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NEW YORK

EMPLOYMENT LAW LETTER

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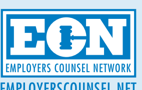

WAGE AND HOUR LAW

Going biggie with a French manicure: new regs, wage increases lurk

by Angelo D. Catalano
Coughlin & Gerhart, LLP

New York Governor Andrew Cuomo is making it a habit to increase the minimum wage on an ad hoc basis. Earlier this year, we reported on minimum wage increases approved for tipped workers (see "State to raise minimum cash wage for tipped workers at end of 2015" on pg. 1 of our March issue). Last month, Governor Cuomo instructed the New York State Department of Labor (NYSDOL) to empanel a Wage Board to review and recommend possible minimum wage increases for fast-food workers. At about the same time, the governor also created a task force to review working conditions for nail salon employees. This industry-specific focus appears to be the governor's piecemeal approach to increasing the minimum wage and creating new regulations for certain industries.

Fast-food workers

Citing President Franklin D. Roosevelt, Governor Cuomo authored an op-ed in the *New York Times* on May 7, 2015, in which he argues that fast-food workers are not earning wages that provide a decent living. While he notes that the fast-food industry may be thriving, the governor believes that fast-food workers don't earn enough money to stay out of poverty. To combat that perceived economic inequity (which coincides with organized labor's efforts to organize fast-food workers), Cuomo instructed New York's acting labor commissioner to appoint a Wage Board to investigate and recommend an increase in the minimum wage for fast-food employees.

New York's Minimum Wage Act empowers the commissioner to investigate wages being paid in specific jobs and industries and appoint a Wage Board that will "ascertain whether the minimum wages established [under the Act] are sufficient to provide adequate maintenance and to protect the health of the persons employed in such occupation." The board is composed of three members, each representing a different interest. Buffalo Mayor Byron Brown will represent the public's interests. Kevin Ryan, chairman and founder of Gilt, MongoDB, Business Insider, and Zola and vice chairman of the Partnership for New York City, will represent businesses' interests. Mike Fisherman, secretary-treasurer of the Service Employees International Union (SEIU), will represent labor's interests.

Within 45 days of its members' appointment (unless its term is extended), the board is required to conduct public hearings and submit to the commissioner a report that includes its findings and recommendations regarding minimum wages and regulations. The board can alter its recommendations

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AGENCY ACTION

2016 H-1B visa cap reached. U.S. Citizenship and Immigration Services (USCIS) announced on April 7, 2015, that it had reached the congressionally mandated H-1B visa cap for fiscal year 2016. USCIS also announced that it had received more than the limit of 20,000 H-1B petitions filed under the U.S. advanced degree exemption. The agency will use a computer-generated process to randomly select the petitions needed to meet the caps of 65,000 visas for the general category and 20,000 for the advanced degree exemption. USCIS said it first would randomly select petitions for the advanced degree exemption. All unselected advanced degree petitions then will become part of the random selection process for the 65,000 general limit. Filing fees are to be returned for all unselected cap-subject petitions that aren't duplicate filings.

OSHA updates guidance protecting healthcare workers. The Occupational Safety and Health Administration (OSHA) has updated its "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers." In announcing the update, the agency said healthcare and social service workers are almost four times as likely to be injured as a result of violence as the average private-sector worker. The publication, available at www.osha.gov/Publications/osha3148.pdf, includes industry best practices and highlights the most effective ways to reduce the risk of violence in various healthcare and social service settings.

EEOC fills seats on harassment task force. The Equal Employment Opportunity Commission (EEOC) has announced the membership of its EEOC Select Task Force on the Study of Harassment in the Workplace. The formation of the task force was announced in January. The panel will examine the problem of workplace harassment in all of its forms and look for ways it might be prevented and addressed, according to the EEOC announcement. EEOC Commissioners Chai R. Feldblum and Victoria A. Lipnic will both chair the panel. The task force is made up of 16 members from around the country, including representatives of academia and social science, legal practitioners on both the employee side and the employer side, employers and employee advocacy groups, organized labor, and others.

OSHA renews alliance to protect airline ground personnel. OSHA has renewed its alliance with the Airline Ground Safety Panel to provide information and training resources to members, ground crew unions and contract firms, and workers. The alliance will address worker injuries that occur during operation of ground support equipment; use of seat belts; new and emerging hazards; slips, trips, and falls; ergonomic hazards; extreme temperatures; and understanding the rights and responsibilities of workers and employers under the law. ✤

based on localities—a bifurcated rate may play into Governor Cuomo's recent proposal to raise the minimum wage in New York City by one dollar more than the rest of the state. The board's recommendations are approved if a majority votes in favor of them.

