The Alphabet Soup of Employment Laws: Is Your District in Compliance?

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ADEA: Age Discrimination Employment Act

- Applies to any employer with 20 or more employees
- Prohibits discrimination against individual who are 40 or over
- No reverse age discrimination
- Cannot take an adverse action against someone based upon the fact they are 40 or over
- Cannot subject someone to a hostile work environment based upon age
- WATCH for jokes, emails, banter, sarcasm, and decisions to hire, fire or discipline

ADA: Americans with Disabilities Act

- Applies to any employer with 15 or more employees
- Prohibits discrimination against individual with a disability
- “Disability” means:
  - physical or mental impairment that substantially limits one or more of the major life activities of an individual; or
  - a record of such an impairment; or
  - being regarded as having such an impairment.
- ADA also requires reasonable accommodations
- Adverse Employment Actions/Hostile Work Environment
CADA: Colorado Anti-Discrimination Act

- Applies to employers with 1 or more employees
- Prohibits discrimination in the workplace based upon disability, race, creed, color, sex, sexual orientation, religion, age, national origin or ancestry.
- Sexual orientation
- Married employees
- Reasonable accommodations for pregnant employees or applicants
FLSA: Fair Labor Standards Act

- Requires minimum wage and overtime be paid to all “non-exempt” employees
- Employees who meet various tests to be classified as an “exempt” employees are not entitled to overtime, but must be paid on a salary basis and a minimum salary of $455 per week.*
- Special rules for firefighters – “partially exempt”
FMLA: Family Medical Leave Act

- Applies to ALL governmental entities
- Employees eligible for leave only if work at a worksite with 50 or more employees
- Provides up to 12 weeks of unpaid leave for a serious health condition of self, spouse, immediate family, birth or adoption of a child, or to address issues relating to military deployment (military exigency leave") and up to 26 weeks of unpaid leave for military caregivers
- “Spouse” includes opposite-sex partners, same-sex partners, or partners married under common law.
- LOTS of regulations and deadlines
GINA: Genetic Information Non-Discrimination Act

- Applies to employers with 15 or more employees
- The act bars the use of genetic information in health insurance AND employment.
- It prohibits group health plans and health insurers from denying coverage to a healthy individual or charging that person higher premiums based solely on a genetic predisposition to developing a disease in the future.
- It bars employers from using individuals' genetic information when making hiring, firing, job placement, or promotion decisions

- Required for any employee hired after November 7, 1986
- MUST use correct form (new form required effective September 18th!)
- Errors in completing form may subject employer to penalties of $216-$2156 per mistake
- Affirmation of Legal Work Status Form no longer required in Colorado
Lawful Off-duty Activities Statute

- Cannot terminate an employee for lawful off-duty activities

- Three Exceptions:
  - Relates to a bona fide occupational requirement
  - Is "reasonably and rationally related" to the employment activities and responsibilities of a particular employee or a particular group of employees
  - Is necessary to avoid a conflict of interest with any responsibilities to the employer or the appearance of such a conflict of interest
Minimum Wage:

- Last November voters passed Amendment 70 to increase to Colorado’s minimum wage
- Effective January 1, 2017
- Employers must pay the new minimum wage of $9.30 per hour to any of its employees who are paid minimum wage
- Although the federal minimum wage is lower than the state minimum wage, the employer must pay the higher wage

- Previously minimum wage was adjusted annually for inflation as measured by the Consumer Price Index used for Colorado—not anymore!
- Now, minimum wage will increase 90 cents each year (until maximum wage reached)
  - 2017 $9.30
  - 2018 $10.20
  - 2019 $11.10
  - 2020 $12.00
- Ultimately minimum wage will be $12.00 in 2020.
NLRA: National Labor Relations Act

- Does not apply to political subdivisions
- Whew!
**SCA: Stored Communications Act**

- Prohibits unauthorized access to email stored at an email service provider
- Criminal statute with civil remedies
- Consent is key issue!
Title VII: Title VII of the Civil Rights Act of 1964

- Applies to employers with 15 or more employees
- Protects against discrimination based on sex, race, color, religion or national origin
- Also prohibits discrimination based on pregnancy and sexual harassment

- No discrimination against members due to past, current, or prospective military service
- Reasonable accommodation of injuries received while performing military service
- Preserves the employment status of service members
- Anti-retaliation provision
- Colorado law requirement that governmental entities provide up to 15 days per year of paid military leave
Questions?

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