Engage PEO Client Alert: Florida

Unlawful Employment Practices Regarding Discrimination Training

What's New: Effective July 1, Florida employers are prohibited from subjecting employees to training, instruction, or other required activities that promote, advance, or compel employees to believe certain concepts constitute discrimination based on race, color, sex, or national origin.

Why It Matters: Employers are not prohibited from providing or requiring diversity, equity, and inclusion training that complies with the law. However, Florida employers with 15 or more employees that fail to comply with the new law put themselves at risk of claims of unlawful employment discrimination filed by employees seeking monetary damages and attorneys' fees.

What Employers Should Do: Florida employers should familiarize themselves with this new law, review current policies and training programs on diversity, equity, and inclusion for compliance, and implement or update policies regarding training and instruction to comply with the law.

The Florida Civil Rights Act (FCRA) protects Florida employees from discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. Governor Ron DeSantis signed House Bill 7 which creates a new prohibition based on discrimination under the FCRA that establishes Florida's ban on employers requiring training that promotes the idea that certain concepts constitute discrimination.

As a result, it is unlawful to subject an employee to required training as a condition of employment that promotes, supports, or compels them to believe:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.
2. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.
4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.
5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.
6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

The law does not prohibit the discussion of the listed concepts. Employers can comply with the law in several ways, including the implementation of training that is provided in an objective manner or with the inclusion of disclaimers regarding the subject matter. Another option is for employers to make the training voluntary for employees.

An employee that files a successful claim with the Florida Commission on Human Relations (FCHR) alleging unlawful employment discrimination under the FCRA has the right to file a lawsuit against an employer. The employee may request a jury trial. Penalties that may be imposed on an employer include administrative remedies (i.e., fines, reinstatement of employment), compensatory damages (i.e., back pay, emotional distress), punitive damages, and attorneys' fees.

Please reach out to your assigned Engage Human Resources Consultant if you have any questions concerning this alert or other HR-related matters.