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Compliance Connection

September 2025

Federal Compliance Update

FTC Dismisses Noncompete Ban Appeal

On **Sept. 5, 2025**, the Federal Trade Commission (FTC) [voted](#) to dismiss its appeals in two legal challenges of the FTC's 2024 final rule to prohibit employers from using noncompete clauses with most employees. In 2024, the FTC appealed two separate court rulings regarding the noncompete ban, including one vacating the noncompete ban for all employers. Following the FTC's dismissal of its appeals, the noncompete ban remains vacated for all employers.

Background

On May 7, 2024, the FTC published a [final rule](#) prohibiting employers from entering into or enforcing noncompete clauses with most employees and requiring employers to notify employees that their noncompetes would not be enforced (subject to limited exceptions).

Currently, the enforceability of noncompete clauses is determined by state and local legislatures and courts. The FTC rule would have instead governed the enforceability of noncompete clauses at the federal level and superseded any less restrictive state laws or judicial interpretations.

Court Rulings

In *Ryan LLC v. FTC*, the plaintiffs argued that the noncompete ban should be vacated because it exceeds the FTC's statutory authority, is unconstitutional, and is the product of arbitrary and capricious decision-making. On **Aug. 20, 2025**, the U.S. District Court for the Northern District of Texas issued a final ruling in *Ryan* agreeing with the plaintiffs' arguments and holding that "the FTC lacks statutory authority to promulgate" the noncompete ban and the ban "is arbitrary and capricious." Under the ruling, the noncompete ban was permanently blocked for all employers nationwide.

In addition to the *Ryan* case, on **Aug. 15, 2025**, the U.S. District Court for the Middle District of Florida issued a preliminary injunction of the noncompete ban, which blocked the enforcement of the ban only with respect to the plaintiff in *Properties of the Villages v. FTC*.

The FTC filed appeals in the *Ryan* case on Oct. 18, 2024, and in the *Properties of the Villages* case on Sep. 24, 2024. However, on **Sept. 5, 2025**, the FTC voted to **withdraw its appeals** in both cases. Therefore, the noncompete ban will remain vacated in its entirety for all employers nationwide.

Employer Takeaways

While the FTC's noncompete ban never took effect, employers were previously left with uncertainty as to whether the ban would ultimately take effect. Now that the FTC has withdrawn its appeals, employers have more certainty that the ban will not take effect, and employers may continue to rely on state-level guidance regarding the enforceability of noncompetes. In addition, the FTC chairman stated that the agency will continue enforcement efforts against unlawful noncompetes. Therefore, employers may wish to review existing noncompete agreements to ensure compliance with existing laws.

Significant Proposed Changes to the H-1B Visa Program

On Sept. 24, 2025, the U.S. Department of Homeland Security (DHS) announced a [proposed rule](#) amending its regulations governing the process by which the U.S. Citizenship and Immigration Services (USCIS) selects H-1B registrations. The proposed rule would implement a weighted selection process that would generally favor higher-skilled and paid foreign workers.

The proposed rule follows a recent [presidential proclamation](#), signed on Sept. 19, 2025, announcing a new \$100,000 entry fee for each new H-1B visa recipient starting Sept. 21, 2025. According to the Trump administration, the increased fee aims to curb abuses of the H-1B system that may disadvantage the U.S. workforce and lead to wage suppression. The proclamation does not change any required fees in connection with H-1B renewals. More information about the new fee can be found on the U.S. Department of State's [website](#).

Background

The current H-1B visa program allows U.S. employers to hire foreign workers in specialty occupations requiring highly specialized knowledge. Each year, the USCIS allocates 65,000 slots for regular H-1B registrations and 20,000 slots for individuals with a U.S. master's degree or higher. Employers apply by submitting an electronic registration for each candidate they sponsor. The USCIS conducts a random lottery if the number of registrations exceeds the limited H-1B quota.

Key Highlights

The proposed regulation would replace the lottery system with a weighted system prioritizing higher-paying jobs while still awarding H-1B visas at different wage levels. The proposal identifies four wage bands based on the Occupational Employment and Wage Statistics wage levels, as follows:

- Level I—Candidates would be entered into the selection pool one time;
- Level II—Candidates would be entered into the selection pool two times;
- Level III—Candidates would be entered into the selection pool three times; and Level IV—Candidates would be entered into the selection pool four times.

Candidates would only be eligible to be selected one time, regardless of the number of entries, through a random, computer-generated selection process.

Updated Model Notices for Internal Claims, Appeals and External Review Now Available

The U.S. Department of Labor (DOL) has released revised model notices for initial adverse benefit determinations, appeal denials and external review decisions. The models have been revised to include taglines in applicable non-English languages to reflect the most recent Culturally and Linguistically Appropriate Services (CLAS) County Data. The revised models also have a new expiration date of Aug. 31, 2028.

Background

Federal regulations require employee benefit plans to establish and maintain reasonable procedures for filing benefit claims and appeals, making claims and appeals decisions, and notifying claimants of benefit decisions. Plans that are covered by the Employee Retirement Income Security Act (ERISA) must provide timely notice of initial benefit denials and any subsequent denials upon appeal. Non-grandfathered group health plans and issuers must also comply with external review requirements under the Affordable Care Act.

To support compliance, the DOL has long provided model notices for initial adverse benefit determinations, appeal denials and external review decisions for use by plan sponsors and issuers. In November 2023, the DOL issued [FAQs](#) announcing its intent to update the model notices to reflect [2023 CLAS County Data](#), applicable to plan years beginning on or after Jan. 1, 2025.

Revised Notices

The following updated model notices are now available:

- [Revised Model Notice of Adverse Benefit Determination](#);
- [Revised Model Notice of Final Internal Adverse Benefit Determination](#); and
- [Revised Model Notice of Final External Review Decision](#) (also available in [Spanish](#)).

These revised templates are designed to help plans and issuers meet federal notice requirements while ensuring accessibility for individuals in counties with significant non-English-speaking populations.

More Information

Additional resources and the updated model notices can be found on the DOL's [Internal Claims and Appeals and External Review webpage](#).

State Compliance Update

Nothing to report for this month...

Compliance Calendar

October

10/1 – QSEHRA Notice Deadline (Calendar Year Plans Only)
10/15 – Medicare Part D Creditable/Noncreditable Coverage Notice
10/31 – Form 941 Filing Deadline for Q3

November

Nothing to report

December

12/31 – Gag Clause Prohibition Compliance Attestation – group health plans and health insurers

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