HRLaws
Texas
Employment Law Letter

Vol. 34, No. 11 | November 2023

HARASSMENT

# Out with the old, in with the new: EEOC harassment guidance

by Michael P. Maslanka, UNT-Dallas College of Law

*The Equal Employment Opportunity Commission (EEOC) just issued proposed new enforcement guidance on harassment in the workplace, replacing all earlier guidance on the topic. A guidance is a key document EEOC investigators and district offices use to determine whether a discrimination charge is meritorious. It compiles and analyzes recent cases and the commission's view.*

## 30,000 foot perspective

Before we get into the details, let's look at the broad perspective.

Numbers don't lie. Thirty-five percent of recent charges the EEOC has received involve a harassment allegation. The claims will continue to rise because the United States is a diverse nation. The rationale driving this claim is to protect that very diversity. They will also continue to be enforced because the goal of all our employment laws is to protect individuals' right to succeed or fail based on their own merit.

Harassment allegations find voice in a hostile work environment claim. The claim must be based on one or more protected characteristics—race, color, sex, sexual orientation, national origin, religion, pregnancy, age, or disability. The actions taken by the employer or coworkers need not be motivated by animus or dislike. Rather, they can be motivated by well-meaning sentiments.

A mistaken belief that a person belongs to a protected group is no defense to a hostile environment claim.

Repeated comments that seem light-hearted or kidding and not meant to hurt shouldn't be made. Managers need to put an end to these comments before they become habitual.

## Recent developments

**No. 1: The rise of harassment based on color.** A multiracial country includes employees of differing coloration (that is, skin tone) even of the same ethnicity. By way of example, a dark-skinned employee of Mexican descent is protected from harassment by a light-skinned supervisor of Mexican descent who believes dark-skinned people are inferior, and vice versa.

My example: Rico is a supervisor whose parents were born in El Salvador. He has light skin. Anna is a subordinate with darker skin whose descent is likewise Central American. Rico refuses to promote Anna despite her qualifications. He finally tells her, "Nothing personal. But my experience is that dark skin means that you just don't learn as quickly as others, and you would need that skill

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if I promoted you. It's for your own good. Darker skin is a useful proxy for lack of talent!" Violation. Both a hostile environment claim as well as a claim for unlawful denial of a promotion.

The converse is also true: a dark-skinned supervisor harassing a lighter-skinned subordinate.

My example: Mark was born in Nigeria and has dark skin. A lighter-skinned Black subordinate, Andrew, was born in the United States. One day Mark tells Andrew, "I really don't like you. You have no idea how hard it is to have dark skin and all the obstacles I must overcome as a result. So, it's payback time. I'm going to ride you so hard that your work life will be miserable." Violation. A hostile environment is created.

**No. 2: Racially hostile environment based on a proxy.** Here is what is obvious: A hostile environment can be created using offensive terms. Here's what's not so obvious: A hostile environment can also be created through the use of proxies. The EEOC's proposed guidance says a hostile environment can also "include harassment based on traits or characteristics linked to an individual's race, such as [one's name], cultural dress, accent or manner of speech, and physical characteristics, including grooming practices (e.g., harassment based on hair textures and hairstyles commonly associated with specific racial groups)." Repeatedly mocking these traits or making jokes about them leads to a viable hostile environment claim. Or, depending on the context, referring to a person as "you people" can be an unlawful code word.

**No. 3: Gender identity and sexual orientation are an emerging area.** These are protected characteristics. By way of example, the commission asserts that intentional and repeated use of a name or pronoun inconsistent with the individual's gender identity—called "misgendering"—or denial of access to a bathroom or other sex-segregated facility consistent with the individual's gender identity is considered sex-based discrimination.

Guidance example: Jennifer, a cashier at a fast-food restaurant who identifies as female, alleges that supervisors, coworkers, and customers regularly and intentionally misgender her. One of her supervisors, Allison, frequently uses Jennifer's prior male name, male pronouns, and "dude" when referring to Jennifer, despite her request for Allison to use her correct name and pronouns.

Other managers also intentionally refer to Jennifer as "he." Coworkers have asked Jennifer about her sexual orientation and anatomy and asserted that she wasn't female. Customers have also intentionally misgendered Jennifer and made threatening statements to her, but her supervisors didn't address the harassment and instead reassigned her to duties outside the view of customers. Based on these facts, Jennifer has alleged harassment based on her gender identity.

