



535 Grand Avenue, Grand Junction, CO 81501
PO Box 1449, Grand Junction, CO 81502
970-243-7789 ♦ www.lighthousehrs.net

Compliance Connection

September 2026

Federal Compliance Update

Trump Issues New Immigration Orders

On Sept. 18, 2026, President Donald Trump signed an [executive order \(EO\)](#) directing the U.S. Departments of State, Labor and Homeland Security to coordinate and consult with other federal agencies when reviewing H-1B petitions, labor condition applicants, and visas, and issued a [presidential proclamation](#) that renewed the \$100,000 fee for new H-1B visas that was originally implemented on Sept. 19, 2025.

Background

The current H-1B visa program allows U.S. employers to hire foreign workers in specialty occupations that require highly specialized knowledge. Each year, the U.S. Citizenship and Immigration Services (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. An H-1B cap-subject petition counts against the annual limit.

On Sept. 19, 2025, Trump signed a [presidential proclamation](#) establishing a \$100,000 entry fee for each H-1B visa recipient starting Sept. 21, 2025. On June 8, 2026, a federal District Court vacated the guidance implementing that proclamation payment, which the government appealed. On July 24, 2026, the U.S. Court of Appeals for the 1st Circuit denied the government's motion to stay the judgment. The USCIS has stated it will comply with the order while considering further action.

Key Highlights

The EO directs the Departments of State, Labor and Homeland Security to coordinate and consult with other federal agencies when reviewing H-1B petitions, labor condition applications and visas to ensure compliance with statutory requirements. The order also instructs the departments to coordinate with the U.S. Departments of Commerce and Education and the Small Business Administration when processing H-1B petitions to ensure compliance with statutory requirements governing H-1B classification, labor condition applications, specialty occupations and unfair immigration-related employment practices. The EO instructs the Departments of State, Labor and Homeland Security to consider whether employer sponsors of H-1B visas have directly or indirectly engaged in layoffs within the previous year or plan to engage in future layoffs that would negatively affect the employment of similarly situated U.S. employees. The order establishes a 30-day timeline for the U.S. Department of Labor to assess previously submitted labor condition application data and determine whether enforcement actions may be warranted.

In addition, the presidential proclamation extends the \$100,000 fee for new H-1B visas until Sept. 21, 2027.

What Employers Should Know

The departments have not yet issued guidance on how they will implement the EO's directives. However, employers should monitor for updates, including the publication of implementing rules or guidance. In addition, employers should continue to track the pending appeal of the presidential proclamation regarding the H-1B visa fee.

Federal Contractor Rule Rescission Takes Effect October 26

A final U.S. Department of Labor rule rescinding the regulations implementing Executive Order 11246 takes effect October 26, 2026. Published August 21, the rule follows the order's January 2025 revocation through Executive Order 14173.

Executive Order 11246 established nondiscrimination and affirmative action requirements for covered federal contractors and subcontractors. The final rule removes its implementing regulations, including requirements governing affirmative action programs, and revises related administrative enforcement procedures. The October effective date marks the formal regulatory rescission following the earlier revocation.

The change does not eliminate employers' obligations under other applicable employment discrimination laws, including Title VII. The rule also does not alter the Equal Employment Opportunity Commission's authority over EEO-1 reporting.

What Employers Should Know

The October 26 effective date formalizes the removal of regulations implementing the previously revoked Executive Order 11246. Contractors should review compliance procedures and policy references tied to that order while continuing to meet obligations under other applicable employment discrimination laws.

Details are available in the [Department of Labor's final rule](#).

DOL Notice Flags Potential H-2A Back-Wage Adjustments

The U.S. Department of Labor issued a court-ordered notice September 2, 2026, advising certain H-2A employers that they could face future back-wage adjustments. No back-wage payments are currently required under the notice, and existing Adverse Effect Wage Rates (AEWRs) remain in effect.

The notice follows a federal court ruling that found DOL's challenged AEWR methodology unlawful but left existing rates in place while directing the department to develop a replacement.

Potential adjustments could cover qualifying H-2A workers and U.S. workers in corresponding employment who earn less than the applicable replacement rates during the period beginning September 2 and ending when DOL issues new AEWRs under a new methodology. The notice covers employers with still-valid certifications, pending applications, and new applications filed during the specified period.

DOL also reminds employers to maintain accurate earnings records and worker identification and contact information, including permanent home addresses, Social Security numbers if issued, and available I-94 numbers, permanent email addresses, and phone numbers. Employers should make reasonable efforts to keep that information current.

