GRAYDON HEAD

HR Matters

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Who You Gonna Test? OSHA recently released guidance regarding post-accident drug testing. OSHA opposes blanket post-accident drug testing because the agency believes mandatory drug tests can discourage employees from reporting a safety violation. The agency recommends limiting drug testing to incidents where there is a reasonable possibility that drug use contributed to the reported incident and the drug testing measures impairment and not just use. The guidance does not affect post-accident testing done by an employer to comply with federal regulations or testing permitted by state specific workers' compensation laws. Employers are concerned that the new rule is solely based on how workers perceive a drug test and not an employer's intent. Employers are encouraged to review their policies to assess when and how drug tests are conducted. Although the guidance establishes the standard for how OSHA will evaluate post-accident testing, it's still unclear what will happen when and if employers challenge OSHA's new direction.

The EEOC Finds Religion. Last week, the EEOC announced its plan to better educate employees about religious discrimination. The agency published a one-page fact sheet which informs workers about religious accommodations and provides examples of religious discrimination. The EEOC will also collect more detailed information about the religion of the employees who file religious discrimination claims. The EEOC will team up with the Office of Federal Contract Compliance Programs, which enforces the ban on religious discrimination by federal subcontractors, to develop joint-outreach and education about religious discrimination. With the EEOC's increased focus on religious discrimination, employers should review the fact sheet and ensure that your policies and practices are compliant.

NLRB Persuader Rule Revisions Blocked. The DOL's Persuader Rule requires employers and consultants report any arrangement to persuade employees, either directly or indirectly, regarding the right to organize or bargain collectively. The new provisions were set to go into effect on July 1, 2016. But days before the Persuader Rule was to take effect, a Texas federal judge issued a nationwide injunction barring the U.S. Department of Labor from enforcing the Rule. This will not be the last we hear of the Persuader Rule. We will continue to monitor the court proceedings and inform you if anything changes.

EEOC's Proposal Requires Pay Data Disclosure Part II. Earlier this month, the EEOC updated its January 2016 proposal to expand pay data collection from federal contractors and other

employers with more than 100 workers. Information on the original proposal can be found here. In the updated proposal, the EEOC moved the date for the EEO-1 report from September 30, 2017 to March 31, 2018. This change simplifies the transition to the new reporting requirements because employers can use existing W-2 pay reports and they now have 18 months to comply with the new rule. The updated proposal comes with a new 30-day comment period which ends on August 15, 2016.

Employee Benefits

Check out the latest from our employee benefits-focused blog, Benefits InSight.

Get Ready For It…The Department of Labor To Hike Up Penalties

Forms 1094/1095 - IRS Updates Guidance for Electronic Filers

What to do if an Employee Contacts you Claiming that her 1095-C is Incorrect

What to do if you Received a Marketplace Notice

Graydon Engaged

Be sure to check out our attorneys on the presentation circuit, where we offer educational seminars and training on a variety of HR topics. Here's where we will be:

FLSA Overtime Rules Seminar - A Comprehensive Review
August 5, 2016 | 8:00 a.m. - 12:00 p.m. | Xavier University - Cintas Center

FLSA – New Overtime Rules for Non-Profits
August 16, 2016 | 8:00 a.m. - 9:30 a.m. | Interact for Health

FLSA – New Overtime Rules
August 25, 2016 | 8:00 a.m. - 9:30 a.m. | AC Hotel Cincinnati at Liberty Center

FLSA – New Overtime Rules for Non-Profits
August 31, 2016 | 8:00 a.m. - 9:30 a.m. | Michael J. Colligan Lodge

Leading Age Ohio 2016 Conference | Cyber Security: Coming Soon to an Organization Near You
September 8 | 8:00 - 9:30 a.m.

FLSA – New Overtime Rules
September 14, 2016 | 8:00 a.m. - 10:00 a.m. | Ohio Means Jobs - Butler County

Cybersecurity Business Leaders Forum: Adapting to the Evolving Challenges Posed by Financially Motivated Cyber Adversaries
September 19 | 2:30 - 7:00 p.m. | Manor House | 7440 Mason Montgomery Road

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HR Matters is a joint publication of the Graydon Head & Ritchey LLP Labor & Employment Client Service Department and Employee Benefits and Executive Compensation Practice Group. For more information, please visit www.graydonhead.com.