



Human Resource Leadership for Improved Profitability

STRATEGIC WORKPLACE SOLUTIONS, LLC

The Lighthouse Report

JULY 2008

Legal Update: Status of GINA

FIND THESE LINKS ON OUR WEBSITE:

US Dept. of Labor

EEOC

NC Dept. of Labor

IRS

WNC HRA

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SWS News 4

In our last issue, we indicated that the Genetic Information Nondiscrimination Act (GINA) passed in both houses. On Wednesday, May 21, President Bush signed GINA into law. The new law, which has been called "the first civil rights law of the 21st Century," would prohibit discrimination against individuals on the basis of their genetic information in both employment and health care. The employment provisions of GINA become effective in November 2009 and the provisions pertaining to group health plans become effective in May 2009. So, you have plenty of time to get more information regarding how this law will apply to your organization.

GINA will prohibit an employer from discriminating against an individual in the hiring, firing, compensation, terms, or privileges of employment on the basis of genetic information of the individual or family member of the individual.

GINA identifies restrictions on the collection of genetic information and the circumstances under which genetic monitor-

ing and/or testing can take place. It will prohibit an insured or self-insured health care plan, from denying eligibility to enroll for health care coverage or from adjusting premium or contribution rates under a plan based on an individual or family member's genetic information.

GINA will allow plan participants to receive injunctive relief under the Employee Retirement Income Security Act (ERISA) and have health care coverage reinstated back to the date of loss of coverage. Plan administrators could be personally liable for discriminating in coverage decisions.

GINA requires that the disclosure of protected genetic health care information would be governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The law would also provide participants with injunctive and equitable relief for violations of the confidentiality provisions of GINA.

Source: SHRM

Scam Alert for NC Employers

The Secretary of State's Office has discovered an apparent attempt to defraud North Carolina businesses. The "National Companies Register Corporation" is mailing "Important Final Notices" to North Carolina businesses in an effort to collect \$487.00 on the premise that businesses are required to nationally register under the Patriot Act of 2001.

This notice contains elements of the North Carolina Seal and the website is capable of directing you to the North Carolina Secretary of State's corporate search webpage. **Be assured, no such governmental national registry exists.**

Source: NC Secretary of State Website

Other Breaking HR Legal News

ADA Update: "On Wednesday, June 25, the House overwhelmingly approved legislation supported by SHRM that would amend the ADA to address several Supreme Court decisions. These decisions were interpreted to limit the definition of "disability" under the ADA, and therefore, the scope of the law's protections.

The compromise proposal, entitled the "ADA Amendments Act of 2008" (H.R. 3195), was the product of successful negotiations involving SHRM, employer organizations (such as the U.S. Chamber and the National Association of Manufacturers) and disability advocacy groups.

H.R. 3195 was developed to be an alternative to the "ADA Restoration Act," which SHRM and other groups have opposed because it would have undermined the intent and effectiveness of the original ADA by broadening the definition of "disability" to include minor and temporary conditions.

The bill now moves to the Senate, where it is expected to be considered later this summer." We will keep you posted regarding its status.

On June 16, 2008, the USCIS released a **newly-dated I-9 form**. There is no change in the content.

Due to the Paperwork Reduction Act, the Office of Management and Budget (OMB) must have current expiration dates on all approved forms, including the I-9. We recommend that you begin using the new form now.

If you would like us to email the current form to you as a pdf attachment, just send an email to: carol@strategic-workplace-solutions.com with "request I-9" in the subject line.

Source for both updates: SHRM

What is Employment-At-Will?

The employment-at-will doctrine is a long-standing employment concept that supports the voluntary nature of the employment relationship. It states that an individual and an employer enter into a working relationship voluntarily and that either can end it at any time. If a company wants to have an employment-at-will relationship with its employees, it is important to have a specific written policy. In addition, all documents and human resource practices must be consistent with the policy.

The primary purpose of maintaining an employment-at-will relationship is to avoid challenges to termination decisions. At-Will is not the same as "Right to Work," which is related to union workplaces. It can't be used to violate existing laws.

