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## Are Your Policies Up to Date?

Recent decisions and legislative updates have forced employers of all sizes to take a look at their written policy statements. Have you had your policies reviewed by a workplace law professional recently? If you have not updated your policies within the last few years, here are some things you may be missing:

- 1) Social media policies that govern the use of popular web forums by employees, both during work and on their own time.

As a result of widespread use of social media by employees, both on and off the job, companies have concentrated on implementing policies that govern how employees may use social media to discuss the workplace. The National Labor Relations Board has made headlines over the last few years for its decisions which limit management's right to monitor the use of these forums by employees. In many cases, the National Labor Relations Board has found that the employer's written policy operated to interfere with, restrain or coerce employees in the exercise of their right to engage in protected concerted activity – the right to communicate with other employees about the terms and conditions of employment. Workplace policies have come under attack even where they have not been enforced against employees, but simply because they were issued by the company. To avoid “interference” claims under the National Labor Relations Act, workplace policies must be narrowly tailored to comply with the law. This includes social media policies, electronic device policies, policies that restrict the disclosure of company “confidential” information, media and public relations policies, to name a few.

- 2) EEO statements that cover the vast array of protected characteristics provided for by law.

A vast array of protected characteristics is now provided for under the various federal, state and city laws, including gender identity, genetic information, and domestic violence status, among others. Employers must be careful to understand what classifications exist in the places where they do business.

- 3) Up to date FMLA notices and medical information request forms.

In February, 2013, the Department of Labor released new forms to be used in connection with the FMLA, and a new poster that reflects recent changes to the FMLA regulations concerning the

rules governing “military caregiver leave”, among others. The new poster must be displayed by March 8, 2013. For employers of 50 or more employees, it is recommended that the DOL’s model forms be used to administer the FMLA. In addition, all employers should provide employees with a “safe harbor” notice, pursuant to the Genetic Information Nondiscrimination Act (“GINA”), whenever medical information is requested. This type of notice instructs employees and medical professionals not to provide genetic information or family history to the employer, and reiterates the company’s practice not to consider genetic information in connection with any job action. A “safe harbor” notice should be provided to employees when they seek leave under the FMLA for their own serious health condition, or to care for a covered family member or veteran, or any time in connection with a request for medical information about employees. If you need help accessing these forms, please contact PMP today at 516-921-3400.

Now is the time to establish written policies, or to review existing policies to ensure compliance.



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