

SUPERVISOR PITFALLS – AND HOW TO AVOID THEM

Robert W. Bower, Jr., Esq. | Norman, Hanson & DeTroy LLC | rbower@nhdlaw.com

Employment Law Updates 2016

Transgender Bathroom Rights

The Issue: In light of legislation passed in other states, there were questions as to whether employers must accommodate transgendered employees' preferences with respect to bathroom access. The EEOC weighed in on the question last month.

Legal Update: Discrimination based on transgender status is sex discrimination in violation of Title VII, which applies to all state and local government agencies in their capacity as employers. New EEOC guidance explains that denying a transgendered employee equal access to a common restroom corresponding to the employee's gender identity is sex discrimination. Employers cannot designate a single-user restroom for a transgender employee's exclusive use; supervisor or co-worker anxiety does not excuse a violation of the law; contrary state or local law is also not a defense.

Management Tip: Allow employees to use the bathroom they please, or make a single-user restroom available to all employees who might choose to use it.

Employee Wellness Programs

The Issue: EEOC issued new rules on Employee Wellness Programs.

Legal Update: Effective January 1, 2017, new rules apply to wellness programs that include disability-related inquiries and/or medical examinations, and clarify that such programs must be "voluntary" and include clear notice on what medical information the program requires. Further, programs can only offer "limited financial and other incentives" up to 30% of total cost of self-only health coverage.

Management Tip: Review and restructure wellness programs to ensure compliance with rules.

Wage & Hour – Overtime Rules

The Issue: Department of Labor updated rules on overtime pay thresholds.

Legal Update: Effective December 1, 2016, salaried workers must get overtime pay if they earn up to \$47,476 per year or \$913 per week. People making more than \$47,476 annually and who are managers, professionals and administrators will not have to be paid overtime. This update more than doubles the existing overtime pay threshold. Further, the rule requires that the threshold for exemption be automatically adjusted every three years.

Management Tip: Review payroll systems and, for affected employees, consider salary increase (if it will exempt the employee) or decrease (to accommodate for overtime eligibility).