After the report has been received and filed by the labor commissioner and after the period for objections has expired, the board's recommendations as approved by the commissioner become effective and binding *without* legislative approval.

This is the second time in less than a year that the NYSDOL has empaneled a Wage Board. In July 2014, a Wage Board was convened and recommended wage increases for food-service workers and other tipped employees. Those recommended rates, which take effect December 31, 2015, will raise the minimum wage for tipped employees from the current range of $4.90 to $5.65 an hour to a new minimum wage of $7.50 an hour.

Nail salon workers

Governor Cuomo's second initiative comes in the wake of a *New York Times* investigation of nail salons. The governor's emergency measures start with a multiagency task force that will conduct an investigation and institute new rules and regulations.

The changes most apparent to nail salon customers will be the protective clothing and equipment that will be used by nail salon employees. Manicurists may be required to wear and use protective gear when they handle certain dangerous chemicals and substances. A New York State Department of Health study will formalize the regulations after examining the most effective and safest industrial practices.

Because many nail salon employees are believed to be immigrants who may not be aware of American wage and hour laws, the new initiative also seeks to educate employees about their rights. The governor is seeking to ensure that all nail salon workers understand that they cannot be required to pay to work and they are entitled to be paid for all work they perform, regardless of their immigration status. To that end, salons will also be required to post notices about employee rights in several languages, and the licensing exam will be available in more languages.

The governor believes that fast-food workers don't earn enough money to stay out of poverty.

Because of a concern that many employers in the industry are intentionally shielding their assets when they're faced with exposure for unpaid wages, fines, and penalties arising out of wage and hour claims, the task force will examine the need for new legislation and regulations that would require all employers to be bonded to ensure they have sufficient assets to cover any liability for adjudicated violations.

Bottom line

These new industry-specific initiatives affecting wages and working conditions across large segments of industry are here to stay. Such initiatives illustrate how employer liability can be created without the passage of a new law. Consult with qualified legal counsel to keep abreast of any changes affecting your industry.

The author can be reached at acatalano@cglawoffices.com or 607-723-9511. ✤

LEGISLATION

New York moves closer to amending its equal pay law

by Edward O. Sweeney
Coughlin & Gerhart, LLP

New York's Senate and Assembly have recently passed bills amending New York's law prohibiting pay disparities based on sex. The bills contain measures that narrow equal pay exceptions, prohibit employers from restricting employees' discussion of salary information, and increase the penalties for violations. The assembly bill would further extend equal pay rights to members of racial and national origin groups.

Proposed changes

As an equal pay state, New York is one of many states that require employers to adhere to the "equal pay for equal work" maxim. As presently enacted, New York Labor Law § 194 directs employers to pay employees of the opposite sex the same wage for work performed under similar working conditions and requiring "equal skill, effort, and responsibilities." Limited exceptions to the equal pay rule require an employer to show that a pay differential is based on:

(1) A seniority system;

(2) A merit system;

(3) A system that measures earnings by quantity or quality of production; or

(4) Any factor other than sex.

Employers found to have violated Section 194 may be liable for back pay and/or wage supplement awards, liquidated damages, attorneys' fees and costs, and even criminal penalties.

New York's Fair Pay Act, which passed the New York Senate on January 12, 2015, and the New York Assembly on April 27, 2015, would amend Section 194 by replacing the "any factor other than sex" exception with a "bona fide factor other than sex" exception. A bona fide factor could include "education, training or experience" and must be work-related and "consistent with business necessity." The bills also add a "geographic region" exception that could allow employees working in different parts of the state to be paid differently.

The assembly and senate bills would make it unlawful for an employer to prohibit employees from sharing salary information with one another. The penalties under both bills allow for triple damages in addition to the penalties currently in place. The assembly version goes further than the senate's bill by covering discrimination based on race and national origin in addition to sex under Section 194.

Bottom line

The amendments to New York's current equal pay statute will not become law until they're signed by Governor Andrew Cuomo. Because claims under the federal Equal Pay Act and New York state's Labor Law are on the rise, we encourage you to review your pay practices and be prepared to defend your pay decisions as compliant with federal and state law.

