

CONFLICT RESOLUTION & NEGOTIATION

At times, we all find ourselves in the midst of conflict. Conflicts often relate to sensitive matters – personality differences, discrimination allegations, performance evaluations, etc. Conflict resolution requires patience and skill. The Council will hold a *Conflict Resolution & Negotiation Skills for a Better Workforce* seminar on Thursday, February 21. Two local experts, Leonard Hawes and James Holbrook, will educate attendees on key skills to negotiate and resolve workplace conflicts. Sign up today! For more information or to register, call our office or download the form at www.ecutah.org/negotiat.pdf.

RELIGIOUS DISCRIMINATION: A FRESH LOOK

Religious discrimination claims – those based upon religious beliefs or failure to provide accommodation of such beliefs – have significantly increased. Harassment based on religion is similar to harassment based on gender:

1. employers must take steps to prevent harassment, and must have an effective anti-harassment policy;
2. employers must have an effective procedure for reporting, investigating, and resolving complaints; and
3. employers may not permit retaliation against the complaining employee.

However, employers also have an obligation to *accommodate* employees' religious beliefs when requested. The EEOC states that the Civil Rights Act of 1964 protects a religious belief, whether mainstream or not, if practices or beliefs are "*moral or ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views.*" Yet, accommodation does not need to be provided if it would cause an undue hardship. What constitutes "undue hardship" for religious accommodation is similar to the same concept under the ADA. According to the EEOC, undue hardship exists in a religious matter "*if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry out the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.*"

ACCURATE "WAGE REPORTING"

With increased focus on worksite enforcement, accurate annual "wage reporting" on Form W-2 is as critical as ever. The attachment to this week's newsletter highlights keys to accurate wage reporting, including verifying names/SSNs with SSA in advance.

401(k) AS A RETENTION TOOL

When the Pension Protection Act of 2006 was introduced, it pushed more Americans to save for retirement. But there are other benefits that come from greater employee participation in 401(k) and 403 (b) plans (which are the most common vehicles for employment-based saving). The plans can improve employee retention and satisfaction, and save the company money. The Act allows employers to automatically enroll their employees in the company plan, while giving employees the chance to opt out (within certain time parameters). The Institute of Management and Administration reported that 401(k) plans using automatic enrollment have a 90% participation rate – compared to 67% for companies with the traditional enrollment process. Experts believe that without automatic enrollment, many employees fail to enroll because they feel intimidated by the process or simply cannot handle the thought of retirement. The statistical difference suggests that employees would get into the plans *absent the perceived barriers*. A company that uses automatic enrollment, and sees higher participation levels, can redirect its energy toward using the plan as a retention tool, and can change its focus from plan awareness/enrollment to employee education/investing. Traditional pension plans are becoming very rare. The future of Social Security is uncertain. A good 401(k) program can attract talent to your organization and retain employees longer, especially if the organization contributes funds and puts a vesting schedule in place. A vesting schedule rewards employees for staying with the organization over time. Enticing talented employees to stay with the company saves money that would otherwise be spent on recruiting and training new employees. Organizations are far more efficient when employees are happy and engaged in their work. Helping employees plan for their retirement can be another tool to enhance the happiness and sense of engagement of employees.

THE IMPORTANCE OF REPORTING ACCURATE EMPLOYEE NAMES AND SOCIAL SECURITY NUMBERS

Employers are responsible for providing accurate employee earnings information ("wage reporting") each year to the Social Security Administration (SSA) on Form W-2 "Wage and Tax Statement." The IRS may fine employers up to \$50 for each failure without reasonable cause to timely file a correct Form W-2. An employee who provides a false Form W-4 may be fined up to \$500. Employees who fail to furnish a valid Form W-4, with marital status and number of withholding allowances, should be treated as a single person who claims no withholding allowances.

Forms W-2 are due to SSA by the end of February each year, unless filed "electronically" (which is NOT the same as filing by magnetic media). On Form W-2, employers must record the name and number *exactly* as shown on the employee's Social Security Card. If the card doesn't show the correct name, e.g., due to marriage or divorce, the employee should request a new card. The old name should be used until the employee shows a new card with the new name.

If an employee applied for but hasn't yet received an SSN, in the SSN box on Form W-2 enter "applied for" if a paper form; all zeros if filing electronically or on magnetic media. Later, when the SSN is received, file Form W-2c "Corrected Wage and Tax Statement" to show the employee's SSN, and give the employee a copy. If Form W-2 was filed for an employee in a prior year under an old name and number, file Form W-2c to correct the name and number.

According to IRS Publication 15 (Circular E), Revision 1/08, an employee -- including both resident and nonresident aliens authorized to work in the U.S. -- should be asked to show a Social Security Card **for W-2 purposes**. The employee may show the card if available. It may be photocopied.

Aliens **NOT eligible for an SSN** may be issued an individual taxpayer identification number (ITIN) for income tax purposes. It is a 9-digit number, beginning with the number "9," has a "7" or "8" as the fourth digit, and is formatted like an SSN (for example, 9NN-7N-NNNN). **Possession of an ITIN does NOT authorize work in the U.S. or affect employment or immigration status under U.S. law. Do NOT accept an ITIN in place of an SSN for Form I-9 or Form W-2 purposes.** Individuals with an ITIN who become eligible to work in the U.S. MUST obtain an SSN.

The following methods may be used by employers and third-party submitters to check if an employee's name and SSN match SSA records.

1. **Social Security Number Verification Service (SSNVS):** Verify names/SSNs immediately online, or upload batch files. While there is a limit of up to 10 names/SSNs per screen, there is no limit to the number of times the screen may be used within a session. Pre-registration is required. For more information, visit www.ssa.gov/employer/ssnv.htm.
2. **Telephone:** Verify up to 5 employee names/SSNs by calling the SSA toll-free at 1.800.772.6270. You will be asked for company name, EIN, and phone number; and for each name/SSN you want to verify: SSN, first and last name, middle initial (if applicable), date of birth, and gender.
3. **Paper lists of up to 50 names/SSNs:** Verify such lists with your local Social Security Office. Some offices accept faxed lists. Check <https://s044a90.ssa.gov/apps6z/FOLO/fo001.jsp> or the phone book to find the nearest office.
4. **Paper lists of 50 to 300 names/SSNs:** Verify such lists through the Employee Verification Service (EVS) at the Wilkes-Barre Data Operations Center. Pre-registration is required. For more information, visit www.ssa.gov/employer/ssnvs_handbk.htm#appendix, or refer to the EVS instruction booklet at www.ssa.gov/employer/evs2002.doc, or call the EVS Information Line, 410.965.7140.