What Employers Should Know

No back-wage payments are currently required under this notice, and existing AEWRs remain applicable. However, affected employers could face future adjustments for qualifying work beginning September 2, 2026. Employers should maintain accurate earnings records, preserve required worker identification and contact information, make reasonable efforts to keep that information current, and monitor DOL announcements for replacement wage rates and transition instructions.

Affected employers should review their recordkeeping practices and watch for further DOL guidance. See the [September 2 DOL notice](#).

OFCCP Reduces Federal Contractors' Disability-Related Affirmative Action Requirements

Starting September 21, 2026, key provisions of a final rule from the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) will take effect, reducing federal contractors' affirmative action compliance Section 503 of the federal Rehabilitation Act of 1973 (Section 503).

Which Federal Contractors Are Covered

Section 503's basic nondiscrimination and recordkeeping requirements apply to any business with a federal contract worth more than \$20,000. Businesses with at least 50 employees and a federal contract worth at least \$50,000 are also required to maintain a written affirmative action program (AAP) for individuals with disabilities.

What's Changing

Covered contractors will no longer be required to do any of the following:

- Invite applicants and employees to voluntarily disclose their disability status (this is currently required to be done pre-offer, post-offer before employment begins, and at five-year intervals for current employees)
- Compare their workforce against a "utilization goal" (which currently requires them to aim for a workforce where at least 7% of employees in each job group are qualified individuals with disabilities) and conduct a related annual utilization analysis
- Retain disability-related applicant and hiring data and conduct related analysis

Additionally, the final rule eliminates the OFCCP's Voluntary Self-Identification of Disability Form (Form CC-305). It also makes technical updates to reflect changes that took effect in 2025, such as removing references to the now-revoked Executive Order 11246 and updating threshold to the current \$20,000 amount.

What Stays the Same

Covered contractors' other affirmative action obligations still remain. For example, covered contractors still need to:

- Refrain from discriminating against applicants or employees based on disability
- Provide reasonable accommodations absent undue hardship
- Include Section 503's equal opportunity clause in their covered contracts and subcontracts
- If applicable, maintain a written AAP and carry out the plan's related obligations, such as reviewing job qualifications for unnecessary barriers for individuals with disabilities, conducting outreach and recruitment, and implementing an internal audit system to evaluate the program's effectiveness

Additionally, this final rule doesn't affect the requirements of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), which requires certain federal contractors to invite applicants and employees to voluntarily self-identify their veteran status.

Disability-Related Inquiries

In the final rule, the OFCCP took the position that inviting applicants and employees to self-identify their disability status is, in many cases, a violation of the Americans with Disabilities Act (ADA). Specifically, they reasoned that such employer-initiated requests could constitute impermissible disability-related inquiries. Because of this, contractors should review any continuing practices related to making disability-related inquiries to ensure that they are supported under the ADA's framework.

Employers that are required by state or local government contracts to invite applicants and employees to self-identify their disability status should speak with employment counsel about how to resolve possible conflicts.

What Employers Should Know

Starting September 21, 2026:

- Remove the invitation to self-identify disability status form (Form CC-305) from application packets, new hire paperwork, and any scheduled communications to current employees.
- Review any continuing self-identification of disability practices for current employees with legal counsel to confirm they're independently justified under the ADA or state law, since Section 503 no longer provides authorization for this.
- Work with legal counsel to update your affirmative action plans and related procedures to reflect these changes.

More Information

We expect that the [OFCCP's Section 503 FAQ](#) page will be updated in the near future. In the meantime, you can read the full final rule [here](#).

State Compliance Update

Colorado AI Comments Due October 26

The Colorado Attorney General's Office is accepting public comments on proposed automated decision-making and chatbot safety rules through **October 26, 2026**. If the public hearing continues beyond that date, the comment period will remain open through the hearing's final day.

What Employers Should Know

Employers using automated decision-making tools or operating chatbots should review the proposed rules to determine how the requirements could affect their operations. The comment period offers an opportunity to identify practical concerns, potential costs, and provisions needing clarification before the underlying laws take effect January 1, 2027. Employers can review the proposals and submit feedback through the [Colorado Attorney General's rulemaking page](#).

Just a Reminder: Colorado Updates Voting Leave Law

Colorado recently updated its voting leave law to require employers of all sizes to allow employees to take leave to vote on *any day* that voter service and polling centers are open. (Previously, voting leave was only required on the day of the election.)

Employers do not have to grant leave if an employee has at least three consecutive hours during which they're not scheduled to work while the polls are open. Colorado employees are entitled to **up to two hours** of voting leave, subject to the three-consecutive-hours exception.

[HB 26-1113](#) was signed by the governor on June 1, 2026, and took immediate effect.

