



November 11, 2009

This is Utah SHRM Legal-mail no. 2009-21 prepared for Salt Lake SHRM, the Human Resources Association of Central Utah (HRACU), the Northern Utah Human Resources Association (NUHRA), the Color Country Human Resources Association (CCHRA), the Bridgerland Society for Human Resource Management and Utah at-large members of the national Society for Human Resource Management (SHRM). This update is best viewed in an HTML format. Please reply with your name and "UNSUBSCRIBE" in the subject field if you no longer wish to receive this message.

CONTENTS:

SPECIAL UPDATE- SALT LAKE CITY PROHIBITS DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

On 11/10/09, the Salt Lake City Council passed an ordinance prohibiting private employers (i.e. those with 15 or more employees within the SLC limits) from discriminating in employment matters against "otherwise qualified" persons (both applicants and employees) based on sexual orientation or gender identity. State entities (except SLC), religious organizations and "expressive organizations" are exempted from the ordinance.

"Sexual Orientation" is defined in the ordinance as "a person's actual or perceived orientation as heterosexual, homosexual, or bisexual."

The ordinance defines "Gender Identity" as "a person's actual or perceived gender identity, appearance, mannerisms, or other characteristics of an individual with or without regard to the person's sex at birth."

The phrase "Otherwise Qualified" means "a person who possesses the following required by an employer for any particular job, job classification, or position: 1. education; 2. training; 3. ability; 4. moral character; 5. integrity; 6. disposition to work; 7. adherence to reasonable rules and regulations; and 8. other job related qualifications required by an employer."

The ordinance does not create a private cause of action and claims for individual damages, but rather creates an administrative process that could result in employment discrimination claims brought before SLC Justice Courts. The new ordinance allows for fines up to \$1,000 per offense. The ordinance also prohibits retaliation against persons raising complaints. The ordinance takes effect on April 2, 2010. Here is a link to the full city council legislative materials, including the ordinance:

<http://www.slcgov.com/council/agendas/2009agendas/Nov10/111009C1.pdf>

Covered employers should study the new ordinance and began to develop compliance procedures. At a minimum, covered employers should revise their employee handbooks, policies, practices, training materials, etc. to reflect these new protected employment classifications and the other requirements of the ordinance.

Written by: Employment Attorney, Michael Patrick O'Brien
Utah State and Salt Lake SHRM legal director

Email: mobrien@joneswaldo.com

Phone: 801-534-7315

Website: www.joneswaldo.com



Legal-mail is a legal and legislative update service sent out about twice a month to various Utah SHRM members and chapters. As a courtesy to SHRM, the Utah law firm of Jones Waldo Holbrook & McDonough P.C. underwrites the costs of the service. If you have any questions or comments, please contact Michael Patrick O'Brien.

Disclosure: These updates are merely updates and are not intended to be legal advice. Receipt of this information does not create an attorney-client relationship.