HR Brief

Human Resources tips brought to you by
Deutsch & Associates, LLC

February 2015

DID YOU KNOW?

In December 2014, the U.S. Supreme Court ruled that companies that require workers to go through security screenings do not need to pay employees for the time they spend waiting in line.

In a unanimous decision, the Supreme Court held that an employee's time spent going through a security screening before leaving the workplace is not an integral and indispensable part of the employee's principal activities. Therefore, this time is not compensable under the Fair Labor Standards Act (FLSA).

The case was brought before the Supreme Court by Amazon employees who took action against a contracted security company responsible for screening workers at the end of their shifts.

DOJ to Allow Claims Based on Gender Identity Discrimination

On Dec. 18, 2014, the U.S. Department of Justice (DOJ) released an opinion allowing a worker to file a discrimination claim based on the individual's gender identity, including transgender status.

In a reversal of a previous finding, the DOJ decided that Title VII of the 1964 Civil Rights Act extends to discrimination claims based on an individual's gender identity, including transgender status. Title VII prohibits employers from discriminating on the basis of race, color, religion, sex or national origin when making employment decisions.

Gender identity is an individual's internal sense of being male or female. An individual's internal identification may or may not correspond to the individual's biological gender. Transgender individuals are people with a gender identity that is different from the sex assigned to them at birth.

The DOJ's authority to file discrimination lawsuits is limited to government employers. However, this announcement is significant because it further solidifies the federal government's position on gender identity rights, following a 2014 executive order and a 2012 ruling by the Equal Employment Opportunity Commission (EEOC) protecting gender identity.

The EEOC subsequently sued a Florida eye clinic and Michigan funeral home over the provision, in the first actions in its history challenging transgender discrimination under Title VII.

Employers can expect to see more individuals file claims based on gender identity discrimination, as well as increased federal support for employee protections against discrimination based on gender identity and sexual orientation.

Moreover, a more unified federal government position on this issue may influence courts and state governments to adopt similar positions when claims are filed against employers in the private sector.

Employers should continue to monitor the situation and review their employment policies to ensure that they are compliant with federal, state and local anti-discrimination regulations.

DNA Deutsch & Associates LLC

Employer-initiated Payroll Deductions

Employers are limited by state law in what they can withhold from employees' paychecks. Specific laws vary, but permissible deductions generally include:

- Withholdings authorized by law (such as federal and state income taxes)
- Court-ordered deductions (such as wage garnishments for child support)

Employees generally must approve other deductions from their paychecks. Examples of items employers may not be able to deduct, unless state law allows, include costs for:

- Unreturned company equipment
- Damaged company property
- Defective or faulty workmanship

To ensure that deductions that require consent are done properly, consider using a payroll deduction authorization form granting the employer power to withhold specific deductions from an employee's wages. Employers should also become familiar with laws concerning payroll deductions in their states.

© 2015 Zywave, Inc. All rights reserved