

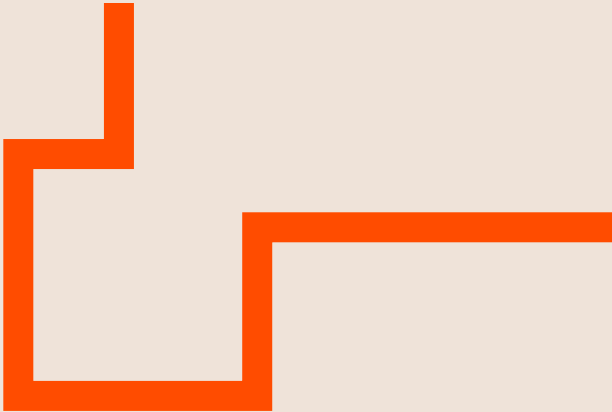
**Mineral™**



# 5 Ways HR is More Complex Than in Past Decades

Presented by Eric Cook, SPHR, SHRM-SCP

HR Expert & Platform Economist, Mineral



June 6<sup>th</sup>, 2023





# Our Speaker

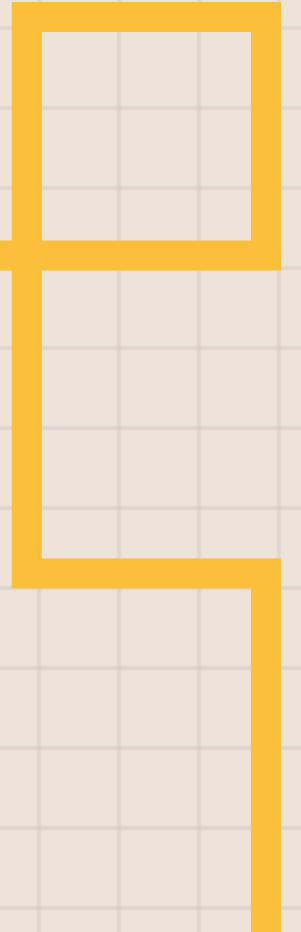


Eric Cook, SPHR, SHRM-SCP  
Platform Economist at Mineral

# Agenda

- A Look Back
- Leave and Paid Family Leave
- Harassment Prevention
- Hiring
- Marijuana and Other Substances
- Termination

# A Look Back at Compliance



# Small and Mid-Sized Employer Challenges

## Case Study: Ed

Ed runs a retail store and has been experiencing the following challenges:

- Finding qualified workers despite immigration restrictions and a worldwide pandemic
- Tracking the upcoming CA minimum wage increase
- Understanding Workers' Compensation
- Figuring out the “new normal” of the workplace

