Employers May Need To Revisit Their Internal Policies

On January 30, 2007, the Administrator of the Federal Aviation Administration (FAA) announced that the federal agency will propose amending Part 121 of the Federal Aviation Regulations (FAR) to raise the mandatory retirement age for pilots who fly for Part 121 scheduled air carriers from age 60 to age 65. Many companies that employ pilots to fly their corporate aircraft have maintained mandatory retirement policies for their pilots modeled after the FAA’s Part 121 rule. With the announcement by the FAA Administrator regarding raising the Part 121 retirement age to 65, many of these companies may decide to reassess their policies.

Employers that maintain mandatory retirement policies for their pilots should be aware that the Equal Employment Opportunity Commission (EEOC) deems such policies to violate the Age Discrimination in Employment Act (ADEA). The EEOC takes the position that corporate flight departments cannot rely upon the FAR Part 121 retirement rule because that rule applies only to Part 121 scheduled air carrier operations. Corporate flight operations are conducted under FAR Part 91, which does not contain a mandatory retirement rule.

Ogletree Deakins has the expertise to advise employers on this issue and as to the types of policies and procedures that may be implemented by corporate flight departments to maintain a high level of safety without resorting to (and possibly defending) mandatory retirement policies.

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