

For Your Info

Sexual Harassment in Massachusetts

Massachusetts and many other states have issued guidelines to assist employers, employees and others in understanding what is sexual harassment. Specifically, Chapter 151B "encourages" employers to conduct training programs for all employees, including supervisors and managers. The guidelines state "in claims alleging sexual harassment, an employer's commitment to providing anti-harassment training to its workforce may be a factor in determining liability or the appropriate remedy." Simply, the use of training will reduce the risk that an employer may be liable for punitive damages. Massachusetts law requires employers with six or more employees to adopt and distribute a written policy against sexual harassment. Contact us and we will research your state's law for free!

Independent Contractors in Massachusetts

In April of 2005, the Massachusetts Attorney General's office issued a statement regarding a change in the Independent Contractor Law. In short, employers need to be careful with how work arrangements are crafted. Here is a summary of the advisory statement issued by the Massachusetts Attorney General's office:

Independent contractor status will be more difficult to establish in Massachusetts. The recent amendments make it more difficult for employers. Penalties for non-compliance are also greater. The statute has 3 components related to the classification of independent contractors.

The individual must be:

- 1. free from control and direction in the execution of his/her job*
- 2. perform a service outside the usual course of business of the employer, and*
- 3. routinely work in an independently established trade, occupation, profession or business*

Each of these factors must be met for an individual to be considered an "independent contractor." Since this is a relatively new state law, many of us are curious on how this will affect employers in Massachusetts and how strictly it will be enforced.

We are handling more and more Affirmative Action Plans (AAPs) for clients. We have a seasoned AAP expert who can easily handle most plans in less than 30 hours! Call us for more details. If you use September 1st data, you can also use this data for your EEO-1 reports!

(continued on page 2)

What if one of your employees files for bankruptcy? How does it affect their benefits?

On April 20, 2005 President Bush signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCA). This new law creates rules designed to prevent what many thought were abuses of former bankruptcy laws, specifically allowing consumers to walk away from a pile of debts by filing Chapter 7. How does BAPCA affect your employees?

When notified that an employee has filed for bankruptcy, know the following:

- Retirement funds continue to be protected from creditors if an employee has filed for bankruptcy. The 401k and 403b plans fall under this protection.
- Retirement funds held in an IRA are also protected up to \$1,000,000.
- Loans from these plans are not dischargeable in bankruptcy as long as the plan is ERISA-qualified.

(continued from page 1)

Technology Tools and Remote Employees

Our workforce has become increasingly mobile and flexible. Remote workers are becoming increasingly common. With employees located at different sites across the world, how does a company effectively communicate with their employees? Here are some tools that can improve communications with remote employees:

WebX (webx.com) – Several of our clients use WebX for web conferencing, video conferencing and online meeting services.

Groupware – a catch-all term for a number of solutions

Knowledgeware – a shared database that lets members store and share info (e.g., spreadsheets, project plans)

Whiteboards – an electronic replication of the white board that we use in conference rooms

Group scheduling – an online calendar/schedule that can be shared with other team members

A useful website – www.jala.com – lots of information about remote and telecommuting workers.

Conference calls with remote employees can be a challenge. Here are some tips that we have found useful:

- ask remote and onsite participants to announce themselves before they speak
- tie a balloon or flag to the telephone to remind onsite participants that there are remote callers on the line
- take the extra step to engage remote callers (e.g., "Jack, did you have any additional thoughts on this timeline?")
- try to keep the meeting focused, brief and use an agenda -- long conference calls for remote callers tend to drag on