LEGAL UPDATES

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DOJ Extends Job Bias Protection to Transgender Employees

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According to a memo from the U.S. Attorney General earlier this week, the Justice Department can now bring claims against public employers and federal contractors on behalf of transgender employees who believe they have been discriminated against because of their gender identity.

Upon review of Title VII, relevant Supreme Court case law and developing law, the Department has taken the position that "the best reading of Title VII's prohibition of sex discrimination is that it encompasses discrimination based on gender identity, including transgender status."

This is a reversal of the Department's earlier position that Title VII's prohibition against sex discrimination did not include gender identity. Gender identity – specifically including transgender workers – will now join sexual orientation as a protected category.

While the Department has made it clear it cannot file suit against private employers, this exemption does not apply to private employers that receive federal contracts.

What This Means to You

Public employers and federal contractors need to update their employment policies (specifically Equal Employment Opportunity and Anti-Harassment/Discrimination policies) to prohibit discrimination against individuals on the basis of gender identity and sexual orientation.

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