



The Guardian



Helping to Protect You from Employment Law Claims

BOYLE, PECHARICH, CLINE, WHITTINGTON & STALLINGS, PLLC

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BEWARE OF DISCRIMINATION OVERSIGHTS

While most employers are familiar with the U.S. anti-discrimination laws, they commonly associate discrimination in general terms based on the applicant's or employee's age, race, gender, etc. However, even the most vigilant employers may unintentionally overlook specific aspects of these laws. Such oversight can lead to costly litigation. Here are some things you need to know:

1. Gender: It is important to remember that gender discrimination includes *stereotyping* based on gender. Avoid pre-judging a person's abilities based on gender-biased assumptions and generalizations when making employment decisions.
2. Race: This is one of the most common forms of workplace discrimination, but what is often overlooked is that it is also unlawful to discriminate based on a person's marriage to or association with someone of a particular race.
3. Age: Many employers are not aware that the Age Discrimination in Employment Act applies to people **40 years of age and older**.
4. Religion: Employers must reasonably accommodate an employee's religious practices, unless it causes undue hardship on the business. This may include allowing employees time off to attend religious services and allowing them to wear religious garb and/or symbols.
5. Disability: Employers cannot ask about a potential employee's disability during the hiring process. However, once a disabled person is hired, employers are required to make reasonable accommodations for the new hire once the employer is informed about or becomes aware of a disability that affects the employee's ability to perform his or her job. Under certain circumstances, an employer may also need to make reasonable accommodations in the hiring process.
6. Retaliation: It is illegal for employers to fire, demote or harass an employee who has made a harassment complaint or has participated in a harassment investigation.
7. Sexual Harassment: While many employers have a sexual harassment policy in place prohibiting harassment by co-employees and supervisors, many are unaware of the potential for employer liability resulting the unlawful acts of non-employees including clients, customers, delivery persons and independent contractors. When an employer becomes aware of any such conduct, the employer must take immediate corrective action.

But, did you know?

The new federal health care bill requires that employers provide nursing mothers, for a period of up to one year from their child's birth, with unpaid breaks to express milk for their babies. A private location (other than a bathroom) should be provided for this activity. Employers should develop and include a breastfeeding policy in their handbook. Employers with less than 50 employees are exempt if such a requirement would impose an undue hardship to the business.

If you would like to have someone added to our mailing list or want your name removed, please contact Bridget at 928-445-0122

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