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## DOJ to Pursue Employer Violations of Antitrust Rules Relating to HR Practices

The U.S. Department of Justice (DOJ) is planning enforcement actions this year against employers that agree not to compete for workers, Makan Delrahim, the assistant attorney general for the Department's Antitrust Division, said at a conference sponsored by the Antitrust Research Foundation.

The DOJ has been reviewing potential violations of antitrust law prohibiting "nonpoaching" agreements (agreements not to compete for workers) and agreements to "fix" wages among employers. In October 2016, the DOJ and the Federal Trade Commission (FTC) published *Antitrust Guidance For Human Resource Professionals*. The document provides guidance for HR professionals and others involved in hiring and compensation decisions, in order to educate and inform them about how the antitrust laws apply to their job responsibilities. Labor competition is a type of competition that antitrust laws protect. The DOJ and the FTC jointly enforce the U.S. antitrust laws. An agreement among competing employers to limit or fix the terms of employment for potential hires may violate antitrust laws if the agreement constrains individual firm decision-making with regard to wages, salaries, or benefits; terms of employment; or even job opportunities.

<https://www.justice.gov/atr/file/903511/download>



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## DOL Unveils FLSA Compliance Videos

The Wage and Hour Division of the U.S. Department of Labor provides a variety of tools to help employers comply with the Fair Labor Standards Act (FLSA). As part of its ongoing commitment to help employers understand their legal obligations, the department has launched a new series of brief, plain-language videos to help explain those responsibilities. Five FLSA tutorials are currently available at the DOL's webpage, as are other compliance assistance tools.

<https://www.dol.gov/whd/flsa/videos.htm>

## DOL Issues More Opinion Letters

The US Department of Labor's Wage and Hour Division (WHD) provides compliance assistance to give employers tools needed to meet federal labor law obligations. As part of this commitment, the WHD has issued three new opinion letters. An opinion letter is an official, written opinion by the WHD on how a particular law applies in specific circumstances presented by the person or entity requesting the letter. Opinion letters constitute official statements of agency policy.

The new opinion letters address:

\*What counts as work time under the FLSA when employees travel for work (See FLSA2018-18)

\*Whether 15-minute rest breaks required every hour by an employee's serious health condition must be paid or may be uncompensated (See FLSA2018-19)

\* Whether certain lump-sum payments from employers to employees are considered "earnings" for garnishment purposes under Title III of the Consumer Credit Protection Act (See CCPA2018-1NA).

<https://www.dol.gov/whd/opinion/flsa.htm>

<https://www.dol.gov/whd/opinion/ccpa.htm>

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## John Ring New NLRB Chairman

John Ring has been sworn in as chairman of the National Labor Relations Board (NLRB). He succeeds Philip Miscimarra who served on the Board until December 16, 2017. Ring's term runs through December 16, 2022. Marvin Kaplan, who has served as chairman since December 2017, will continue as a Board member until August 27, 2020. The Board also currently includes members Mark Gaston Pearce, whose term expires on August 27, 2018; Lauren McFerran, whose term expires on December 16, 2019; and William J. Emanuel, whose term expires on August 27, 2021. Prior to his appointment to the NLRB, Ring was a partner with the law firm Morgan Lewis.

<https://www.nlr.gov/news-outreach/news-story/john-f-ring-sworn-nlrb-chairman>

## EEO-1 Filing Deadline Extended to June 1, 2018

The U.S. Equal Employment Opportunity Commission's (EEOC) EEO-1 Joint Reporting Committee has extended the deadline for filing the 2017 EEO-1 reports to June 1, 2018. Employers initially had until March 31, 2018, to file their 2017 reports. It is likely that the extension is related to a backlog for processing requests related to mergers and acquisitions. These requests must be manually processed before affected companies can finalize their 2017 reports, and processing of requests has been delayed. The EEOC has advised employers to "be on the lookout for an eblast to the EEO-1 company contact introducing the new EEO-1 survey application."

<https://www.eeoc.gov/employers/eeo1survey/>