2027 FAML I Premiums: Update Payroll Beginning January 1

Colorado's FAML I premium rate decreases from 0.88% to 0.86% of covered wages beginning January 1, 2027. Premiums apply to wages up to the annual Social Security wage cap.

Employers with 10 or more employees: The total premium is generally split equally between the employer and employee—0.43% each.

Employers with fewer than 10 employees: The employer share is not required, but employers must still remit the 0.43% employee share. Small employers are not exempt from FAML I participation simply because they do not owe an employer contribution.

Employers should coordinate with their payroll provider to update contribution rates, confirm their employee headcount, and communicate any deduction changes to employees. Employers may choose to pay some or all of the employee share.

For more information for 2027, please refer to [Rules & Guidance](#) of the Colorado Family and Medical Leave Insurance Program (FAML I) website and/or [7 CCR 1107-1](#) (page 6).

Regulation in Review... If you need assistance with implementing this or other laws, please contact us!

In our recent conversations with employers, we often found that many businesses are surprised to learn they are not fully aware of the requirements under the **Colorado Family and Medical Leave Insurance** program. Some employers mistakenly believe they are exempt if they have fewer than 50 employees, confusing these requirements with the employer-size threshold under the federal Family and Medical Leave Act. This law impacts nearly every employer in the state, and understanding your responsibilities is essential to maintaining compliance.

In this issue, we're taking a closer look at this law, outlining the key employer obligations and offering practical guidance to help you avoid common compliance pitfalls. If there are others you wish to have covered in future editions, please shoot me an email!

FAML I in Review (with a bit of FMLA thrown in)

Colorado's Family and Medical Leave Insurance (FAML I) Program provides eligible employees with paid leave for qualifying family and medical reasons while protecting their job during approved leave. Most Colorado employers are required to participate in the state program or maintain an approved private plan that provides equal or greater benefits.

Understanding employer responsibilities helps ensure compliance while supporting employees during significant life events.

Covered Employers and Employees

Most employers with at least one employee working in Colorado are covered by the FAML I Program.

Employees may qualify for FAML I benefits if they have earned sufficient wages subject to FAML I premiums during the applicable base period. Eligibility is based on wages rather than length of employment with a particular employer.

Employers with fewer than 10 employees are not required to pay the **employer** portion of FAML I premiums but must still:

- Collect and remit employee premium contributions.
- Comply with notice and reporting requirements.
- Restore eligible employees to their position following protected leave when applicable.

Qualifying Reasons for Leave

Employees may take FAML I leave for qualifying events, including:

- Bonding with a new child through birth, adoption, or foster placement.
- Caring for a family member with a serious health condition.
- The employee's own serious health condition.
- Addressing qualifying needs related to a family member's military deployment.
- Obtaining leave for situations involving domestic violence, sexual assault, stalking, or abuse.

Leave Benefits

Eligible employees may receive:

- Up to **12 weeks** of paid leave in a benefit year.
- Up to an **additional 4 weeks** for pregnancy or childbirth complications, for a maximum of **16 weeks** when applicable.

Benefit amounts are determined by the Colorado FAML I Division based on the employee's wages, subject to statutory maximums.

Employer Responsibilities

Employers should:

- Register and maintain compliance with the Colorado FAML I Program or an approved private plan.
- Deduct and remit employee premium contributions as required.
- Pay the employer share of premiums if applicable.
- Display the required FAML I workplace poster.
- Provide required notices to new employees and employees experiencing a qualifying leave event.
- Maintain accurate payroll and leave records.
- Coordinate FAML I leave with other applicable leave laws and employer leave policies.

Job Protection

Employees who have been employed by their current employer for at least 180 days before FAML I leave begins are generally entitled to job restoration. How this requirement applies depends on the leave schedule:

- **Continuous leave (completely off work):** The employee must meet the 180-day requirement before the continuous leave begins. Reaching 180 days of employment while already on continuous leave does not create FAML I job-restoration rights for that leave.
- **Intermittent or reduced-schedule leave:** Each covered absence is treated as a new commencement of leave. An employee who begins taking leave before reaching 180 days would qualify for job restoration for subsequent covered absences occurring after their 180th day of employment.

Upon returning from protected leave, eligible employees must generally be restored to:

- The same position; or
- An equivalent position with equivalent pay, benefits, seniority, and other terms and conditions of employment.

Please refer to the [Job-Restoration Rules](#) for more information.

Health Insurance and Other Protections

During FAML I leave, employers must maintain existing health insurance coverage under the same conditions that would apply if the employee had continued working. Employees remain responsible for their usual share of premiums. This applies to both

continuous and intermittent leave and is separate from the 180-day job-restoration requirement.

