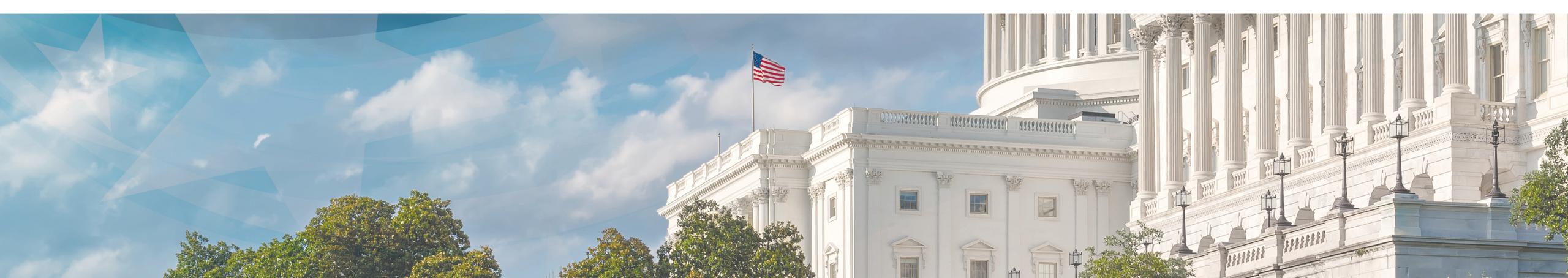


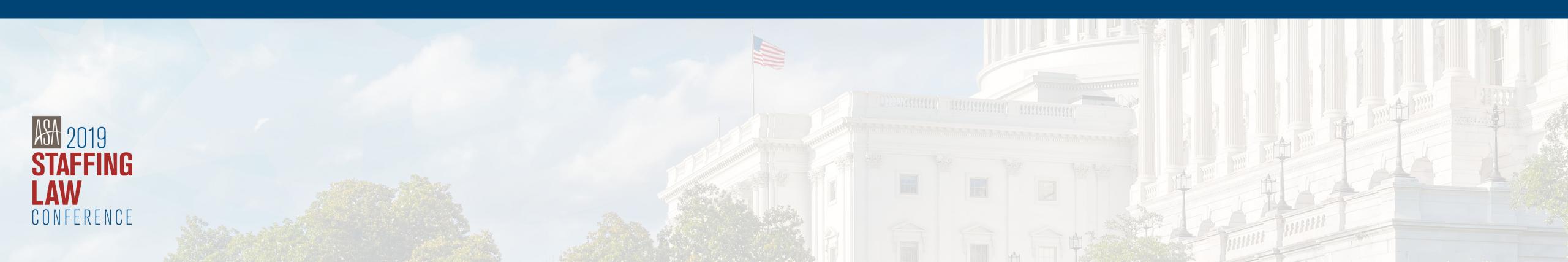
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WHEN LEGAL ISSUES MAKE IT EVEN HARDER TO HIRE AND RETAIN TALENT



When Legal Issues Make It Even Harder to Hire and Retain Talent

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The Staffing Company's Dilemma...

- The growing labor shortage makes it increasingly harder to fill orders
- Background checks exacerbate the problem
- Failing to do background checks creates a risk of negligent hiring claims
- Restrictions on the use of noncompete agreements make it tough to hang on to employees



Today's Key Topics

- Background checks, "ban the box," salary history bans
- Employer liability for the acts of temporary employees
- Noncompete agreements and restrictions on employee mobility
- Practical tips you can use to work your way through this



Ban the Box

- 34 states and more than 150 cities and counties have adopted ban-the-box laws preventing employers from asking about criminal history in job applications
- Practical tips
 - Review state, county, and city laws
 - Adopt a uniform policy



Background and Criminal History Checks

- There is continued regulation of the background check process in terms of what you can check for and what background check procedures you use
- Practical tips
 - Do not check until after a conditional job offer is made
 - Strictly follow Fair Credit Reporting Act procedural rules
 - Adhere to U.S. Equal Employment Opportunity Commission guidance
 - Conduct individualized assessments as required



Salary History Ban

- Salary history bans make it illegal to ask about a candidate's current or past salary
- Practical tips
 - Conduct state, county, and city review
 - Consider adopting one policy
 - Pay men and women equally for equal work
 - Document legitimate pay differences



Liability for the Acts of Temporary Employees

- Staffing firms may be liable for the acts of temporary employees under the legal doctrines of respondent superior and negligent hiring/retention
- Practical tips
 - Implement a background check policy
 - Conduct a risk assessment for each assignment
 - Make sure the background check is accurate and complete
 - Use a reputable vendor
 - Address problem employees in real time
 - Re-verify employees as appropriate



Noncompete Agreements and Nonsolicitation Agreements

- A well-crafted agreement can prevent unfair competition and provide important protections for your business
- Practical tips
 - One size does not fit all
 - Be reasonable
 - Use strong HR practices
 - Routinely review and update



Additional Tips

- Use arbitration agreements and class action waivers
- Establish tracking mechanisms
- Implement a compliance program
 - Policies and processes
 - Communications
 - Training
 - Auditing and monitoring

