
NIEHAUS KALAS HINSHAW LTD

A T T O R N E Y S A T L A W

New Year's Employment Law Issues and Review

Happy New Year! This time of year brings an update for our clients regarding several areas of Employment Law.

Minimum Wage – The Ohio minimum wage increases to \$8.30 starting January 1, 2018. The tipped employee minimum wage likewise increases to \$4.15.

Tip Pools and Sharing – The United States Department of Labor (“DOL”) recently issued a Notice of Proposed Rule Making regarding its desire to expand employers’ ability to share tips among both their front and back of the house employees. Currently, the DOL’s regulations prevent employers from allowing persons other than those who customarily and regularly receive tips from participating in a tip pool. That means cooks, dishwashers and others lose out on significant income. The proposed new rule, however, would only apply to employers who pay the full minimum wage and do not take the tip credit on its tipped employees.

Review and Revise Handbooks – Handbooks should be reviewed at least once a year. Issues to consider include the increased scrutiny the Equal Employment Opportunity Commission places on the use of criminal background checks in hiring decisions. A bright-line rule automatically declining an applicant with a criminal history is dangerous. Another issue to consider in your review is Ohio’s conceal and carry law which now provides that employers cannot prohibit employees with a valid concealed handgun license from transporting or storing a firearm or ammunition in their cars while on company property.

Workplace Harassment – The “#metoo” movement has placed an increased spotlight on workplace harassment policies, procedures and training. It’s not enough to simply prohibit workplace harassment; an employer must have detailed reporting procedures and prohibitions against retaliation for reporting harassment. Moreover, employers must train their managers and employees on preventing and reporting harassment. The best defense is to never let harassment occur at your business in the first place.

Shortening Statutes of Limitations on Employment Claims - On July 28, 2017, an Ohio appeals court held in *Fry v. FCA US LLC*, 2017-Ohio-7005, that employers can shorten applicable statutes of limitation for employment claims through agreements with their employees. This can be accomplished by a separate agreement as part of an employment offer, or, as in *Fry*, in a company’s employment application. The courts permit a time period as short as six months for filing an employment claim. This type of agreement can also apply to Federal Civil Rights actions. More employers should take advantage of this claim limitation.

Here’s hoping you have a successful and litigation-free 2018!

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