I make these observations:

- Note that misgendering, to create a claim, must be "intentional" and "regular." Why? Because in these circumstances, a hostile environment claim can't be based on a mistake or a slip of the tongue. We are living in a rapidly changing world, and, for some, it takes a while to catch up to the change.
- This isn't about political correctness. People should be called what they want to be called. Period. (Whether there is a religious objection involved—as opposed to political one—should be addressed and reasonably accommodated.)
- A hostile environment can be caused by customers. No, the customer isn't always right. The proper action is to correct the customer, not punish the employee by moving her to a different job.

**No. 4: "Joking" is no joke. "We meant well" is no defense. "We're of the same race" is no excuse.** First, leave jokes to the professionals. The EEOC guidance gives the example of banana peels left at the worksite of a Black employee. No other employee is so treated. It's reasonable to assume that the peels are intended as a racial insult, invoking "monkey imagery," given the history of racial stereotypes against Black individuals. It's no excuse for the employees leaving the peels to claim it was all a joke. Appropriate discipline, including termination, should be considered against the offending employees.

Second—and a distant cousin of the above—is when a manager means well. We see this when a manager tells a 68-year-old employee, "You should think about retiring. All this computer stuff you now need to learn is hard for a person your age." Or a manager telling a woman with three children, one of them a newborn, "Bless your heart! Do you think this promotion is right for you now with three young ones? It might be too much on your plate. We'll just promote you later." Let the employees in these scenarios decide for themselves.

Third, there are no passes granted. A racial slur is a racial slur regardless of the speaker's race. Pleading that its use is just a joke (see above) is no defense, just as it's no defense to assert that everyone in a certain racial group uses the slur in a well-intentioned way. A hostile environment is still created.

There is more that I will discuss next month.

### Bottom line

Here's a suggestion. Try not to get too legal about what is or isn't permitted by the law. Yes, promulgate policies that go to preventing a harassment-filled workplace, but also establish what I call a "Professionalism Policy." It goes like this.

We hired you in part for your good judgment. We expect you to exercise that good judgment at work. What is good judgment? It is simply this: When confronted with a choice of whether to do or say something that others might think is in poor taste or hurtful, make a conscious decision to exercise your good judgment to be a true professional and refrain from that conduct. And a true professional will also counsel colleagues with a friendly word of advice if they don't adhere to the policy.

You get the idea. Give it thought and consult with counsel.

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*RELIGIOUS ACCOMMODATION*

## Employers hope to have a prayer in accommodating religious beliefs

by Michael P. Maslanka, UNT-Dallas College of Law

*The U.S. 5th Circuit Court of Appeals (the federal court of appeals covering Texas) recently issued a crucial decision interpreting the U.S. Supreme Court pronouncement on an employer's obligations when an employee seeks a reasonable accommodation for a religious belief or practice. Employers must do much, much more than previously required.*

### Who wins? Full beard/long hair vs. grooming mandate

Elimelech Shim Hebrew was hired by the Texas Department of Criminal Justice (TDCJ) as a prison guard. When he showed up for orientation, his training officers saw he sported a full beard and long hair. They weren't pleased and told him to shave the beard and cut the hair because rules are rules.

Hebrew retorted that his Nazarite belief system forbade him from doing so. He was therefore placed on administrative leave. He requested a religious accommodation to be exempt from the rule, and two months later, the TDCJ finally sent him a letter denying the request:

"The Civil Rights Act of 1964, 42 USC 2000e(j) requires employers to reasonably accommodate employees by allowing them the opportunity to worship or observe their religious practices. Beards are prohibited for safety reasons as security staff must be able to properly wear a gas mask when chemical agents are being utilized throughout the unit. Long locks of hair could be used against you by an offender overpowering you especially from behind. Also, with this amount of hair [you could hide contraband that you intend to sell or provide a prisoner]. Additionally, beards and hair of this length are prohibited by PD-28 Dress and Grooming Standards, therefore, your request is DENIED with no further actions."

So, the grooming mandate won—for now.

## The other shoe is an adverse inference: Tribulations of Rudy G., continued

by Michael P. Maslanka, UNT-Dallas College of Law

*When we last left Rudy G. in the September 2023 issue, the court entered a default judgment (you lose on the liability, go directly to the jury determination of damages) for failing to preserve electronic evidence. The other shoe dropped on October 14, when the court issued an order on instructions to the jury in deciding how much he must pay. The damages trial won't be pretty.*

### What the jury will be told

The punishment for failing to preserve will be to allow the jury to draw adverse inferences. What does that mean? Here is an example:

- The jury will be instructed that Giuliani was trying to hide relevant evidence about some of his companies.
- It will be instructed that he received substantial financial benefit from defaming the two plaintiffs on his social media sites.
- He and his lawyer will be prevented from making any argument to the jury that he is broke.