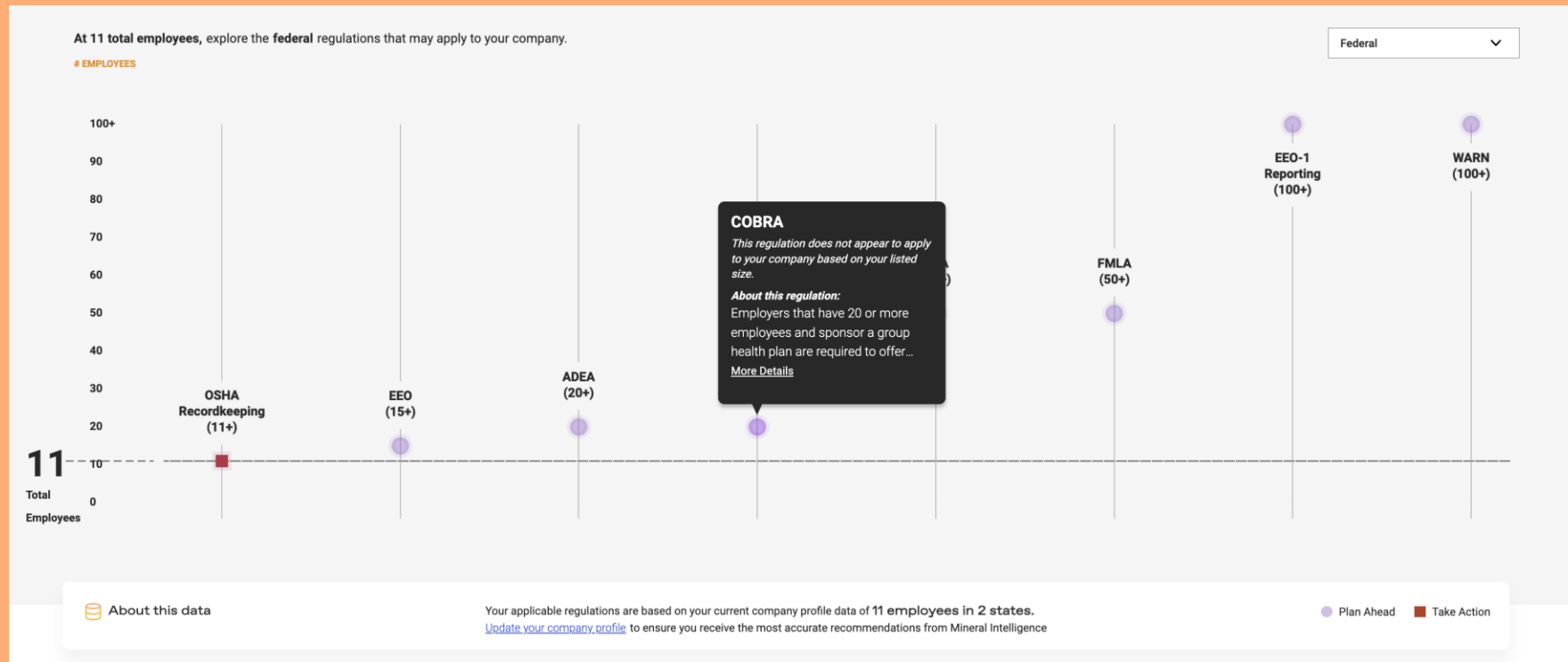


# Small and Mid-Sized Employer Challenges

## Case Study: Ed (cont.)

Recap of difficulties:

- Finding qualified workers despite immigration restrictions and a worldwide pandemic
- Tracking the upcoming CA minimum wage increase
- Understanding Workers' Compensation
- Figuring out the “new normal” of the workplace

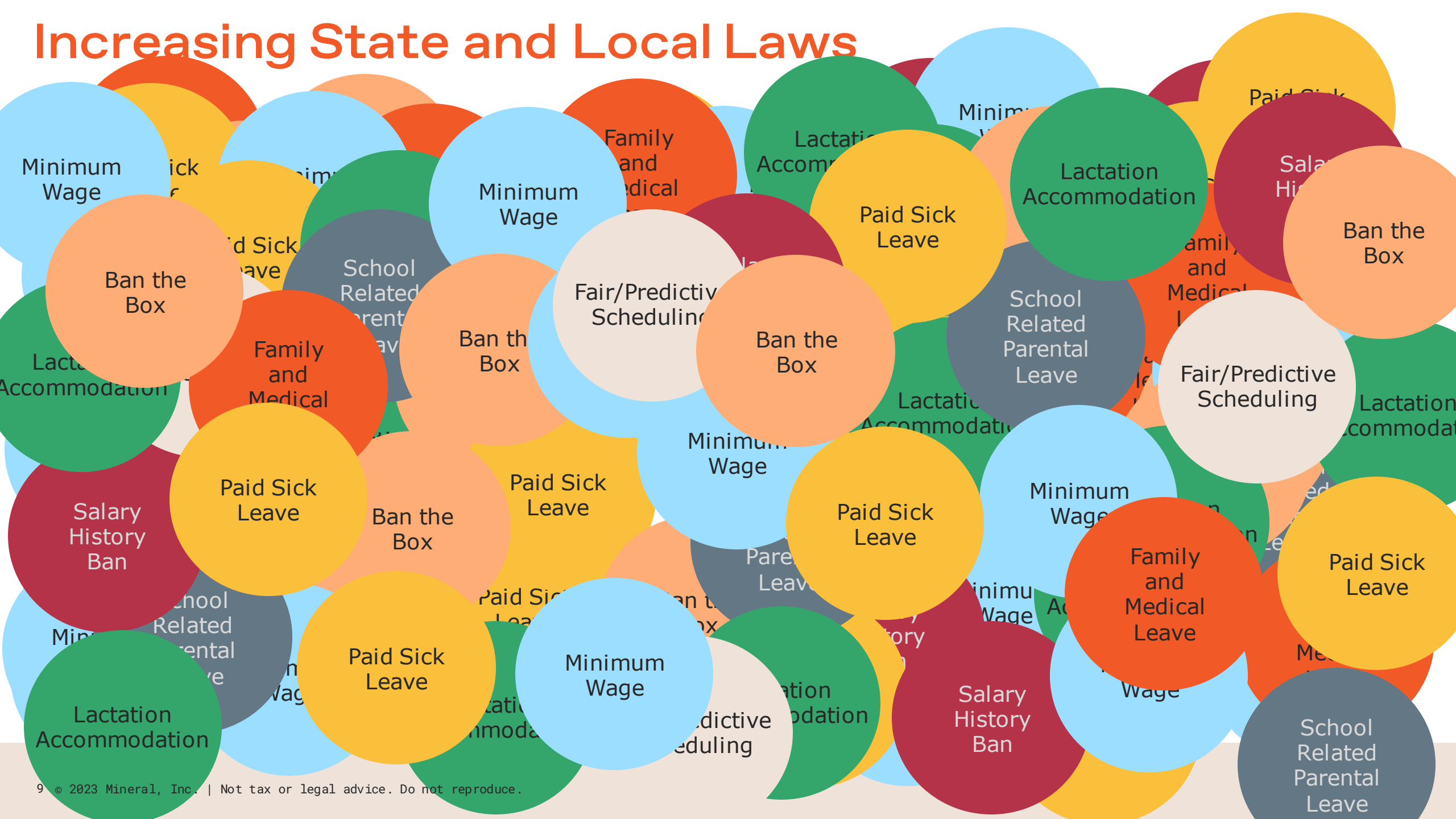


# Simplified US Labor Law History

- 1900: Almost zero regulations and laws banning or criminalizing unions
- 1920s: Unemployment, Workers' Compensation and income taxes
- 1940s: FICA/SSA, FLSA and NLRA (or their pre-war equivalents)
- 1960s: Civil Rights Act (EEOC) and Government contracting regulations (OFCCP)
- 1980/90s: Employment Verification (I-9), COBRA, FMLA and ADA
- 2000/10s: ADAAA (ADA expansion), Lilly Ledbetter Fair Pay Act of 2009, GINA and biggest of all the PPACA (ACA / "Obamacare" or healthcare reform)
- 2010 onward: Huge expansion of state and local law
- 2030: ?



