


The Changing Rules and Continuing Challenges of Employment Practices

The Changing Rules and Continuing Challenges of Employment Practices

Presented by:
Frank Musica
Senior Risk Management Attorney
Victor O. Schinnerer & Company, Inc.

Agenda

- Hiring Issues
- Management Issues
- Discharge Issues
- Conclusion and Q&A




Hiring Issues

Staffing in a complex and litigious work environment

The Changing Rules and Continuing Challenges of Employment Practices

Hiring Issues


- Background Checks
 - Finding out about past employment
 - Questions about civil lawsuits and criminal arrests and convictions
- Web Searches
 - Obtaining access and passwords
 - Assessing family/spousal/significant other status
 - Determining age
 - Other dangers of "knowing"



Hiring Issues

Issues from Outside the Office


- Visible tattoos and body piercings
- Tobacco use
- Legal/illegal use of marijuana
- Carrying a legal lethal weapon
- Political or advocacy efforts or support
- Participation in dangerous activities



Hiring Issues

Improper Questions that Influence Hiring

- Health status or physical ability
- Alcohol or drug use
- Pregnancy or intent to become pregnant
- Religion as it affects working hours
- Lifestyle issues
- Military service or problems



The Changing Rules and Continuing Challenges of Employment Practices

Management Issues

**Managing an increasingly
diverse and demonstrative
workforce**

Management Issues

- Wage and Hours Issues
- Family and Medical Leave Act
 - Inference of Discouragement
 - Questions about Reasons
- Threats of Workplace Violence
 - Bullying
 - Weapons in the workplace



Management Issues


- Same-Sex Spouses or Partners
- Transgendered Accommodations
 - Self-identification
 - Transitioning Issues
- Substance Abuse
 - Alcoholism
 - Drugs (legal and illegal)



The Changing Rules and Continuing Challenges of Employment Practices


Management Issues

- Personal, Political or Religious Freedoms
 - Clothing and grooming rules or reactions
 - Physical appearance
- Preservation of Firm and Client Confidentiality
 - Restrictions on cellphones and cameras
 - Ban on discussions of work activities



Management Issues

- Discrimination Against Protected Class
 - By firm
 - Because of client actions or preferences
- Sexual or Other Harassment
 - By colleagues
 - By clients
 - In work situations outside the office




Discharge Issues

Firms must properly terminate employment

The Changing Rules and Continuing Challenges of Employment Practices

Discharge Issues

- Valid and Illegal Motives
 - Age discrimination
 - Other protected classes
 - Change in needed employee skills
 - Documentation of performance or financial analysis of job function
- Ability to negotiate waiver of possible legal rights



Online Resources

www.Schinnerer.com/AERiskmanagement

You can view or download claim studies, risk management information, contract language and commentaries including Employment Practices Liability Management Advisory publications.

