

## NEW DEVELOPMENTS IN LGBT LEGAL PROTECTIONS

On June 26, 2015, the Supreme Court of the United States (SCOTUS), in *Obergefell v. Hodges*, legalized same-sex marriage nationwide in a 5-4 landmark decision. The ruling compels employers to recognize the legal marital status of same-sex couples. It does not, however, expressly require employers to provide equal treatment for employees who identify as LGBT.

On July 16, 2015, the Equal Employment Opportunity Commission (EEOC) ruled, in a 3-2 decision, that Title VII of the Civil Rights Act of 1964 prohibits discrimination against employees based on sexual orientation. Three years prior, in April 2012, the EEOC in *Macy v. Holder* held that Title VII prohibits discrimination against employees based on gender identity. These rulings are binding on federal employers, but not binding on non-federal employers.

The effect of the SCOTUS and EEOC decisions on employers will in large part depend on each employer's specific situation. Still, three general trends may be observed:

- First, the Court's same-sex marriage ruling will benefit businesses that employ workers in multiple states, because uniform treatment of marital status across state lines will streamline the administration of employee benefits. Employers will be relieved of the burden of navigating a patchwork of inconsistent state marriage laws.
- Second, the SCOTUS and EEOC decisions will likely provide new momentum for LGBT advocates to pressure Congress to pass the Employment Nondiscrimination Act (ENDA), which would give protection under federal law to LGBT employees. But due to the conservative majority in both the House of Representatives and Senate at present, ENDA will likely not become law in the near future. In the interim, we may see an increase in state and local laws to incorporate sexual orientation and gender identity into anti-discrimination statutes.
- Third, the rulings' impact will likely be minimal for those employers that already provide equal benefits to same-sex couples and possess internal policies banning LGBT discrimination.

Businesses that do not yet provide equal benefits to same-sex couples should amend their policies as soon as possible to comply with federal law. And though it is not currently required, non-federal employers may wish to proactively adopt internal policies banning LGBT discrimination to reduce the effort and resources required for ongoing monitoring of state and local law.