

Bugbee & Conkle, LLP

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Employment Law Seminar — 9/27/12

We are pleased to invite you to our annual Employment Law Seminar, on Thursday, September 27, 2012 at the Holiday Inn French Quarter, 10630 Fremont Pike, Perrysburg, Ohio 43551. Registration starts at 12:30 p.m. The Seminar begins at 1:00 p.m., and ends at 4:20 p.m.

The seminar will include many topics of interest affecting Ohio employers. Included will be presentations on the FMLA, the “interactive process” under the federal and Ohio disabilities discrimination laws, work site inspections by OSHA and employer rights and obligations, and updates on such timely and fast changing topics as social media and the importance of well crafted and consistently enforced Employee Handbooks.

Please register by Monday, September 24, 2012, by emailing spierce@bugbee-conkle.com or calling us at (419) 244-6788. We Look forward to seeing you at the Holiday Inn French Quarter on September 27, 2012.

NLRB Takes Aim at Employer Internal Investigations

On July 30, 2012, the NLRB, in a 2-1 decision, determined an employer’s “blanket” approach of routinely asking employees to refrain from discussing internal investigations with co-employees violates Section 8(a)(1) of the National Labor Relations Act. In *Banner Health Sys. d/b/a Banner Estrella*, the NLRB stated an employee’s right to engage in protected concerted activity (talking with co-employees about events at work) outweighed an employer’s interest in safeguarding the confidentiality of internal investigations. However, the decision leaves open the possibility that an employer can instruct an employee to refrain from such discussions on a case-by-case basis as long as individual factors are considered. Once again an active NLRB has shown the need for employers to consult with their employment counsel about tailoring their procedures regarding internal investigations.



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New OSHA Global Hazard Communication System

PAGE 2



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The Occupational Safety and Health Administration (OSHA) has modified its existing hazard communication standard (HAZCOM) to conform with the United Nations' globally harmonized system of classification and labeling of chemicals (GHS). OSHA determined that the modifications will improve the quality and consistency of information provided to employers and employees regarding chemical hazards and protective measures.

Given the reality of extensive global trade and chemicals, an internationally harmonized approach to classification and labeling, was determined to be important by the United Nations. OSHA has incorporated many provisions of the GHS into the proposed changes to the hazard communications standard. Under the GHS, each health and physical hazard or endpoint (e.g., carcinogenicity, explosives) is considered to be a hazard class. There are a total of 16 physical hazards and 10 health hazards as well as 2 environmental hazards under GHS. The GHS definitions of hazards are most specific in detail than those under the prior HAZCOM. Under the GHS, there are seven categories of explosives and assignment to these categories is based on classification criteria provided in very detailed mandatory appendices to the revised HAZCOM standard. Communication of hazard standard changes under the GHS are directly linked to the hazard classification.

The new regulations require employers to complete all training regarding the new label elements SDS format by December 1, 2013. However, full compliance with all provisions for preparation of new labels and safety data sheets is not required until June 1, 2015. Finally, employers will be given until June 1, 2016, to update their hazard communication programs or any other workplace signs, where applicable, regarding the GHS standard. For your review, see a [side-by-side comparison of the hazard](#) communication standard as originally proposed and previously enacted standard.

If you have any questions concerning how these items affect your company, please contact a member of our Labor and Employment Law practice group at (419) 244-6788.

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THE EMPLOYER is not intended to provide legal advice, but is intended as a service to the clients of Bugbee & Conkle, LLP and to alert them to recent developments affecting the employment relationship, with a particular emphasis on the perspective of the employer.

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