

Are No-Poach Agreements Becoming Extinct?

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Agreements between companies who compete for employees have always been subject to antitrust scrutiny. But recently, “no-poach” agreements—i.e. agreements to not recruit or hire another party’s employees—have become the subject of a recent flurry of government enforcement actions and private class actions.

In this article, we discuss the types of no-poach covenants that are permissible, and the possible civil and criminal risks a company faces by entering into an impermissible no-poach agreement. We also discuss various alternatives to no-poach agreements that an employer can use to protect its workforce from competitor poaching.

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