There's more, but you get the idea. *Freeman et al. v. Giuliani*, Case No. 21-3354-(BAH)(D.C.C., October 23, 2024).

### Bottom line

I know that complying with electronic discovery requests (or any discovery, for that matter) is a lot of work and trouble. I get it. I helped clients do it. But it's the rules. What is happening to Rudy G. could happen to you. Don't be a Rudy G.

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## SCOTUS changes the rules

The TDCJ's letter was all well and good before the Supreme Court decided *Groff* this past June. The decision rejected an earlier Court ruling that allowed an employer to reject a reasonable accommodation if providing it caused any burden on the employer, even a fairly insignificant one. The TDCJ's safety concerns more than fit the bill.

That was then, but this is now. The *Groff* decision reversed course 180 degrees, requiring employers to articulate a "substantial" burden or burdens on their operations caused by providing a reasonable accommodation. If an employer can't, then the reasonable accommodation must be provided.

Night and day, isn't it? Different rules, different results.

Oh, wait—there's more. Even if an employer meets the new burden of showing a substantial hardship resulting from the requested accommodation, it must then—without further request from the employee—consider any other possible accommodations. And "only after thorough consideration of [these] other options may the employer deny the employee's request for accommodation."

## Ruling in action

All of the reasons advanced by the TDCJ seem facially valid. But the 5th Circuit dissected them one by one.

First, it considered the beard and hiding contraband. The prison could easily search Hebrew before he enters the facility. But, the TDCJ said, "What if all the guards were wearing beards, and we were required to search them? That's a substantial burden." The court made short work of the argument, saying that isn't the issue because right now, the employer was only dealing with this one request. An employer—and a court—must look at "the case at hand." Strike one.

Second, the gas mask objection might have made sense because there can be a sealing issue because of the beard. But the TDCJ allows those with medical conditions to wear a beard that's a quarter inch in length. It offered no evidence that a full beard posed any greater issues regarding proper mask sealing. Strike two.

Third, in a fight with an inmate, the inmate could grab the guard's beard or long hair and gain an advantage. But the TDCJ allows women, for any reason, to wear their hair long. Strike three.

To sum up: The TDCJ has neutral rules that apply to all employees, but that's no defense:

"An employer is surely entitled to have, for instance, a no-headwear policy as an ordinary matter. But when an [employee] requires an accommodation as an aspect of religious . . . practice, it is no response that [the subsequent employment decision] was due to an otherwise-neutral policy. Title VII requires otherwise-neutral policies to give way to the need for an accommodation."

So the failure to abide by this new legal dynamic violates Title VII of the Civil Rights Act of 1964. *Hebrew v. Texas Department of Criminal Justice* (5th Cir., September 15, 2023).

## Bottom line

A few thoughts:

First, deal promptly with any accommodation request, whether in the context of Title VII or the Americans with Disabilities Act (ADA), and keep the employee periodically informed of the request's status. Otherwise, it may appear you're delaying the process in the hopes it will just going away. Being tardy can also be used as alleged evidence that you strongly dislike the requested accommodation.

Second, think in terms of facts, not conclusions. When you find yourself saying or hear someone say, "Well isn't it obvious?" hit the full stop button! In response, you should ask, "What's the factual basis for my belief?" Keep asking until you get an answer, one is developed, or you abandon the road you were going down.

Finally, I know this is a lot more work. But don't forget that when you comply with the law, you honor our legal system's focus on and respect for the individual—a worthwhile pursuit.

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IMMIGRATION

# USCIS increases work permit period to 5 years

by Jacob Monty, Monty & Ramirez, LLP

*The U.S. Citizenship and Immigration Services (USCIS) announced it has extended the length of work permits from a maximum period of one year to five years for certain immigrants.*

## What categories does this extension apply to?

Beginning September 27, 2023, USCIS increased the Form I-766 Employment Authorization Document (EAD) validity period for up to five years for certain categories.

The EAD, or work permit, extension applies to the following categories:

- Noncitizens admitted as refugees;
- Noncitizens paroled as refugees;
- Noncitizens granted asylum;
- Noncitizens pending asylum or withholding of removal;

- Noncitizens granted withholding of deportation or removal;
- Noncitizens pending applications for suspension of deportation or cancellation of removal; and
- Noncitizens with pending applications for adjustment of status under INA 245.