Regardless of whether the amendments become law, you should also review your handbooks and policies to ensure they don't prohibit employees from sharing salary information. The prohibition proposed in the bills is consistent with National Labor Relations Board (NLRB) decisions declaring similar restrictions unlawful.

It's wise to consult with qualified legal counsel to review your pay policies and to investigate and defend any equal pay claims filed against your company.

The author can be reached at esweeney@cglawoffices.com or 607-723-9511. ✤

REASONABLE ACCOMMODATIONS

Workplace accommodations must be effective, not perfect

by Zachary D. Morahan
Coughlin & Gerhart, LLP

The U.S. Court of Appeals for the 2nd Circuit (whose rulings are controlling in New York) recently issued a decision that focused on what constitutes a reasonable accommodation for an employee with a disability. The 2nd Circuit's decision clarifies that an employer need only provide a reasonable accommodation that is "effective," not necessarily the "perfect" accommodation or even the one requested by the employee.

Background

Alfred Noll, a deaf software engineer, has been employed by IBM since the mid-1980s. He alleged that IBM violated the Americans with Disabilities Act (ADA) and the New York State Human Rights Law (NYSHRL) by failing to reasonably accommodate his deafness because it wouldn't caption all videos and provide transcripts for video and audio files hosted on the corporate intranet.

WORKPLACE TRENDS

Survey shows illegal interview questions common. Twenty percent of hiring managers participating in a CareerBuilder survey indicated they have asked a question in a job interview only to find out later that it was illegal to ask. More than 2,100 hiring and HR managers across industries participated in the nationwide survey conducted online from November 4 to December 2, 2014. Here are some of the questions interviewers admitted to asking: What is your religious affiliation? Are you pregnant? What is your political affiliation? What is your race, color, or ethnicity? How old are you? Are you disabled? Are you married? Do you have children or plan to? Are you in debt? Do you drink socially or smoke?

Poll indicates workers not worried that robots will take jobs. Sixty-three percent of workers responding to an international poll from careers website Monster believe their jobs will never be replaced by automation such as computers and robots. An additional 10% think it will take more than 10 years for automation to do their job. Despite those beliefs, a 2013 study from Oxford University argues that 47% of today's jobs in the United States could be automated in the next two decades. Forty percent of German respondents believe automation already is able to do their jobs. Workers in India are the most confident in their job security, with 67% answering that they don't think automation will ever be able to do their entire job. Sixty-two percent of U.S. respondents believe it will never happen.

Survey reports heartening news for new grads. A new survey from CareerBuilder shows 65% of employers say they plan to hire recent college graduates this year, up from 57% last year and the highest outlook since 2007. One-third will offer higher pay than last year, and one in four will pay $50,000 or more. The news isn't all good for new grads, however. "One in five employers feel colleges do not adequately prepare students with crucial workplace competencies, including soft skills and real-world experience that might be gained through things like internships," said Rosemary Haefner, chief HR officer at CareerBuilder. "Jobseekers with a good mix of both technical and soft skills will have the best prospects right out of college." Demand for students with business and technical majors has typically been high among employers, and this year is no exception, with 38% of employers naming business as the most sought-after major. The other top in-demand majors are computer and information sciences, engineering, math and statistics, and health professions and related clinical sciences. ✤

To maintain a claim under the ADA or the NYSHRL, an employee must show that (1) he is a person with a disability under the meaning of the statutes, (2) an employer covered by the statutes had notice of his disability, (3) he could perform the essential functions of the job at issue with or without reasonable accommodations, and (4) the employer refused to make the reasonable accommodations.

The only issue in this case was whether IBM refused to provide reasonable accommodations to Noll. The record showed that IBM provided several accommodations to assist him in completing his work, including on-site and remote American Sign Language interpreters and real-time translation and transcription services. As a result, the district court held that IBM reasonably accommodated him.

Effective, not perfect

On appeal, the 2nd Circuit noted that reasonable accommodations may take many forms, but they must be effective. Employers aren't required to provide a perfect accommodation or the accommodation preferred by the employee. Effectiveness is all that's required.

In providing guidance on the interpretation of "effective," the 2nd Circuit held that the law requires an accommodation that will work, not the one that is most effective for each employee. Giving weight to the extensive accommodations IBM had provided and Noll's ability to complete the tasks of his job, the 2nd Circuit affirmed the district court's dismissal of the case on summary judgment. *Noll v. IBM Corp.,* Doc. No. 13-4096-cv (2nd Cir., May 21, 2015).