# Increasing State and Local Laws



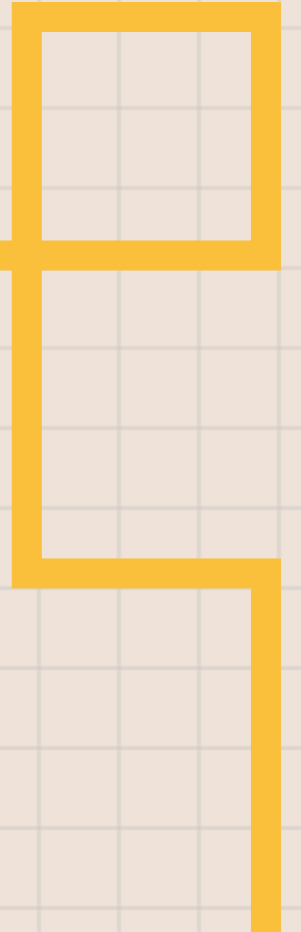
# Regulations



Regulations spell out how a law will be implemented/enforced. When a state or local entity enacts a law, the agency responsible for enforcing the law may choose, or be required, to:

1. Defer to existing regulations created by Congress or the state legislature;
2. Adopt their own regulations; or
3. Do both.

# Leave Management



# Legacy Leave Management

How to manage leave historically:

1. Length of absence
2. Use of paid leave and payroll
3. FMLA and/or implications



# Modern Leave Management

HR or leave professionals should consider all of the following:

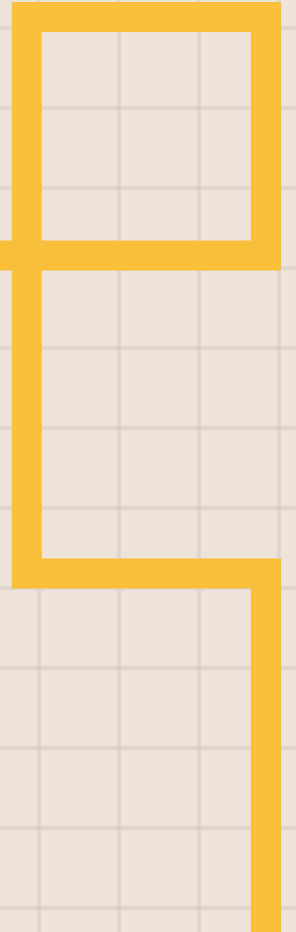
- I. What states is the organization in and what state does the employee work in?
- II. How many employees?
- III. Is it a workplace injury?
- IV. Is the leave related to COVID-19?
  - i. Does a state or regional COVID leave law apply?
  - ii. Workers' Compensation implications
- V. What are the company PTO or paid leave policies?
  - i. Consider state and/or city PSL laws
  - ii. Consider FMLA and/or state family medical leave laws
    1. Employer coverage qualification
    2. Employee qualification
  - iii. What are the state or private disability or PFL income plan implications?
  - iv. Do the above leaves run concurrently?
  - v. What are the leave designations for the above?
  - vi. What are the ADA or state disability accommodation implications?

# How to Track Leave

- Payroll system?
- Leave management system?
- Excel spreadsheet?



# Harassment Prevention





## Historic Harassment Practices

- Training maybe
- Probably a written policy
- Maybe nothing at very small companies



# Modern Harassment Requirements



- Training required for some or all employees
  - ✓ Manager training
  - ✓ Employee training
- Formal written policy (either required or highly recommended)
- Reporting procedure
  - ✓ Multiple means of reporting issues
  - ✓ Anonymous reporting?
- Employer efforts should encourage:
  - ✓ Reporting (with anonymous option)
  - ✓ Leadership modeling
  - ✓ Training managers and staff
  - ✓ Emphasizing benefits over risks of reporting
  - ✓ Stressing zero tolerance for retaliatory behavior



# Handling Complaints

- Complaints may arise verbally or in writing
- If you receive an employee complaint of discrimination, harassment or retaliation, that complaint should be taken seriously and investigated fully and promptly
- Don't promise confidentiality
- Don't retaliate

