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President Obama Plans to Sign LGBT Anti-Discrimination Executive Order

President Barack Obama will soon sign an executive order barring federal government contractors from discriminating against lesbian, gay, bisexual, and transgender ("LGBT") employees and job applicants, according to recent reports. "The President, following on his pledge for this to be a year of action to expand opportunity for all Americans, has directed his staff to prepare for his signature, an executive order that prohibits federal contractors from discriminating on the basis of sexual orientation or gender identity," deputy White House press secretary Josh Earnest said in June. "The specific details of that order have not been finalized."

Though recent efforts to enact LGBT anti-discrimination legislation have stalled in the House, U.S. Secretary of Labor Thomas Perez noted in February 2014 that an executive order aimed at protecting LGBT employment rights could be in the works. "The President takes a back seat to no one in his commitment for equal access to opportunity for people regardless of race, religion, sexual orientation or gender identity," Perez said. "And it's an issue that we continue to contemplate and work on."

Employers who are not federal government contractors should pay close attention to the President's executive order and its application. The executive order's success and support may prompt renewed efforts at enacting the proposed Employment Non-Discrimination Act ("ENDA"). ENDA would prohibit workplace discrimination against LGBT applicants and employees and apply to all employers with fifteen (15) or more employees, not just federal contractors.

With the recent trend toward expanded and formal legal protections in mind, employers should review and consider updating various policies (including employee handbook changes) that may be impacted. Such policies may include equal employment opportunity, harassment, family and medical leave, and bereavement. Regardless of whether the President's executive order will directly impact only federal contractors, it delivers a clear message to all employers that change is on the way.

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