You need not provide the specific accommodation requested by an employee.

Takeaways

Most of you understand that you must engage in the interactive process with a disabled employee who requests an accommodation. However, some employers are confused about what type of accommodations must be provided, especially when an employee threatens litigation over the alleged failure to provide the accommodation he wants. This case demonstrates that you need not provide the specific accommodation requested by an employee. You only have to provide an effective accommodation to assist a disabled employee in completing his job.

Under the ADA and the NYSHRL, the accommodation analysis is an individualized inquiry that may take into account the availability of other accommodations that will "get the job done" as well as the cost and impact the requested accommodation may have on the business. The analysis can be tricky and nuanced. As a result, you should consult with qualified legal counsel when you are asked to comply with an accommodation request under the ADA or the NYSHRL.

The author may be reached at zmorahan@cglawoffices.com or 607-723-9511. ✤

WORKPLACE ISSUES

Stress at work: defining the line between motivation and an abusive workplace

In the movie Glengarry Glen Ross, Blake is a trainer sent by corporate to motivate a sales team. In addition to offering helpful gems like the acronym ABC to remind the salesmen that they should "always be closing," he repeatedly berates them and calls them names while bragging about his own success. He tells the team about a new sales competition that week: First place gets a Cadillac, second place gets a set of steak knives, and third place gets fired.

We hope you have never had a boss like Blake, but it's likely that you recognize shades of his character in past managers, coworkers, or even a current manager in your organization. You want managers to push employees to do good work and get the best results for the company, but it can be hard to know how far is too far. During his "motivational" speech, Blake asks one salesman, "You think this is abuse?" As it turns out, it just might be, and this could be a new frontier in employee claims.

You've got me feeling emotions

When an employee suffers a physical injury, a doctor can run tests and use predetermined standards to assign a numerical value to the impact of the injury. But employees claiming to have suffered a mental injury because of working conditions have had little luck getting remuneration. According to Lea B. Vaughn, a law professor at the University of Washington, scientific advancements in the tests that reveal stress as well as a shift in the way we look at psychology could soon offer employees grounds for emotional-distress-type claims against employers.

Vaughn notes that while the introductory study of psychology at universities used to focus on Freud, they have moved on to biochemistry and neuroscience. "Increasingly, science is giving us a different definition of pain and abuse and ways to measure it and prove it is happening," she says. "Neuroscience provides a data set that proves chronic stress and abuse significantly harm the human organism." Tests such as EEGs, MEGs, QEEGs, and fMRIs can provide that data set by looking at the function of the brain.

Despite the tests' usefulness in measuring stress, Vaughn warns that they could lead to a type of false positive in employment cases. For instance, most employees won't have a baseline test that measures the effects of stress on their bodies before they started working for you. So when they get the test done as part of a lawsuit, it could be hard to tell whether the results are proving stress that happened at work or whether the stress is from a bad marriage or carried from an abusive childhood.

Not all stress is created equal

You may be thinking to yourself, "If employees can sue us for the stress caused by an abusive workplace, can we sue them for inflicting emotional stress on our managers who have to deal with their bad excuses and missed deadlines?" Probably not. Part of the scientific definition of stress is that the person must not feel in control of the stressor. The greater the loss of control, the more severe the stress is perceived to be. So even if an employee is in a high-stress position, it's not the same if she has control over subordinates or her work. Conversely, an employee could be in a position that isn't considered very high-stress but could experience stress because of a controlling supervisor.

It's important to note that not all stress is bad. Mild amounts help teach and motivate us, but the stress response in the body is designed so a person can operate at top performance for short bursts. Extended periods of stress cause a cortisol overload, which damages neurons in the brain, diminishing memory, hurting motor skills, disrupting the immune system, and damaging the nervous system.

As this area of employment law is explored, one of the biggest questions that must be answered is, "What is the good part of stress, and where does it cross the line to dysfunctional?"

Bottom line

While there may not be a standard claim for workplace stress yet, an abusive workplace can play a significant part in many other types of employment law claims like discrimination, wrongful discharge, and harassment. Often, all you need is your HR experience and a gut reaction to know when a manager's behavior crosses the line between motivation and abuse, and you should step in to help the manager find another way to inspire employees. ✤

UNION ACTIVITY

Union withdraws election petition for Boeing plant. The International Association of Machinists & Aerospace Workers (IAM) announced on April 17, 2015, that it had withdrawn its petition with the National Labor Relations Board (NLRB) for an April 22 union election at the Boeing Company in North Charleston, South Carolina. The decision pushes the date for a subsequent election forward by at least six months. The union announced that it made the decision after IAM organizers conducted home visits with more than 1,700 Boeing workers. "After speaking with Boeing workers who we were previously unable to reach, we've determined now is not the right time for an election," said lead IAM organizer Mike Evans. "An atmosphere of threats, harassment and unprecedented political interference has intimidated workers to the point we don't believe a free and fair election is possible."

