Engage PEO Client Alert - Colorado

Colorado Updates and Reminders for 2022

What's New: Employers must pay out unused vacation time upon separation of employment. Gender expression and identity are protected classes. All CO employers must provide paid sick leave.

Colorado Supreme Court Has Confirmed Employers' Obligation to Cash Out Vacation Time

Earlier this year, the Colorado Supreme Court in *Nieto v. Clark's Market* confirmed an employer's obligation to pay out accrued but unused Vacation time upon separation of employment. This decision upholds deliberate changes by the Colorado legislature to the Colorado Wage Act to include "Vacation Pay" in the definition of wages. Under the new rules, the revised definition of vacation pay includes pay that is "earned and determinable in accordance with the terms of any agreement" and states specifically that policies which require a forfeiture of accrued Vacation time (such as "use it or lose it" policies) are prohibited.

Gender Expression and Gender Identity are Considered Protected Classes

The Colorado Anti-Discrimination Act (CADA) has been amended this year to include gender expression and gender identity as protected categories under the Colorado Anti-Discrimination Act. Colorado employers are encouraged to review their anti-discrimination policies, job descriptions, and job applications to include gender expression and gender identity in their EEO language.

Reminder: Colorado Healthy Families and Workplaces Act (HFWA) will apply to ALL Colorado Employers effective January 1, 2022.

For the last year, paid sick leave has been mandatory for Colorado employers with 16 or more employees under the HFWA, which requires employers to allow paid sick leave to accrue for all employees at the rate of 1 hour of sick leave for every 30 hours worked up to a maximum of 48 hours per year (or 80 hours per year if a public health emergency has been declared. Previous client alerts on the HFWA can be viewed here and here.

Effective January 1, 2022, paid sick leave under the HFWA will be mandatory for all Colorado employers with at least 1 employee.

Please contact your Human Resources Consultant with any questions about your current practices, including vacation payout, anti-discrimination policies, and paid sick leave.