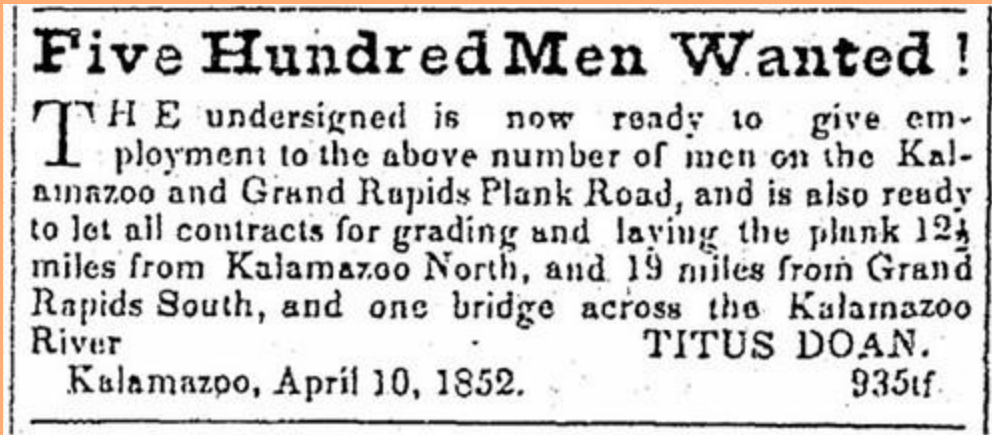
# Hiring



# Job Posting Complexity

## Old Job Ad

- The job
- How to apply
- Maybe pay range
- Posted often in print media





## New Job Ad

- Restrictions on criminal /credit history and related inquiries
- Ban the box
- Pay history
  - Restrictions on pay history inquiries
- Pay Range
  - May be required to post for applicants and/or employees
- Posting considerations



# Pay Transparency & Pay Equity: Compliance

- 
- 
- California, Washington, NYC, Colorado, & soon New York
  - About 25% of employers will need to adhere by the end of 2023
  - Increases number of applicants by 30 - 40%



# Pay Transparency & Pay Equity: Consequences

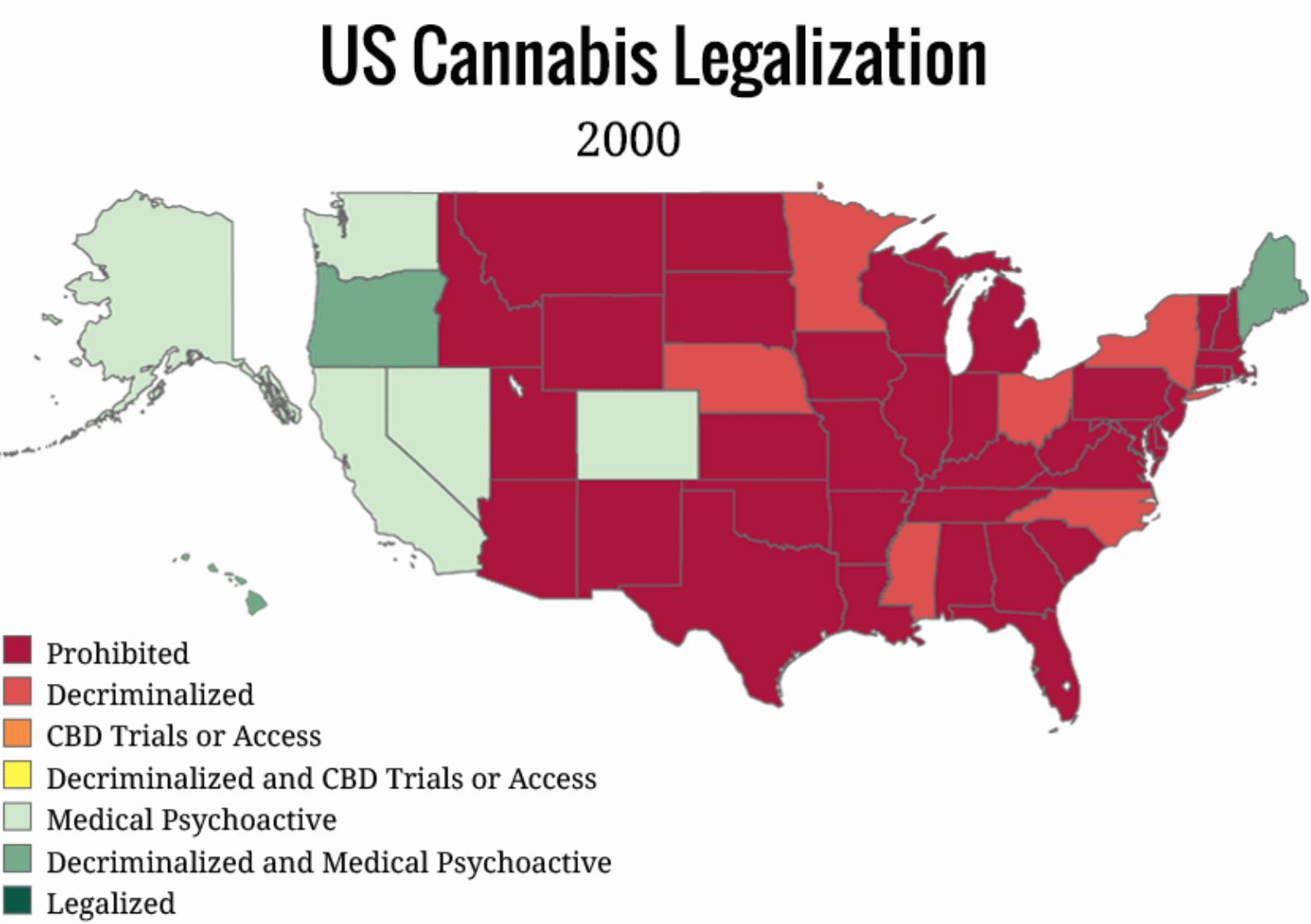
- The release of this information will cause conversation
- Pay equity issues are likely to rise to the surface as pay transparency becomes more common
- Washington, California, and New York have heavy-hitting pay equity laws