UAW reports climbing membership. The United Auto Workers (UAW) announced on March 31 that its membership in 2014 grew by more than 12,000 members. The union's report to the U.S. Department of Labor (DOL) shows membership at 403,466 in 2014, compared to 391,415 in 2013. It was the fifth straight year of membership growth. The union statement said the increase comes as Ford, General Motors, and FCA US (formerly Chrysler) are healthier than in recent years, and UAW members are seeing the results of 2011 contract negotiations that included more jobs, insourcing, and plant investments.

Graduate student employee union contract ratified. The UAW announced in April the ratification of the contract with New York University (NYU) covering more than 1,200 graduate employees, members of the Graduate Student Organizing Committee-UAW Local 2110. The graduate employees perform various functions for the university, including teaching and research. NYU is the only private university in the country with a unionized graduate employee workforce. It became the first private university to recognize a union in 2000, but it withdrew recognition in 2005. The UAW represents more than 45,000 academic workers across the country, including graduate employees at the University of Massachusetts, the University of Connecticut, the University of Washington, the University of California, and California State University.

Union opposes privatizing grain inspections. The president of the American Federation of Government Employees (AFGE) in April urged Congress not to privatize grain inspections. Some have called for privatizing the mandatory weighing and inspection of grain exported from the United States. That work currently is done by federal civilian employees with the U.S. Department of Agriculture's (USDA) Federal Grain Inspection Service (FGIS). ✤

REASONABLE ACCOMMODATIONS

6th Circuit delivers new precedent on telecommuting as accommodation

In an 8-5 decision, the U.S. 6th Circuit Court of Appeals has revisited and reversed its prior decision in a case addressing telecommuting as a reasonable accommodation under the Americans with Disabilities Act (ADA). The case, which involved a former Ford Motor Company employee, may provide persuasive precedent to courts in other federal circuits.

Background

Jane Harris worked for Ford as a steel resale buyer, a position that required her to act as an intermediary between the company's steel suppliers and its parts manufacturers. According to Ford, this work requires a significant amount of teamwork, face time, and unpredictable meetings.

Unfortunately, Harris suffers from irritable bowel syndrome, and her worsening condition began to interfere with her ability to do her job, leaving her unable to drive to work or stand up from her desk on particularly symptomatic days. Harris began to take intermittent Family and Medical Leave Act (FMLA) leave on the most severe days, but these absences began to affect her job performance.

To address the attendance and performance problems, Harris' supervisor agreed to allow her to work on a flex-time schedule and telecommute as needed on a trial basis. Because her work hours were still too irregular and inconsistent, her performance continued to suffer, and this arrangement was abandoned.

Harris then submitted a formal request to telecommute on an as-needed basis, up to four days per week, as a reasonable accommodation. This request was denied because Ford needed her to operate on a set schedule and be able to report to the worksite if and as needed, neither of which she could agree to do. At this time, Harris was offered alternative accommodations, including a cubicle closer to the restroom or a transfer to a position more suitable for telecommuting, but she rejected the alternatives. Her performance continued to decline, and she was eventually discharged.

6th Circuit overturns lower court . . .

The Equal Employment Opportunity Commission (EEOC) filed suit on Harris' behalf, arguing that Ford had violated the ADA by refusing to provide a reasonable accommodation for her disability. The case was dismissed by a lower court, which held that telecommuting four days a week wasn't a reasonable accommodation under the ADA.

On appeal, a panel of three 6th Circuit judges overturned that dismissal because Ford had been unable to show that

physical attendance at the workplace and face-to-face interaction were essential functions of Harris' job.

. . . and then takes a U-turn

On April 10, 2015, the 6th Circuit reheard the appeal *en banc,* which means the entire appeals court heard the case. This time, the majority found that Harris' "regular and predictable on-site attendance" *was* an essential function of her job. From that, the court found that requiring Ford to permit Harris to telecommute "as needed" for as much as 80 percent of her work schedule would remove one of the essential functions of her job (something that isn't considered a *reasonable* accommodation).

