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Special Report for HR Professionals

June 26, 2009
Number 507

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COST OF EMPLOYEES IGNORING DATA SECURITY POLICIES

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The Ponemon Institute has completed its annual benchmark study of the costs to employers of lost data and another study on risky data-handling behaviors employees engage in. Released in January 2009, the first study points to a logically direct relationship between the number of data records lost and the costs associated with that loss. As the number of records increases so does the cost of each loss. The largest cost component of any data loss is lost confidence by current and future customers. Business revenue is directly impacted by lost or stolen data. "The range of total cost among the 43 data breach incidents contained in this year's study is a minimum of \$613,000 to more than \$32,000,000. The magnitude of the breach event ranged from 4,200 to 113,000 lost or stolen records." This is not an issue about which we should be cavalier.

According to a June 2009 study by the same research firm, "employee compliance with corporate data security policies is on the wane." This is because employees are downloading data onto unsecured mobile devices (61%), sharing passwords (47%), losing data-bearing devices (43%), and turning off their mobile devices' security tools (21%). Other risky behaviors include using web-based personal email in the office (52%), downloading Internet software onto an employer's devices (53%), and engaging in online social networking while in the workplace (31%).

The June 2009 study is titled "Trends in Insider Compliance with Data Security Policies." Interestingly, the subtitle is, "Employees Evade and Ignore Security Policies." Both studies were conducted by Dr. Larry Ponemon, principal of the firm.

You can find both studies at the Ponemon web site:

<http://www.ponemon.org/data-security>

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"The most negative cost impact [of lost confidential data] results from diminishment of confidence and trust in the company."

Data loss occurred most frequently when workers put data onto insecure USB memory sticks. This happened 60% to 70% of the time. Using web-based personal email and sharing passwords nearly tied at 50% to 60% of occasions.

Other interesting revelations:

- Over 53% of business travelers say that their laptops contain confidential or sensitive information.
- 65% of travelers admit they do not take steps to protect or secure the information contained on their laptop
- 75% of the cost of data loss is related to indirect expenses associated with abnormal turnover or churn of existing and future customers.
- 2008's average per victim cost was \$197 with an average indirect cost of \$145 per breach victim.

What can be done? Having executive emphasis placed on the importance of data security is a place to start. If it is not important to the boss, it won't be important to anyone else.

Technology can sometimes help. Ironkey is a firm that makes data memory sticks with military-grade protection. Enter an incorrect password ten times and the device will self-destruct like on Mission Impossible.

www.ironkey.com

In the end, people must respect corporate policies and implement them properly.

EEOC PUBLISHES LONG REGULATORY AGENDA

The Equal Employment Opportunity Commission (EEOC) has published a lengthy Spring 2009 regulatory agenda.

www.regulations.gov/fdmspublic/custom/jsp/unifiedagenda/UA_AgencyRuleList.jsp

Here are some of the objectives they have set:

- Make employee self-identification the preferred method for collecting race and ethnic data on employees.
- Update the definition of the term "disability" to conform with the *Americans with Disabilities Act of 2008*.
- Modify regulations concerning "Reasonable Factors Other than Age" (RFOA) to conform with court decisions in *Smith v. City of Jackson*, 544 U.S. 228 (2005) and *Meacham v. Knolls Atomic Power Lab*, 128 S.Ct. 2395 (2008).
- Also establish "burden of proof" rules for ADEA disparate impact.
- Implementing regulations related to the *Genetic Information Nondiscrimination Act of 2008*.

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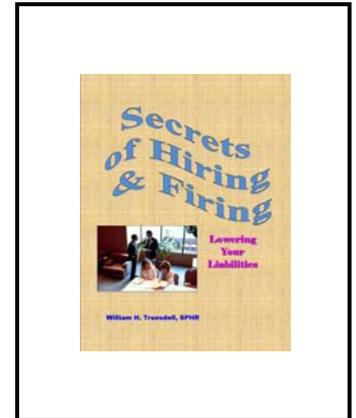
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Secrets of Hiring and Firing

Here's an eBook that will give you specific guidance for avoiding employment-related liabilities. Inside you will find checklists and questionnaires that help identify and narrow the field of candidates. You will discover how important it is to have a job description for every position and how easily that can be accomplished. When it comes time for someone to separate from the payroll, how you part company is very important. *Secrets of Hiring and Firing* gives you some guidance about avoiding humiliating experiences for your soon-to-be ex-employees. You will learn why it is so important to allow every person the dignity they need to carry on with their lives once they no longer work in your organization.



<http://www.management-advantage.com/products/SecretsofHiringandFiring.htm>

AGE BIAS IS NOW MORE DIFFICULT TO PROVE

On June 18, 2009, the U.S. Supreme Court released its ruling in the case of *Gross v. FBL Financial Services* (No. 08-441).

<http://www.supremecourtus.gov/opinions/08pdf/08-441.pdf>

There is now a tighter standard for ADEA cases and it is now more difficult for employees to prove age discrimination because the Court has said it requires a determination that the action would not have been taken against the worker "but-for" his/her age.

"A plaintiff bringing an ADEA (*Age Discrimination in Employment Act*) disparate-treatment claim must prove, by a preponderance of the evidence, that age was the 'but-for' cause of the challenged adverse employment action. The burden of persuasion does not shift to the employer to show that it would have taken the action regardless of age, even when a plaintiff has produced some evidence that age was one motivating factor in that decision." The Court said it is not constrained by Title VII cases because ADEA is substantially different from the *Civil Rights Act of 1964*.

Further, the Court said, "The ADEA's text does not authorize an alleged mixed-motives age discrimination claim. The ordinary meaning of the ADEA's requirement that an employer took adverse action 'because of' age is that age was the 'reason' that the employer decided to act."

"It follows that under Section 623(a)(1), the plaintiff retains the burden of persuasion to establish that 'but-for' cause."



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PRESIDENT ORDERS SAME-SEX DOMESTIC PARTNER BENEFITS

“President Obama's June 17th memo making same-sex domestic partners of federal employees eligible for certain benefits stops short of conferring eligibility for most major benefits, and it does not apply to opposite-sex domestic partners. The memo allows same-sex domestic partners to enroll in the FLTCIP long-term care program and makes employees eligible to take sick leave under to care for domestic partners and for children not related to them--in this context, the child of a same-sex domestic partner. It also puts the force of a presidential action behind the State Department's recent decision to offer certain benefits to same-sex domestic partners of foreign service officers stationed overseas, including access to medical facilities, and some training, transportation and evacuation benefits. In addition, the memo reinforces prior policy that sexual identity is covered by law barring discrimination against federal employees or applicants on the basis of factors not related to job performance. OPM is to issue follow-up guidance on that aspect. Agencies also are to review their internal policies to see if any other employee benefits under their control can be similarly extended and report them to OPM for possible further action.” [SOURCE: FEDweek Weekly Newsletter Wednesday, June 24, 2009, www.fedweek.com]

See the President's memo at: http://www.fedweek.com/hfi/HFI_showItem.php?title=2009-06-24

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