# Marijuana and Substance Abuse

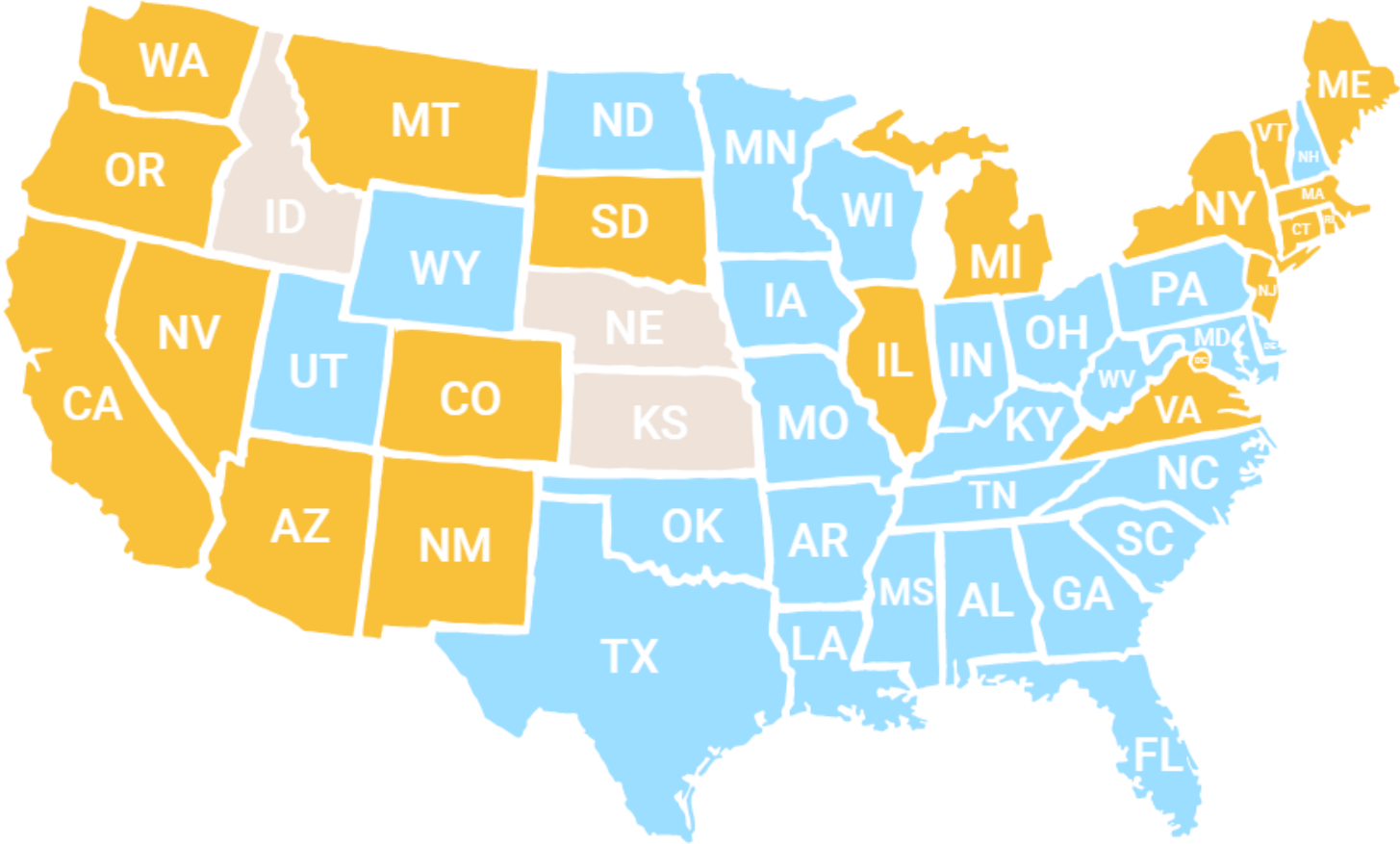


# US Cannabis Legislation in 2000





# US Cannabis Legislation in 2023



● **Medical**  
Hawaii (not shown)

● **Medical + Recreational**  
Alaska (not shown)



## What are “Other Substances”?

- Illicit drugs
- Prescription drugs
- Over-the-counter (OTC) medication
- Alcohol



