



## Monthly Newsletter

by EB Advisors

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### OSHA Not Currently Accepting Electronic Submissions of Form 300A Information

The federal Occupational Safety and Health Administration (OSHA) has announced that it is not accepting electronic submissions of information from 2016 Forms 300A at this time. As a result, OSHA has proposed extending the July 1, 2017 date by which certain employers are required to electronically submit these forms pursuant to its recent "Electronic Recordkeeping Rule" to **December 1, 2017**.



#### 'Electronic Recordkeeping Rule' Explained

The [Electronic Recordkeeping Rule](#), generally effective as of January 1, 2017, requires certain employers to **electronically submit injury and illness data** to OSHA that they are already required to record on their OSHA Forms 300A. Under the rule, the following entities were required to make these submissions by July 1, 2017:

- Establishments with **250 or more employees** in industries covered by OSHA's [recordkeeping requirements](#).
- Establishments with **20-249 employees** in [certain high-risk industries](#).

[Click here](#) to read OSHA's announcement.

Note: Establishments located in OSHA "[State Plan](#)" states should check with their [state plans](#) for the implementation date of the new requirements in their state.

To read more about OSHA's recordkeeping requirements, please visit our [Safety & Wellness](#) section.

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## How to Keep Your Employees Motivated This Summer

The warm weather and eagerly anticipated outdoor activities of summer may take a toll on your workers' concentration. If you're noticing a lack of focus among your employees during this time of year, consider the following ideas to help keep them motivated:



1. **Encourage your employees to step outside for at least 15 minutes each day.** Exposure to natural sunlight can prevent workers from feeling confined to the office during the warm summer months. Holding business meetings outside may also help to boost workers' morale.
2. **Change things up!** Employees may become more motivated when their jobs are more challenging and interesting. Consider lateral moves to build your workers' skill levels and knowledge base.
3. **Create opportunities for casual interaction.** A company sports team, a family day, or an outdoor after-hours social event can keep your employees engaged and build camaraderie in the workplace.
4. **Consider flexible working arrangements.** Arrangements such as flextime or staggered work hours may allow employees to enjoy summer activities and attend to family obligations, while coming to work refreshed. It's a good idea for employers to work with a knowledgeable employment law attorney when creating policies on flexible working arrangements, to ensure policies and practices are in compliance with the law and do not unlawfully discriminate against certain employees.

Our section on [Motivating Employees](#) features additional strategies to help you motivate your employees during any time of year.

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## HHS Releases HIPAA Cyber-Attack Checklist

The Department of Health and Human Services (HHS) Office of Civil Rights (OCR) has released a quick-response checklist briefly describing the steps that HIPAA-covered entities (including **medical and dental offices**) and their business associates should take in response to a cyber-related security incident. Steps include:



- **Executing the entity's response and mitigation procedures and contingency plans**, such as immediately fixing any technical or other problems to stop the incident;
- **Reporting the crime to other law enforcement agencies**, which may include state or local law enforcement, the [Federal Bureau of Investigation](#) (FBI), and/or the [Secret Service](#);
- **Reporting all cyber-threat indicators to federal and information-sharing and analysis organizations (ISAOs)**, including the [Department of Homeland Security](#) and the [HHS Assistant Secretary for Preparedness and Response](#) (any reports should not include protected health information); and
- **Reporting the breach to the [OCR](#)** as soon as possible, but **no later than 60 days** after the discovery of a breach **affecting 500 or more individuals**, and notifying **affected individuals** and the **media** unless a law enforcement official has requested a delay in the reporting.

**Note:** OCR considers all mitigation efforts taken by the entity during any particular breach investigation. Such efforts include the voluntary sharing of breach-related information with law enforcement agencies and other federal and analysis organizations.

[Click here](#) to read the entire cyber-attack checklist.

Please visit our [HIPAA](#) section for more on the law's requirements.

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# Are Summer Interns Subject to Minimum Wage and Overtime Pay?

Employers who have hired summer interns should keep in mind that the U.S. Department of Labor (DOL) has stated that **private sector internships are most often considered "employment"** subject to the federal Fair Labor Standards Act's (FLSA) minimum wage and overtime rules.



## The Test for Unpaid Interns

There are some circumstances under which individuals who participate in **for-profit private sector internships** or training programs may do so without compensation. The determination of whether an internship or training program meets this exclusion depends upon **all of the facts and circumstances**. The DOL uses the following [six criteria](#) that must be applied when making this determination:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If **all** of the factors listed above are met, an employment relationship likely does **not** exist under federal law, and the FLSA's minimum wage and overtime provisions do not apply to the intern. This exclusion is narrow, because the FLSA's definition of "[employ](#)" is very broad.

**Note:** Be sure to check your state wage and hour laws for applicable requirements. When both the FLSA and a state law apply, the employee is entitled to the most favorable provisions of each law.

Our [Employee Pay](#) section features information on other common federal wage issues.

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## How to Write a Good Job Description

Job descriptions are an essential part of hiring and managing employees. In addition to helping you recruit and hire the right candidates, these written summaries serve as a key basis for outlining performance expectations, job training, job evaluation, and career advancement. Learn how to write a good description by watching the video below.



For more recruitment tips, check out our [Recruitment & Hiring](#) section.