



Sexual Orientation and Gender Identity Discrimination

The Department Labor (DOL) recently issued regulations implementing Executive Order 13672 (E.O. 13672), which prohibits employment discrimination based on gender identity or based on sexual orientation with respect to employees of federal contractors and subcontractors with contracts valued in excess of \$10,000 in a 12-month period.

Also, the U.S. Equal Employment Opportunity Commission (EEOC) and federal courts consider discrimination on the basis of an applicant or employee's non-conformity with gender norms (e.g., transgender persons or "cross-dressers") to be a form of prohibited gender discrimination under Title VII. Thus, both the DOL regulations and the applicable EEOC regulations prohibit discrimination on the basis of gender non-conformity. The difference between the two sets of regulations is that the DOL regulations applicable to federal contractors and subcontractors prohibit discrimination based on both sexual orientation and gender non-conformity, while the EEOC regulations prohibit discrimination based on gender non-conformity, but do not prohibit discrimination based on sexual orientation.

E.O. 13672 and the related DOL regulations apply only to federal contractors and subcontractors, while employers with 15 or more employees are covered by Title VII, and are subject to enforcement by the EEOC.

Employers should update their nondiscrimination and equal employment opportunity policies and practices. For more information and guidance on this topic, please contact a member of our Labor and Employment Law Practice Group.

Please contact a member of our Labor & Employment Law Practice Group at (419) 249-7100.

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