# Termination





# Termination in the Past

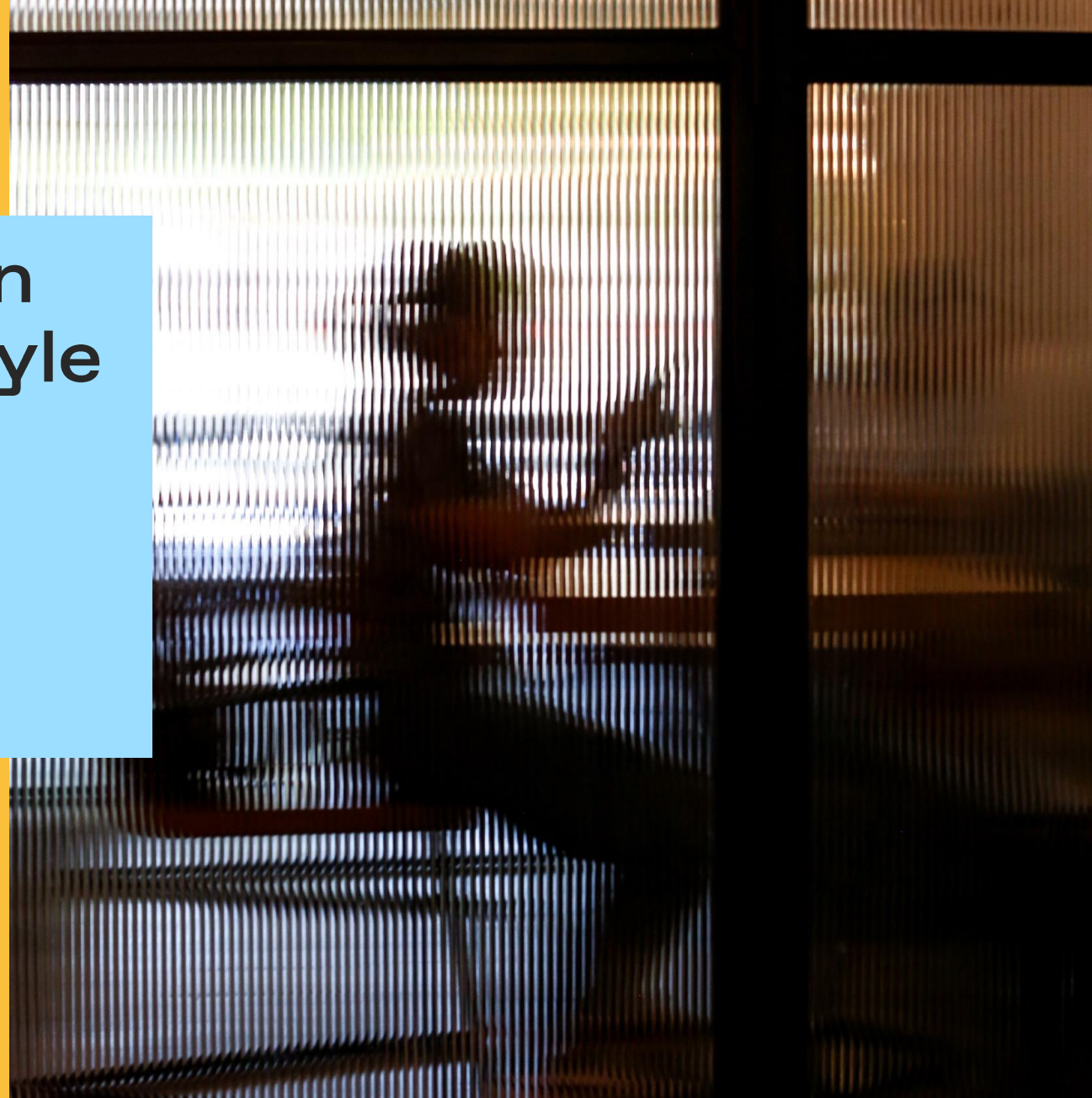
- Paycheck?
- Good reason, probably
- Equipment
- Bye


# Termination Considerations Today

- Does at-will apply (all states but Montana)
- Is there a contract or CBA?
- Is the decision well justified?
  - Consistent with past practices
  - Well documented
  - Not a surprise to the employee
- Layoff?
  - Layoff selection criteria
  - State or federal WARN Act
- Final Pay logistics
- Vacation/PTO payout obligations
- Equipment Recovery
- Safety and Security
  - Office control
  - Keycards and accounts
  - Physical safety and threat preparation
- Communications
  - Communication to employees
  - Public relations

# Aspects of a Termination That Never Go Out of Style

- Have a good reason
- Make sure it's well documented
- Make and stick to a plan
- Tell the truth and stick to facts





