on February 13, 2016 had a tremendous impact, because there was a likelihood that many cases that would have been decided 5-4 with Justice Scalia's vote would instead be split 4-4, resulting in affirmance of the lower court decision. It was very unlikely that a new justice would be confirmed before 2017.

In 2016, many changes were made to HR law by Executive Order or Department of Labor (DOL) regulations: for example, a significant increase in the amount that employees can earn and still be entitled to overtime pay; a "fiduciary rule" increasing the obligations of advisors to qualified plans and Individual Retirement Arrangements (IRAs); significant increases in penalties (e.g., under ERISA, immigration law, and Occupational Safety and Health Act (OSHA), as mandated by the Federal Civil Monetary Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74; and a "persuader rule" requiring increased disclosures of interactions between employers and labor consultants.

The new 2017 edition is divided into 43 chapters, in eight parts:

1. Part I: Pay Planning, including compensation planning, bonuses, severance pay, and tax issues.
2. Part II: Pension Law, comprising basic pension concepts, defined benefit plans, and the transition from the predominance of defined benefit plans to the rise of defined contribution and 401(k) plans; cash balance plans; nonqualified plans; and plans for early retirement and retiree health benefits.
3. Part III: Pension Plan Administration, going from the adoption of a plan to disclosures to plan participants, handling claims and appeals, amending the plan, complying with the Employment Retirement Income Security Act (ERISA) and tax rules, handling plans in the context of corporate transitions, such as mergers and acquisitions, and terminating a plan.
4. Part IV: Benefit Plans, such as health plans, continuation coverage and portability requirements for health insurance, plans that provide insurance coverage and disability plans.

5. Part V: The HR Function, including hiring and recruitment, HR computing, recordkeeping, corporate communications, employee privacy rights, diversity issues, and work-family issues.
6. Part VI: Employee Relations, not only the major topic of labor law but also occupational safety and health, unemployment insurance, and workers' compensation.
7. Part VII: Substantive Laws Against Discrimination, focusing on Title VII (and sexual harassment, which is considered a form of sex discrimination), age discrimination, disability discrimination, the Family and Medical Leave Act, and wrongful termination suits.
8. Part VIII: Procedure for Handling Discrimination Charges, not only in the context of lawsuits brought by the Equal Employment Opportunity Commission (EEOC), by state regulators, or by private individuals, but by using arbitration and other alternative dispute resolution methods to resolve problems without going to court.

NOTE ON WEB SOURCES: Several Websites that are frequently cited, such as benefitslink.com, plansponsor.com, and Lexology.com, use very long URLs that are hard to cite. Therefore, for convenience, citations to cases and articles appearing there are simply cited; do a search for the name of the article if you'd like to retrieve it. I cite to online editions rather than print editions of the *New York Times* and *Wall Street Journal*.

For older online references, wherever possible I include the latest update of the resource, and the date I accessed it—a date on which the resource was available online. Unfortunately, the URL may change, or the item may no longer be available online, or may be behind a paywall when you attempt to access it.

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