Employees are also protected against retaliation or interference for exercising their FAMILI rights, even before they qualify for job restoration. For more information, please see [Colorado FAMILI protections](#).

Coordination with Other Leave Laws and Benefits

FAMILI leave may overlap with other leave rights and employer-provided benefits. Employers should evaluate each request separately to determine which requirements apply and review current policies and handbooks to ensure compliance with the laws and consistent implementation of practices.

Federal Family and Medical Leave Act (FMLA)

Employers cannot require employees to apply for or exhaust FAMILI benefits as a condition of taking FMLA leave. Nor can they require the employee to apply for or exhaust FAMILI benefits if requesting FMLA leave. When the employer is covered by the FMLA, the employee is eligible and has FMLA leave available, and the absence qualifies under both programs, the employer must designate the qualifying absence as FMLA leave and provide the required notices. The absence then counts against both available leave entitlements. Approval for FAMILI benefits alone does not establish FMLA eligibility.

[Federal designation requirements](#) that states, “*In all circumstances, it is the employer’s responsibility to designate leave as FMLA-qualifying (whether unpaid or paid through substitution of paid leave), and to give notice of this designation to the employee. In any circumstance where the employer does not have sufficient information about the reason for an employee’s use of leave, the employer should inquire further of the employee or his or her spokesperson (for example, a spouse, adult family member or other responsible party) to determine whether leave is potentially FMLA-qualifying.*”

*When the employer has enough information to determine whether the leave is being taken for an FMLA-qualifying reason, the employer must notify the employee whether the leave has or has not been designated as FMLA leave **within five business days absent extenuating circumstances.***”

Employer-Provided Paid Leave and Benefits

Employers cannot require employees to use accrued PTO or sick leave before or during FAMILI leave. Employees may choose to supplement FAMILI benefits with accrued paid leave under a written agreement, provided the combined payments do not exceed their average weekly wage.

Employer-provided parental leave and disability benefits may be coordinated with FAMILI as permitted by law and the applicable plan or policy. Employers must provide written notice of applicable requirements. Please refer to the [Colorado coordination guidance](#) from the Colorado Family and Medical Leave Insurance Program (FAMILI) website.

Americans with Disabilities Act (ADA)

For covered employers, an employee’s own medical condition may trigger a separate duty to consider reasonable accommodations under the ADA. Employers should engage in an interactive process to determine whether additional unpaid leave, a modified schedule, or another accommodation is appropriate, unless it would create an undue hardship. Exhausting FAMILI or FMLA leave does not automatically end these obligations. Please refer to the [EEOC accommodation guidance](#) for further information.

Employers should review their policies, coordinate required notices, and track leave under each applicable program while considering any additional protections under state law.

Employers should carefully evaluate leave requests to determine whether multiple leave laws apply simultaneously.

Notice and Recordkeeping

Employers should maintain documentation related to:

- Employee leave requests.
- Payroll and premium contributions.
- Required employee notices.
- Leave dates and return-to-work information.

Accurate documentation helps demonstrate compliance during audits or investigations.

Practical Compliance Tips

Employers should:

- Review employee handbooks to ensure FAMLII policies are current.
- Train supervisors on recognizing potential FAMLII leave requests.
- Coordinate FAMLII, FMLA, ADA, and workers' compensation obligations when applicable.
- Ensure payroll systems correctly calculate and remit premiums.
- Maintain required workplace postings and employee notices.
- Document all leave-related communications and employment decisions.

Why It Matters

Failure to comply with Colorado's FAMLII requirements may result in penalties, premium assessments, and employee complaints. Proper administration also helps reduce legal risk, improve employee retention, and support employees during significant family and medical events.

Compliance Calendar

October

10/3 – QSEHRA Notice Deadline (Calendar Year Plans)

10/15 – Medicare Part D Creditable/Non-creditable Coverage Notice

November

Nothing so far...

December

12/31 – Gag Clause Prohibition Compliance Attestation

Disclaimer:

Lighthouse HR Support (LHRS) provides practical human resource information and guidance based upon our knowledge and experience in the industry and with our clients. LHRS services are not intended to be a substitute for legal advice. LHRS services are designed to provide general information to human resources and/or business professionals regarding human resource concerns commonly encountered. Given the changing nature of federal, state, and local legislation and the changing nature of court decisions, LHRS cannot and will not guarantee that the information is completely current or accurate. LHRS services do not include or constitute legal, business, international, regulatory, insurance, tax, or financial advice. Use of our services, whether by phone, email or in person shall indicate your acceptance of this knowledge. Information provided in part by Mineral and Zywave.