In fact—and of significant interest to other employers—the court noted that "*most* jobs would be fundamentally altered if regular and predictable on-site attendance [were] removed" from the essential functions.

Although the EEOC had argued that technological advances have made telecommuting a more viable option for reasonable accommodations, the court noted the agency had still been unable to demonstrate that said technology would enable the essential functions of *Harris'* particular job to be performed remotely. The court also pointed out that Harris *had* been allowed to telecommute on a trial basis but that her performance had continued to suffer and she had been unable to perform several of the primary functions of her job.

The dissent argued that the question of whether Harris' telecommuting proposal was reasonable was a question of fact that should have been left for a jury to decide. *EEOC v. Ford Motor Co.,* No. 12-2484.

Bottom line

It's important to note that the 6th Circuit's opinion in this case certainly doesn't rule out telecommuting as a reasonable accommodation in *all* cases. However, the precedent that "most jobs would be fundamentally altered" if the employee couldn't deliver some measure of regular, predictable on-site attendance may be persuasive to other courts and beneficial to employers.

It's true that the constant stream of technological advances has cleared the way for telecommuting as a reasonable accommodation for many workers and many job functions, but that still doesn't mean *all* positions can or should be performed remotely—not yet, at least.

Overall, this case highlights the importance of complete and accurate job descriptions that clearly represent the essential functions of a job. If an employee's job can't be accomplished outside the physical work location or core business hours, that fact should be clearly reflected in the job description and employment practices and consistently applied to all workers in comparable roles. ✤

DRESS CODES

Yes, you can regulate it, but should you?

Starbucks has been in the news for controversial amendments to its dress code. The amendments include, among other things, a ban on engagement rings. Starbucks' new policy permits nose piercings and tattoos, but it prohibits "bright and unnatural" hair color. Employers frequently have questions about imposing policies like the one implemented by Starbucks. Generally, the response is yes, you can regulate employee conduct. But should you?

What are the restrictions?

As a general rule, employment policies are considered "content-neutral." Therefore, employers have broad discretion to implement policies that serve their needs. However, there are some limitations. As all employers know, there are some policies you are legally required to have—for example, a policy governing the Family and Medical Leave Act (FMLA). There are some policies that are highly recommended (e.g., antiharassment policies) because they provide legal cover in the event an employee complains about harassment but fails to report the alleged misconduct to the employer.

The real question is whether employers truly benefit from imposing additional restrictions on employees' appearance.

In addition, some policies are prohibited. For example, employers cannot ban employees from discussing their wages and salaries because that conduct is protected by the National Labor Relations Act (NLRA). Employers are also limited in their ability to impose policies that have a disparate impact on protected classes. For example, background check policies are frequently attacked as having a disparate impact on minorities and women. Therefore, background checks may be used in hiring and promotion decisions only if they are narrowly tailored to be "job-related and consistent with business necessity."

Other considerations

With some exceptions, policies on employee appearance generally do not have an adverse impact on minorities, and if they do, that is a topic for another article. The real question is whether employers truly benefit from imposing additional restrictions on employees' appearance. The answer, of course, depends on a variety of factors. Most employers consider a basic dress code necessary for the operation of the business; employees

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wearing skimpy clothing or shirts with offensive words are undoubtedly disruptive to the workplace.

But what happens when employers go a step further and restrict jewelry, hair color, and less-offensive methods of expression? In certain circumstances, those restrictions may be necessary. However, in many work environments, there is little to no customer contact or employees serve a broad cross-section of people, some of whom engage in the same methods of self-expression the employer is prohibiting. In those situations, restrictions can be unnecessary to the success of the business and may negatively affect employee morale. Employees may identify deeply with their hair color, clothing choices, and (particularly) engagement rings. Restricting those aspects of employees' appearance can alienate them and undermine workforce cohesion.

Bottom line

Employers frequently consider the positive aspects of company dress codes, including a professional appearance. However, they frequently overlook the other effects of dress codes, including a loss of employee morale and workforce cohesion. Keep those considerations in mind, and think twice about imposing restrictive personnel policies that have no *demonstrated* relationship to the success of the business. While such policies are generally legal, they may have adverse effects on your workforce that you do not anticipate. ✤

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Editorial inquiries should be directed to Charles H. Kaplan, ckaplan@sillscummis.com, or Paul Sweeney, psweeney@cglawoffices.com.

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