How to Avoid these Challenges

- Do not give supervisors the authority to change the employment-at-will relationship with any employee. Let employees know that supervisors do not have this authority.
- Be careful not to imply any guarantee of employment. Make sure that you do not offer promises of any kind. Avoid language such as "permanent position," "permanent employee," "sufficient grounds for termination," "long and rewarding career," etc.
- Avoid language that invites a challenge to a termination, such as might be found in handbook sections describing discipline or termination or on an employment application.
- Do not utilize a probationary period, which implies job security during and/or after its completion.

If you would like a sample EAW policy, just send us an email with "request EAW" in the subject line.

Planning your Employee Handbook

Like every other management project you undertake, sound advance planning for your employee handbook will help ensure efficient use of the time and resources needed to complete the project. Consider the five topics briefly described below before you begin.

GOALS

The first step in planning your handbook is to decide on the publication's goals. Exactly what purposes are to be served by the handbook? The answers to this question will dictate the organization, tone, overall length, and design.

WRITING STYLES

The main purpose of any employee handbook is communication. You want your employees to read and understand the information you present. A good handbook is concise and easy to read. What is the proper tone for your handbook? What writing style are your employees most likely to respond to in a positive way? Only you know the answers to these questions.

FORMAT

Your choice of format for your handbook will involve questions of production costs and anticipated need for updates and changes. More and more organizations are putting their handbooks online. This saves the cost of publication and ensures that the handbook is always current. If you choose this approach, you must be sure that all of your employees have easy access to the online site.

There are three primary approaches for print handbooks, and each one has advantages and disadvantages for you to consider before proceeding with the design. The three most common print formats include: a complete booklet with a stapled or stitched binding, a folder with inside pockets containing loose pages or individual booklets, and a loose leaf binder that allows for easy insertion of additional pages.

DESIGN

The design of the handbook is a significant factor in creating a positive impression of your organization.

Your handbook makes a statement about your company, and by implication, a statement about how your organization values its employees. Consider other publications issued by your company and the impression they create.

Items to consider when designing your handbook are: overall layout, use of color and graphics, how to highlight important policies, and budget. (Online, of course, allows for the most creativity at the lowest cost.)

DISTRIBUTION

Your distribution method can help you make the handbook an effective management tool. The usual process involves distribution to all current employees when the handbook is initially issued, distribution to all new employees when they start their employment with the company, and distribution of updates and changes to all employees as they are issued.

Depending on the size and number of your facilities, you can distribute the hard copy handbooks personally, via departmental or work group meetings, through your inter-office mail process, or through the mail to the employees' homes. Whatever method you select, ensure that all employees actually receive the handbook and significant updates by including a form that acknowledges receipt of the handbook and all revisions. Keep a copy of the signed handbook acknowledgement in the employee file.

If you are posting your handbook online, you will want to notify current employees when it is first posted, new employees when they start their employment with the company, and whenever there is an update. As with the hard copy handbook, require a signed acknowledgement .

"Like every other management project you undertake, sound advance planning for your employee handbook will help ensure efficient use of the time and resources needed to complete the project."

By Carol Rovello



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**The right human resource decision today
improves your profitability tomorrow.**

SWS helps organizations to:

- Improve individual and organizational performance
- Identify and resolve HR/OD challenges
- Build effective leaders and teams
- Utilize HR metrics for improved accountability



Strategic Workplace Solutions News

In April, Cheryl Johnson and Carol Rovello assisted the Center for Diversity Education with its strategic planning process. Cheryl facilitated the business focus group and Carol moderated the focus group session. The CDE received valuable input for incorporation into its strategic plan.

In June, we welcomed new clients Cheshire Fitness and Racquet Club, East Asheville Family Health Care, and the NC Department of Insurance. We look forward to working with them.

On June 19th, Barbara Morrow facilitated a lunch & learn program for Olsten Staffing clients. The topic, "Total Reward Strategies to Attract, Motivate, and Retain Good Employees in a Competitive Labor Market," was timely and informative.

Strategic Workplace Solutions offers small companies an introductory HR Assessment. Do you want to develop human resource practices and documents that better support your operations and protect your investments? Contact our office or visit our website for more information about this service.



Enjoy the season!