

ACA Notice Requirements, Big Data Analytics, OSHA Retaliation Final Rule: Employment Law This Week - October 24, 2016 [VIDEO]

Article By:

George Carroll Whipple, III

ACA Section 1557 Notice Requirements Take Effect

Our top story: Notice requirements for **Section 1557** of the **Affordable Care Act** have taken effect. Section 1557 prohibits providers and insurers from denying health care for discriminatory reasons, including on the basis of gender identity or pregnancy. Beginning last week, covered entities are required to notify the public of their compliance by posting nondiscrimination notices and taglines in multiple languages.

Final Rule on ACA Issued by OSHA

The **Occupational Safety and Health Administration (OSHA)** has issued a final rule for handling retaliation under the Affordable Care Act (ACA). The ACA prohibits employers from retaliating against employees for receiving Marketplace financial assistance when purchasing health insurance through an Exchange. The ACA also protects employees from retaliation for raising concerns regarding conduct that they believe violates the consumer protections and health insurance reforms in the ACA. OSHA's new final rule establishes procedures and timelines for handling these complaints. The ACA's whistleblower provision provides for a private right of action in a U.S. district court if agencies like OSHA do not issue a final decision within certain time limits.

EEOC Discusses Concerns Over Big Data Analytics

The Equal Employment Opportunity Commission (EEOC) is fact-finding on "big data." The EEOC recently held a meeting at which it heard testimony on big data trends and technologies, the benefits and risks of big data analytics, current and potential uses of big data in employment, and how the use of big data may implicate equal employment opportunity laws. Commissioner Charlotte A. Burrows suggested that big data analytics may include errors in the data sets or flawed assumptions causing discriminatory effects. Employers should implement safeguards, such as ensuring that the variables correspond to the representative population and informing candidates when big data analytics will be used in hiring.

Seventh Circuit Vacates Panel Ruling on Sexual Orientation

The U.S. Court of Appeals for the Seventh Circuit may consider ruling that Title VII of the Civil Rights Act of 1964 (Title VII) protects sexual orientation. On its face, Title VII prohibits discrimination only on the basis of race, color, religion, sex, or national origin, and courts have been unwilling to go further. In this case, the Seventh Circuit has granted a college professor's petition for an en banc rehearing and vacated a panel ruling that sexual orientation isn't covered. Also, an advertising executive who is suing his former agency has asked the Second Circuit to reverse its own precedent holding that Title VII does not cover sexual orientation discrimination. We're likely to see more precedent-shifting cases like these as courts grapple with changing attitudes towards sexual orientation discrimination.

Tip of the Week

October is Global Diversity Awareness Month, and we're celebrating by focusing on diversity in our tips this month. Kenneth G. Standard, General Counsel Emeritus and Chair Emeritus of the Diversity & Professional Development Committee, shares some best practices for creating an inclusive environment.

©2025 Epstein Becker & Green, P.C. All rights reserved.

National Law Review, Volume VI, Number 298

Source URL: <https://natlawreview.com/article/aca-notice-requirements-big-data-analytics-osh-retaliation-final-rule-employment>