Previously, asylees and refugees, noncitizens granted withholding of deportation or removal, noncitizens with pending applications for asylum or withholding of removal, and noncitizens with pending applications for adjustment of status under INA 245 had a maximum work authorization period of two years. Noncitizens paroled as refugees and noncitizens seeking suspension of deportation or cancellation of removal previously had a maximum work authorization period of one year.

Now, all of these categories with pending applications as of September 27, 2023, or with applications filed after this date will benefit from the extension to their work permits.

## Form I-9 compliance

In addition to extending the work permit period for certain categories, USCIS announced that noncitizens who are automatically authorized to work (also known as those who are employment authorized incident to status or circumstance) may use the Arrival/Departure Record, or Form I-94, as evidence of both status and employment authorization.

For these individuals, such documentation would be an acceptable document under List C of Form I-9. USCIS also explained that certain Afghan and Ukrainian parolees are employment authorized incident to parole.

If an employee is employment authorized incident to status or circumstance and is providing their Form I-94 to complete their Form I-9, employers should ensure the employee is also providing evidence of identity in compliance with documents provided under List B.

## Why has USCIS increased the work authorization period?

Over the last few years, USCIS has seen an increase in new Forms I-765, Application for Employment Authorization, which has led to a subsequent increase in the number of applications for EAD renewals. To reduce the frequency of these renewals, USCIS has extended the work permit to five years. In doing so, it hopes to reduce associated processing times and backlogs.

As to whether the noncitizen's work permit will be renewed, USCIS has stated that such outcomes remain dependent on the individual's underlying status, circumstances, and EAD filing category.

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*DISCRIMINATION*

# Reverse discrimination lawsuit filed in Dallas resolved

by Michael P. Maslanka, UNT-Dallas College of Law

*Last month, I wrote about a reverse discrimination lawsuit against the Dallas office of a national law firm. Recall that the firm limited applications for employment in a prestigious fellowship to minority and LGBTQ+ law students. Here's a summary and the update.*

## Challenge

Perkins Coie is a large national law firm with offices in numerous cities, including Dallas. It faced a challenge: how to create a law firm of diverse lawyers. For context, only 3.2% of partners (law firm owners) and only 6.8% of associates (law firm lawyers who are employees) are black. The percentage of Latino lawyers is even smaller.

So, Perkins Coie created a lucrative fellowship program for law students. The idea was that if law students worked at the firm for the summer, they would like it and become employees upon graduation. Those accepted to the program received a salary as summer law students, as well as a special stipend. Customized learning opportunities were also created for the fellows (as they're called) in terms of working on interesting and varied legal projects.

So, law students asked, "How do I apply for this sweet deal?" The answer: "Feel free to apply but only if you're a minority or LGBTQ+. Whites need not apply. After all, we're trying to solve the diversity challenge at our firm."

## Law

Here was the problem for the firm: Title VII of Civil Rights Act of 1964 prohibits discrimination based on "race." And in the early 1970s, the U.S. Supreme Court held this language included discrimination against whites even though the driving force behind the law was discrimination against minorities.

The reverse discrimination, though, was in hibernation until this past June, when the Supreme Court struck down race-based admissions policies at two universities—thus, the lawsuit in Dallas.

## Resolution

According to published reports, Perkins Coie agreed to allow all first-year law students to apply regardless of race or sexual orientation. The firm also said it will ask applicants to write about their life experiences and will evaluate their applications based on their efforts to advance diversity, equity, and inclusion (DEI). Case voluntarily dismissed by the plaintiff.

## Cutting-Edge HR

***Poll finds more employees want a set schedule than leaders think.*** A recent Gallup poll asked a group of chief HR officers which style of work their employees preferred—splitting or blending. Splitters prefer a set schedule where work and life are separated, and blenders prefer to blend work and life throughout the day. The HR executives thought 24% of white-collar employees would be splitters and 76% would be blenders. But Gallup's poll of employees found that 45% of white-collar employees were splitters and 55% were blenders. The HR executives thought 54% of production/front-line employees would be splitters and 46% would be blenders, but the poll of those employees found that 62% preferred being splitters and 38% preferred being blenders. Gallup said the poll results show a "blind spot" that can make employees feel less likely to be respected, less likely to be engaged, more likely to suffer burnout, and more likely to be looking for a new job.

