Employment Law Update – June 2018

HR TIP OF THE MONTH

New Jersey Paid Sick Leave – Yes, It's Really Here!

After piecemeal municipal laws by over a dozen towns in New Jersey over the past few years, the New Jersey State Legislature has passed the New Jersey Paid Sick Leave Law that covers all employers in the State of New Jersey, preempts all municipal paid sick leave ordinances and, to the surprise of some, provides all employees working in the State of New Jersey with job-protected leave for sickness and several other reasons. Do not assume your current sick leave policy is compliant. If you do not have a policy in place, it is time to start working on your policy. The law takes effect October 29, 2018. If you have any questions or if we can help, call Anthony Rainone at 973-364-8372 or Matthew Collins at 973-403-3151.

REGULATORY UPDATES

In a flurry of legislative activity in New Jersey and New York this year, several new laws have been recently adopted in each state. As a recap, here is a list:

- New Jersey's new Equal Pay Act, effective July 1, 2018, amends the New Jersey Law Against Discrimination ("LAD"). This new law provides significant new money damages and extends the statute of limitations for aggrieved employees of any protected characteristic (not just gender) who claim a pay disparity. The new law also places the burden on the employer to justify any pay disparity that exists. Also, expect several more employment laws to be signed into law in calendar year 2018 in New Jersey.
- New York State amended its Human Rights Law to impose liability against employers who fail to prevent harassment against non-employees (contractors, vendors, consultants, etc.) in the workplace.
- New York State now bars the use of mandatory arbitration clauses to resolve sexual harassment claims. This new law is effective July 11, 2018 although, in light of the U.S. Supreme Court's recent decision affirming the use of employee arbitration agreements, this law may be the subject of litigation in the future.
- New York State, effective July 11, 2018, will prohibit, with an exception in some cases, the use of confidentiality and non-disclosure agreements relating to sexual harassment claims. This new law is effective July 11, 2018.
- New York State will require employers to have a written anti-harassment policy as well as annual training. Although these two best practices have historically been recommended to employers, they will now be required by law in New York State, effective October 9, 2018. The New York State Department of Labor will be publishing model policies and training programs and your company should customize those policies to fit the workplace.
- Similarly, New York City amended the New York City Human Rights Law to require anti-harassment training to most employers, expand the coverage of the law against sexual harassment claims, and lengthen the statute of limitations for those claims. The mandatory training component of the law will take effect April 1, 2019.

- New York City also amended its own Earned Sick Time Act to provide additional job-protected leave for absences relating to family offenses, sexual abuse, stalking, and human trafficking – known as "safe" time. This law contains another amendment, effective July 18, 2018, to require employers to grant schedule changes (temporarily) two times per calendar year for leave reasons covered by the Earned Safe and Sick Time Act.
- New York City expanded the definition of sexual orientation and gender under the New York City Human Rights Law
- Finally, effective October 15, 2018, the New York City Human Rights Law will require that employers engage in a cooperative dialogue in response to employee requests for reasonable accommodations relating to religious, disability, pregnancy, childbirth or related conditions, or victims of domestic violence needs. The employer's decision must be put in writing setting forth the accommodations granted or denied.

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