

Employee Discrimination

On the basis of sexual orientation and gender identity

By Damien Munsinger



President Obama has signed an executive order which prohibits federal contractors from discriminating on the basis of sexual orientation or gender identity. Effective immediately, this protection extends to most companies that perform work for the government, and for the first time also protects transgender employees or applicants. Future government contracts are likely to require recipients to certify that they do not discriminate on the basis of sexual orientation or gender identity. The executive order also expressly prohibits federal government agencies from discriminating against their employees based on gender identity (by modifying an existing executive order forbidding federal agencies from discriminating against their employees on the basis of sexual orientation).

While the executive order does apply to religiously-affiliated federal contractors, who had pressed for an exemption, it does not affect rules allowing such employers to take workers religious beliefs into account when making employment decisions for religious roles.

In Oregon and Washington, state laws already prohibit discrimina-

tion on the basis of sexual orientation or gender identity. Federally, the U.S. Equal Employment Opportunity Commission interprets federal law banning discrimination on the basis to sex to include bans on discriminating on the basis of sexual orientation or gender identity.

Regardless of whether an employer qualifies as a federal contractor (generally any company with \$10,000 or more in total federal contracts or subcontracts in a twelve-month period qualifies), this executive order is a timely reminder to review your policies, procedures, and practices. Importantly, when listing protected classes in an Equal Employment Opportunity or Anti-Harassment or Anti-Discrimination policy, sexual orientation and gender identity should be expressly included. **L&C**



Damien Munsinger represents and advises private and public employers on a wide variety of employment law issues, including discrimination and wrongful termination claims. With experience as a successful entrepreneur and business owner, Damien brings a distinctive understanding of employers' concerns to his employment law practice.

Visit www.barran.com

Email dmunsinger@barran.com