***Study finds financial worry a major reason for anxiety among Gen Z.*** A report from Ernst & Young LLP finds that money is a growing concern for Gen Z. "As the generation moves into our prime workforce and consumer markets, several shifts are happening simultaneously," Marcie Merriman, EY Americas cultural insights and customer strategy leader, said of the findings. "The oldest Gen Z are aging out of their parents' health care plans this year, and they are feeling the impact of financial independence amid economic uncertainty. These factors are shaping their views of work and life and what success looks like." The report says less than a third (31%) of Gen Z feel financially secure, and more than half (52%) say they are very or extremely worried about not having enough money. The study also found that more than a third of the age group said they are very or extremely stressed or worried about making the wrong choices with their money, and 69% rate their current financial situation as only fair or worse.

***Survey finds most employees seeking accommodations face hurdles.*** A survey from AbsenceSoft, a platform for leave of absence and accommodations management, finds that 52% of employees seeking workplace accommodations are met with difficulties. The company concluded that employers need to consider a more intentional approach to workplace accommodations. Many front-line employees and managers are unaware of accommodation requirements and programs at their workplace. Having training on accommodations and increasing company awareness helps mitigate many compliance challenges employers face. Training also can create an opportunity to foster a more engaging and supportive workplace for employees of all abilities, AbsenceSoft says. ■

### Bottom line

Note that not all efforts to create a workforce committed to DEI are doomed to fail. In September 2023, the New York State Bar Association published "Report and Recommendation of the New York State Bar Association Task Force on Advancing Diversity," which is full of ideas for advancing company DEI goals without running afoul of the law. You can find it easily on the Internet.

An important point: Be sure to consult with your employment lawyer before implementing any suggestions. I'll write more about the report in future issues of the newsletter.

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*PERFORMANCE STANDARDS*

# Performance evaluations: Tired, trite, terminal

by Michael P. Maslanka, UNT-Dallas College of Law

*This month starts a series of articles on performance evaluations. As you can discern from the title, it's time to jettison them. Let's talk problems and solutions.*

### Problems

A manager sits at her desk trying to summon up an employee's performance over the past year, but all that pops into mind is the last project the worker completed and the final assignment submitted. The manager struggles to decide whether to give a three or four on the obsolete and meaningless one-to-five scale.

She wants this part of her job to be done and the upcoming painful meeting to be over so she can move on to what she does best: getting the widgets made, the children educated, and the computer code shipped.

For his part, the employee is equally anxious about the impending meeting. He thinks to himself, "This is so pointless. She will ask me again to get better at some part of my job, and I will again promise to do so."

Both employees and managers dread that once-a-year meeting. It's a waste of time and energy and is draining all around.

### Solutions

Here's one solution (I'll have others in next month's article): Toss the form, and focus on the employee's strengths—what he does well and how he can become even better.

All the energy and time focused on trying to make employees better at their weaknesses (as opposed to requiring minimal competence) is time-consuming. The same effort, though, when focused on bolstering existing strengths, can provide exponential benefits.

## How?

There are many ways. Here's one suggestion: Check out the book *Now, Discover Your Strengths (20th Anniversary Issue)* from the Gallup polling organization. The book lists 34 strength themes, ranging from "achiever" to "harmony" to "strategic," and explains clearly and concisely the nature of each theme and how to discern those who possess them.

The heart of the book, though, is a one-hour test to determine your top five themes. (There's a sealed envelope at the back of the book containing the web address and a code unique to the book purchaser.) Once you take the test, you receive not just the results but also an explanation for them.

I buy the book for my graduate research assistants. It helps me work with them, and it's fascinating for all test-takers because it involves our favorite subject: ourselves. By the way, for inquiring minds who want to know, here are my top five strength themes in order of strength: (1) ideation, (2) maximizer, (3) connectedness, (4) strategic, and (5) achiever.

## Bottom line

A couple of thoughts from the game of football: Tom Landry, the late coach of the Dallas Cowboys, was a big proponent of discovering strengths in his players. He showed them film not of when they messed up but when they excelled and asked questions like, "What were you thinking before this play? During it?" and "How can we replicate your performance?"

Accentuating the positive is a welcome exercise, not a dreaded one, so build it into daily and weekly performance assessments.

Now to Bill Walsh, the former coach of the San Francisco 49ers. How did he turn a losing team from a 2-14 record in 1979 to a 13-3 record in 1981 and a Super Bowl? Not with inspiring talks or rah-rah exhortations or by drafting super star players. Instead, he focused on his players' micro-strengths. Make a good block into a great block by using your shoulder a bit differently. Turn a solid catch into a touchdown catch by zigging after the catch instead of the zagging maneuver you used. He focused on their existing fundamental strengths, not on their existing extraneous weaknesses.

