

Same-Sex Marriage Ruling Will Impact Employers

June 29, 2015

On Friday, June 26, 2015, the U.S. Supreme Court issued its ruling in *Obergefell v. Hodges*, a landmark decision in which it held all state laws banning same-sex marriage to be unconstitutional. The effect of this decision is that same-sex marriage is now legal throughout the United States.

The Court held that the Constitution requires every state to license a marriage between two individuals of the same sex and to recognize same-sex marriage licenses from other states. The Court stated that an individual's right to personal choice regarding marriage is fundamental to one's individual autonomy, and that marriage is intertwined with too many benefits not to be considered an essential right. For instance, marriage impacts taxation, inheritance, medical decision-making authority, adoption, health insurance and child custody.

Thus, the Court held that the right to marry is a fundamental right inherent under the Due Process and Equal Protection clauses of the Fourteenth Amendment, and as such it cannot be denied to same-sex couples. In so holding, the Court struck down as unconstitutional all state laws that ban same-sex marriage.

This ruling has an immediate impact on employers, including on the benefits offered to employees (and dependents). For instance, same-sex spouses are already entitled to all spousal benefits under the Family Medical Leave Act. Furthermore, many employers have already been providing same-sex benefits to unmarried couples because marriage was not a legal option—now that it is, employers may want to change their policies to simply treat all married couples the same. It should be noted that this decision affects legal marriages, but not non-married domestic partners.

The Court's decision makes clear that there is no legal basis to treat a same-sex marriage differently than an opposite-sex marriage, meaning that while legislatures and courts may take a number of years to work these issues out, it is unlikely that grounds exist to treat same-sex couples differently with regard to benefits or other terms and conditions of employment.

Employers should give these issues serious consideration so they are prepared for them when they arise. We recommend that employers contact their Miller Canfield attorney to discuss potential changes to their communications, handbooks and benefit plans.

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