# Final Thoughts

# How Mineral Can Help



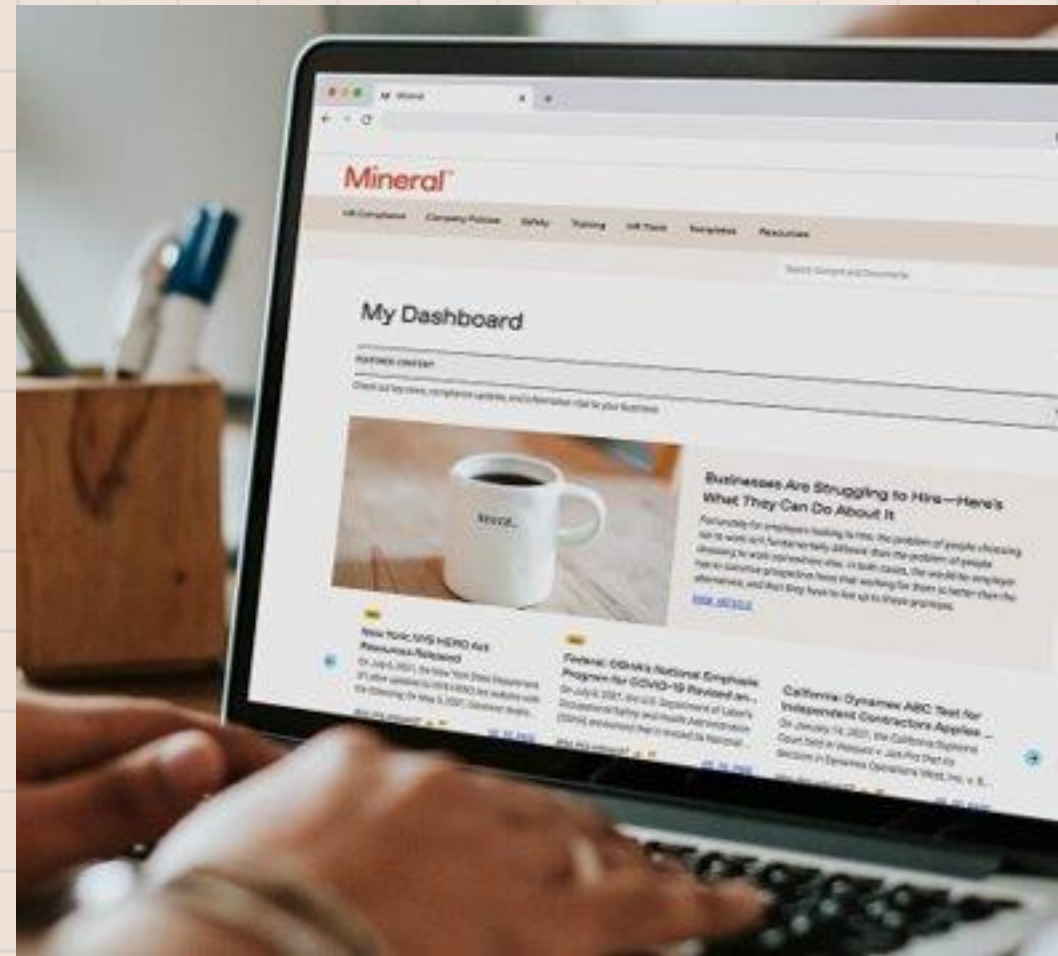


# Powerful solutions, all in one place.

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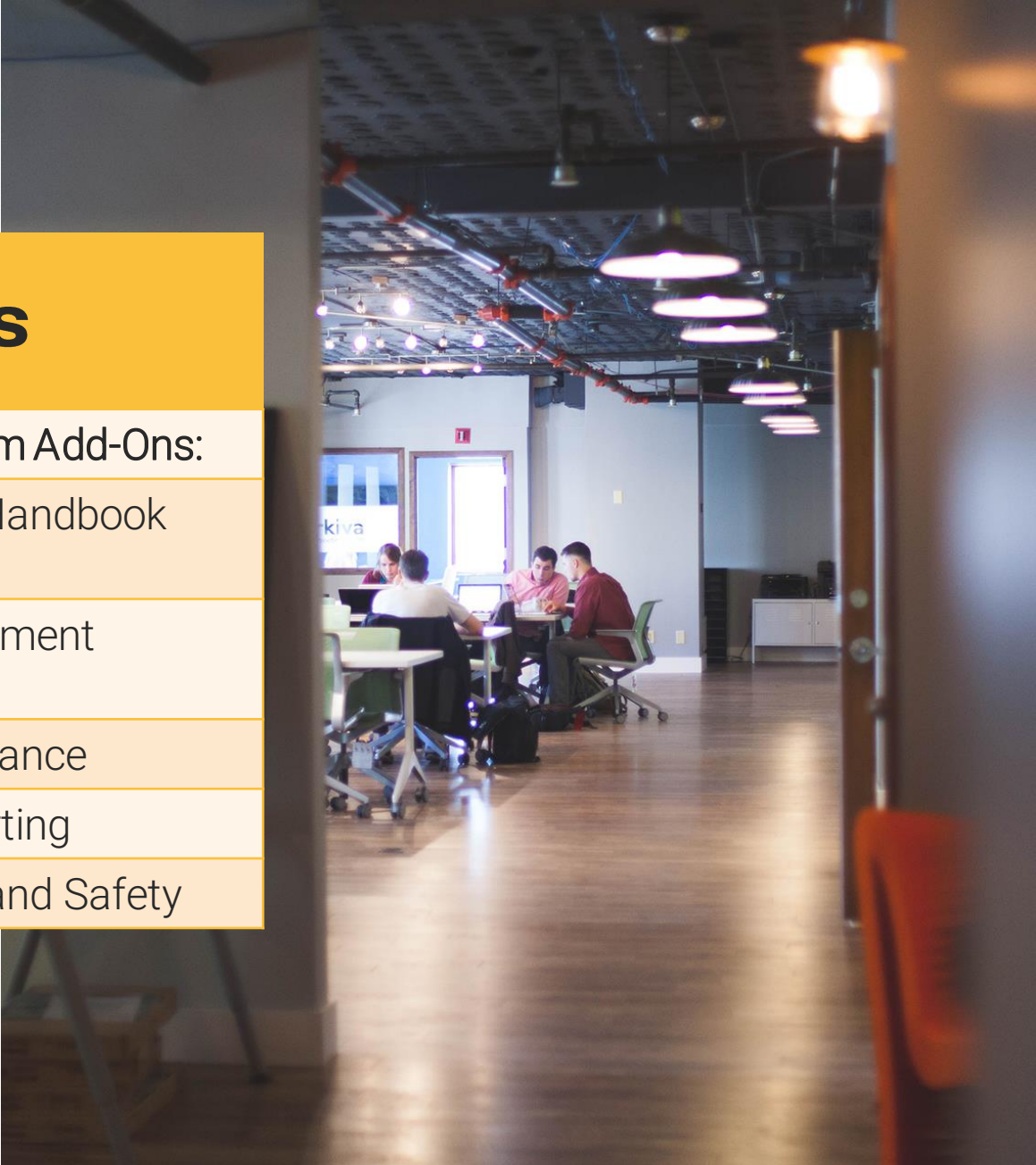
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# Your Mineral Solutions