Next month, I'll talk more about scraping outdated mindsets. As the Buffalo Bills (my team from childhood, by the way) discovered in remaking their offensive line (the start of the team's turnaround), don't tinker at the edges. Instead, tear down and replace.

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*EMERGENCY PREPAREDNESS*

# Facing the storm: Natural disasters trigger need for employer preparation

by Tammy Binford

*Extreme natural disasters—fires, floods, hurricanes, and more—increasingly dominate news coverage. But the full effect of such tragedies outlasts the headlines. And it's not just fires and storms. Extreme heat events also threaten the health and safety of people all around the world.*

*Employers are certainly not immune. In fact, the increasing number and severity of natural disasters make it more essential for employers to develop plans that will get them back in business and enable them to help employees recover when disaster strikes.*

## Making plans

Dangerous weather and other natural disasters often shut down operations, but even after reopening, businesses can expect absenteeism and turnover because employees will continue to suffer a disaster's effects. Also, when employees do manage to return to work, they often will be less productive because of worries about their future.

Employers can cope with the possibility of natural disasters by developing business continuity plans. Writing for *Forbes* in September 2022, Holly Welch Stubbing—CEO of E4E Relief, a company helping businesses respond to crises—advised creating a people-focused plan that includes evacuation planning, data storage and security, internal crisis communications, organizational recovery, and a return-to-work strategy.

Stubbing advised creating a team made up of key stakeholder groups of the organization, including IT and operations. The team should be able to conduct a risk assessment and business impact analysis that will provide the information and insight needed to develop plans for recovery.

Stubbing emphasized the importance of understanding the long-term effects for employees. They may not be able to return to work quickly, and they likely will suffer the effects of unexpected expenses and losses not easily overcome.

"HR leaders are crucial in sustaining the values of the organization and optimizing adaptability for unexpected conditions," Stubbing wrote. "While we can't predict when and where disasters will strike, we can ensure we stand ready to provide a compassionate response to our most important asset—our people."

## Legal obligations

Employers also must be aware of legal obligations related to disasters, including some federal laws that are implicated.

**Fair Labor Standards Act (FLSA).** Even if a business is closed for a time, employees classified exempt under the FLSA must be paid their full salary if the business is closed for less than a full workweek. But the employer can require exempt employees to use accrued leave for that time.

Employees classified nonexempt under the FLSA are required to be paid only for hours they work and, therefore, aren't required to be paid if the employer can't provide work because of a natural disaster.

However, nonexempt employees who work fluctuating workweeks and receive fixed salaries must be paid their full weekly salary for any week in which any work was performed.

**Worker Adjustment and Retraining Notification (WARN) Act.** The WARN Act requires employers with at least 100 employees to give at least 60 days' notice of plant closings and/or mass layoffs.

An exception exists when the closing or layoff is a direct result of a natural disaster, but the law still requires employers to give as much notice as is "practicable." If an employer gives less than 60 days' notice, it must prove the exception is justified.

**Occupational Safety and Health Act (OSH Act).** Since natural disasters can create workplace hazards, the Occupational Safety and Health Administration (OSHA) provides a number of resources outlining emergency preparedness and responses related to weather and other natural disasters. (See osha.gov/emergency-preparedness.)

## *Far-reaching effects*

The effects of disasters go beyond the local level and reach around the world. The United Nations Development Programme—a U.N. agency focused on overcoming poverty and achieving sustainable economic growth and development—published a report in April 2016 titled "Climate Change and Labour: Impacts of Heat in the Workplace."

Among the key findings:

- Excessive workplace heat is an occupational health and productivity danger. High temperatures and dehydration cause heat exhaustion, heat stroke, and even death. Letting workers slow down work and limiting their hours can protect them from heat danger, but those steps also reduce productivity, economic output, and income.
- The southern United States is among the areas around the world identified as a highly exposed zone.
- Future climate change will increase losses.
- Heat extremes affect the habitability of regions, especially in the long term, and may already constitute an important driver of migration internally and internationally.
- Actions are needed to protect workers and employers now and in the future, including low-cost measures such as assured access to drinking water in workplaces, frequent rest breaks, and management of output targets. ■

**TEXAS EMPLOYMENT LAW LETTER** (ISSN 1046-9214) is published monthly for $499 per year by **BLR®—Business and Learning Resources,** 5511 Virginia Way, Suite 150, P.O. Box 5094, Brentwood, TN 37024-5094. 

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