

EMPLOYMENT LAW BRIEFING

Summer 2007

Contacting Employees: Do you have current contact information for employees? Most Employers record contact information when new employees are hired. Many handbooks include general references to the importance of "personal information." Too often, however, when you need to reach an employee, the contact information is out-of-date. As a result, decisions regarding employment actions may be delayed, if there is a no call/no show, or an employee does not call in to report during a leave of absence. Such situations can be limited by adopting a handbook provision requiring contact information to be kept current and utilizing a form designed for this purpose. Such a form can be periodically distributed for employees to review, update as needed, and return. Please contact our office for a sample form.

Noncompetition Agreements: Last month, Oregon's Governor signed legislation severely restricting Employers' use of noncompetition agreements. Under the new provisions, effective January 1, 2008, noncompete agreements with hourly employees will no longer be valid. Employees must be paid a salary, annually exceeding the median income for a family of four as determined by the U.S. Census Bureau (currently about \$61,000), and be exempt from overtime. An eligible employee must also receive a written employment offer, incorporating a notice that signing a noncompetition agreement will be a condition of employment, at least two weeks before the first day of employment. Such agreements may not restrict competition for more than two years.

Check Your Handbook: Most handbooks have language prohibiting sexual harassment in the workplace. In addition to well-crafted sexual harassment policies, the handbook should also set standards for employees' communications and address harassment based on protected classes other than sex. Please contact our office for sample policy language or for assistance with handbook review and revision.

Safety Incentives: The use of safety incentive programs is on the rise. Motivating employees to be more conscious of workplace safety is a positive step, but the path taken may be problematic for the Employer. A common, and perilous, approach involves a bonus when there are no reportable on-the-job injuries among a designated group of employees during a prescribed period. If employees are penalized for being injured, the Employer may face liability for discrimination based upon utilization of the Workers' Compensation system. Such an approach also creates a *disincentive* for promptly reporting injuries. Delayed reporting may lead to delayed treatment and possible worsening of the injury's severity. The failure to promptly report an injury is also likely to be contrary to other policy provisions. Ideally, a safety incentive program should focus on behavior; rewarding employees for compliance with safety rules and not for avoiding, or failing to report, workplace injuries.

Best Practice Tip: To help protect the privacy of your employees, avoid using social security numbers to identify employees for employment-related programs such as drug testing.

Please contact our office if you have questions about the material in this newsletter, or other employment law compliance concerns.

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