Cullen | Dykman

Labor and Employment

Our labor and employment attorneys represent private and public employers of all sizes and in all industries, including utilities, banking, health care, private and public education, not-for-profit entities, and government. We advise our clients regarding all phases of the employment and independent contractor relationships, from hiring and retention through voluntary retirement and involuntary severance. We assist our clients with the development and implementation of personnel policies, employee handbooks and affirmative action plans, and we help our clients maintain compliance with the Fair Labor Standards Act, the Family and Medical Leave Act and the various other federal and state laws that apply to employers in New York and New Jersey.

The attorneys in our labor and employment department also assist clients with the drafting, negotiation and interpretation of collective bargaining agreements, and we have represented numerous private sector and governmental clients before courts, arbitration panels and agencies including the National Labor Relations Board, the New York State Public Employment Relations Board, the Equal Employment Opportunity Commission and the New York State Division of Human Rights.

Alternative Dispute Resolution - Labor and Employment

In most labor and employment disputes, a quick resolution will also be the most cost-effective. When appropriate, we represent clients in alternative dispute resolution (ADR) proceedings, including mediation and arbitration, in order to achieve favorable resolutions without the expense of litigation. Each attorney in our department is experienced in analyzing the issues at the root of employment-related disputes, and we rely on trusted methods and strategies to resolve our clients' disputes as quickly and inexpensively as possible. Several of our attorneys also are certified to serve as mediators and arbitrators in labor and employment matters.

Discrimination and Sexual Harassment

In the area of discrimination and sexual harassment, our labor and employment lawyers represent employers with respect to developing effective anti-discrimination and anti-harassment policies, investigating employees' claims, and resolving employees' claims through ADR and litigation. We also advise clients regarding the discipline and discharge of employees accused of discrimination and sexual harassment. We represent clients before the Equal Employment Opportunity Commission (EEOC), the New York State Division of Human Rights (NYSDHR), and similar agencies at the city and county levels; and, in employment-related litigation, our labor and employment attorneys work closely with members of our commercial litigation department to achieve favorable results for our clients.

For clients seeking to develop affirmative action programs, our attorneys assist in crafting all necessary documentation in order to satisfy the applicable federal and state requirements while avoiding language that could lead to claims of reverse discrimination. In addition, we provide extensive training to both supervisors and rank-and-file employees on topics such as sexual harassment prevention and progressive discipline.

Employment Statutes - Advice and Litigation

We advise clients on all aspects of laws including the Fair Labor Standards Act (FLSA), the New York State Human Rights Law, the Civil Rights Act of 1964 (Title VII), the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Older Workers' Benefit Protection Act (OWBPA), the Worker Adjustment and Retraining Notification Act (WARN), the Consolidated Omnibus Budget Reconciliation Act (COBRA), and the Polygraph Protection Act. Our services range from initial analysis of company policies to full compliance review, including meeting with governmental agencies to ensure adequate protection, and we also represent clients in compliance-related litigation.

Personnel Policies and Procedures

We assist employers of all sizes with formulating personnel policies and procedures. We work closely with our clients to ensure full compliance with all applicable laws, and we create policies, procedures, employment applications, handbooks and other documents that protect our clients' business interests while also serving as useful working guides for workforce management. For clients who already have documentation in place, we provide detailed review services to ensure that their existing documents meet the requirements of the changing legal landscape and reflect the current scope and nature of their operations.

Private Sector Traditional Labor

For our clients in the private sector, we provide comprehensive advice and representation for all matters pertaining to unionized and non-unionized employees. This includes providing advice on the legal methods for maintaining non-union status when employees are unrepresented and helping employers conduct campaigns in proceedings and elections under the auspices of the National Labor Relations Board (NLRB) when questions concerning representation arise. We represent clients in other NLRB proceedings as well, including all facets of unfair labor practice proceedings and requests for injunctive relief.

Once a union is in place, a collective bargaining agreement must be negotiated. Our attorneys have negotiated collective bargaining agreements for clients ranging from "mom and pop" enterprises with small bargaining units, to large multi-state companies with thousands of employees. We have particular experience negotiating for utilities and their affiliates and health care institutions.

Public Sector Traditional Labor

We represent public-sector clients in all matters involving unionized and non-unionized employees as well. Since our firm's founding, our attorneys have negotiated collective bargaining agreements on behalf of numerous villages, school districts, and towns throughout New York and New Jersey. We advise our clients from the initial

formulation of negotiating proposals through negotiations and, if necessary, mediation or arbitration. We also handle the entire spectrum of the Public Employment Relations Board (PERB) proceedings, including all facets of improper practice proceedings and requests for injunctive relief.

Our labor and employment attorneys also represent municipalities in disciplinary arbitrations, Civil Service Law section 75 proceedings, and Education Law section 3020-a proceedings, and we have significant experience representing police and fire departments in a broad range of matters which includes disability proceedings under sections 207-a and 207-c of the New York General Municipal Law.

Employment and Severance Agreements

We represent both employers and employees in the negotiation of employment agreements, ensuring that our clients are adequately protected and that the terms of their agreements are as favorable as possible. We also provide representation for the drafting and negotiation of an independent contractor and outside consulting agreements. We represent clients in severance agreement negotiations as well, and we have significant experience representing parties on both sides of contract-related disputes.