Engage PEO Client Alert:

Colorado: Equal Pay Act, and Paid Sick Leave

Colorado Equal Pay Act

In May 2019 the Colorado legislature passed Senate Bill 19-085, also known as the Equal Pay for Equal Work Act. This Act, which is scheduled to go into effect January 1, 2021, will impose many new restrictions on employers when making employment decisions such as hiring, promotions, and determining salary levels for its employees.

Determining Salary Levels and Pay Rates

The Equal Pay for Equal Work Act prohibits discrepancies in pay based on sex. It stipulates a limited number of reasons that a discrepancy in pay among different sexes would be permitted when employees are performing substantially similar work, regardless of job title.

These reasons include:

- a seniority system;
- a merit system;
- a system that measures earnings by quantity or quality of production;
- the geographic location where the work is performed;
- education, training, or experience to the extent they are reasonably related to the work in question; or
- travel, if the travel is a regular and necessary condition of the work performed.

Inquiring as to Prior Pay Rate and Retaliation

Additionally, employers will be prohibited from engaging in the following activities:

- Seeking the wage rate history of a prospective employee or requiring disclosure of wage rate as a condition of employment;
- Relying on a prior wage rate to determine a wage rate;
- Discriminating or retaliating against a prospective employee for failing to disclose the employee's wage rate history;
- Discharging or retaliating against an employee for actions by an employee asserting the rights established by the act against an employer; or
- Discharging, disciplining, discriminating against, or otherwise interfering with an employee for inquiring about, disclosing, or discussing the employee's wage rate.

Promotions and Advancement

The Act also imposes a duty on employers to announce advancement opportunities and job openings internally, and must also disclose the pay range for each position. Employers will be required to make reasonable efforts to inform employees of internal job openings and promotions on the same day that it is posted and prior to making a hiring decision.

Furthermore, the pay range and a description of benefits and any other compensation associated with the position must be included on all job postings, both internally and externally.

Recordkeeping Requirements

Employers must also retain a job description and wage rate history for each employee during their entire period of employment and for two (2) years following separation. Failing to maintain these records could result in a presumption that the employer has violated the law unless the employer can otherwise prove that it did not.

Penalties

If an employer is found to have violated any of the transparency in pay or advancement provisions, it could be fined between $500 and $10,000 per violation.

Colorado Paid Sick Leave

Earlier this year, Colorado legislature passed the Healthy Families and Workplaces Act (HFWA) which imposes new sick leave obligations on employers. **Engage previously issued an alert informing clients of some of those key provisions, which can be accessed here.**

As a reminder, starting January 1, 2021, Colorado employers with 16 or more employees are required to offer paid sick leave to all employees at a rate of 1 hour of sick leave for every 30 hours worked, up to a maximum of 48 hours annually. Starting January 1, 2022 this requirement will apply to all Colorado employers, regardless of size. T**his law does not impose additional obligations on Colorado employers who already offer other forms of paid leave which complies with the accrual, usage, and carryover provisions of the HFWA.**

Nevertheless, Colorado **employers are encouraged to update their paid leave policies** to ensure compliance with this law.

- **A sample accrual based paid sick leave policy** has been provided **here.**
- **A sample front-loaded based paid sick leave policy** can be accessed **here**.

Employers should consider which method they would like to use to provide leave, and add the corresponding policy to the employee handbook as an addendum.

In addition, **employers are required to display or distribute a poster** relating to the benefits and entitlements under the HFWA. **An updated copy of that poster can be found here**.

Employers can visit this link for more information on paid sick leave obligations under the HFWA.

If you have any questions, please contact your Engage HR Consultant.