You Likely Have Access to:	Additional Premium Add-Ons:
HR Compliance Library	Smart Employee Handbook Plus
Mineral Experts	Workplace Harassment Prevention
Mineral Intelligence	Guided HR Compliance
Smart Employee Handbook	Anonymous Reporting
Learn	Employee Health and Safety



# Everything you need, all in one platform.



## Enhance your handbook with **Smart Employee Handbook Plus**

Unlock additional employee handbook features, including multi-state coverage, employee e-signatures, and Spanish translation.



## Empower your employees with **Anonymous Reporting**

Manage and take action on reported incidents in a secure and timely manner, before they become larger issues.



## Protect your business with **Workplace Harassment Prevention**

Meet state-mandated harassment requirements with an expanded Learn catalog to ensure compliance.



## Create a safe workplace with **Employee Health and Safety**

Reduce potential hazards and accidents with expanded safety tools and resources, as well as personalized guidance from a certified Safety Expert.



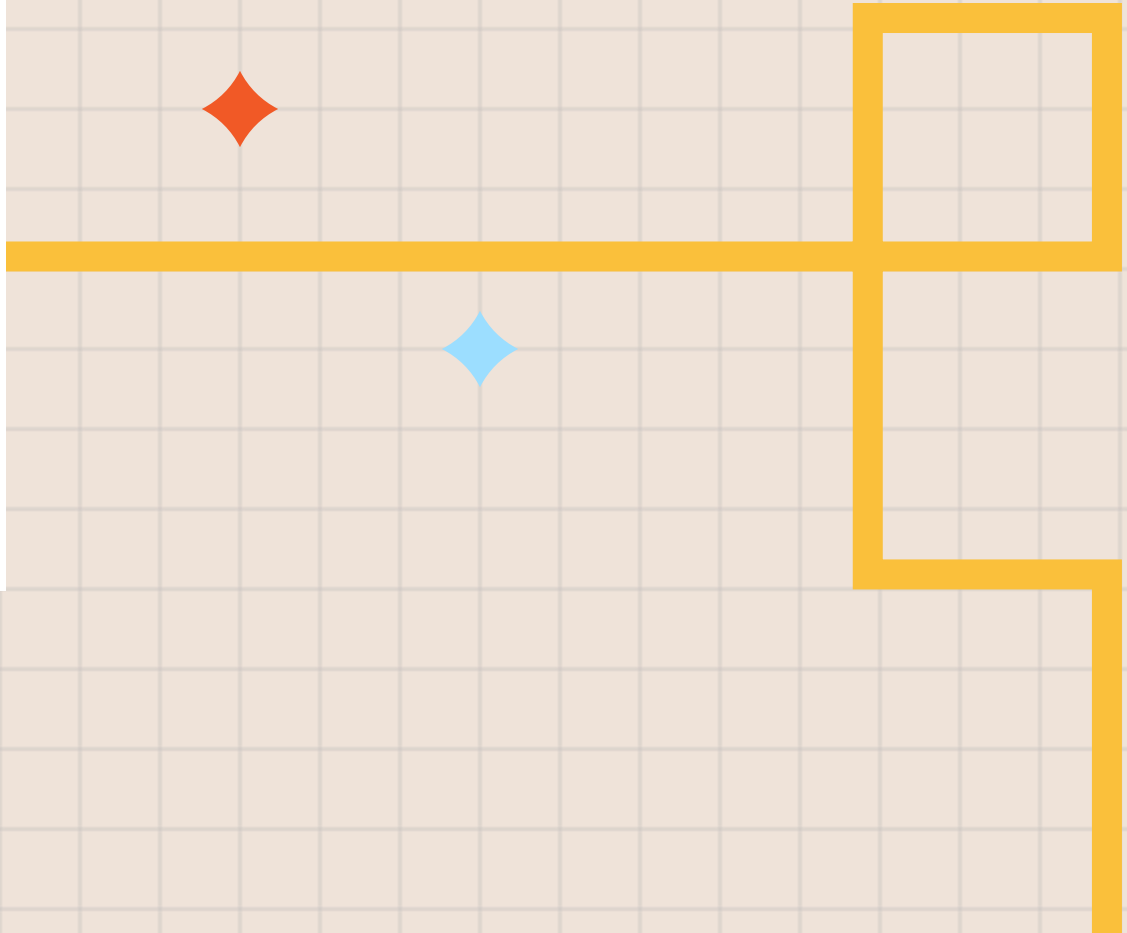
## Get dedicated HR support with **Guided HR Compliance**

Work with a dedicated Mineral Expert who understands your business, needs and goals for successful HR and compliance.

# Poll Question

Interested in Mineral Premium Solutions?

Q+A



**Thank you!**

