



# **Federal/State Legislation & US S. Court Case Law Affecting DART Operations**

## **Committee of the Whole**

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General Counsel  
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# **DART Board Policy on Non-Discrimination Policy 1.03, Resolution No. 100083**

Non-Discrimination Employment Policy Statement

...

Section 2: ...DART will not discriminate on the basis of race, color, religion, national origin, sex, age, disability, genetic information, veteran status, sexual orientation, gender identity or any other characteristic protected by law. ...

# **Transportation Code §452.201 Minority & Woman Owned Business Program In Certain Authorities**

(a) An authority...may establish a program reasonably designed to increase the participation of minority & women-owned business enterprises in contracts awarded by the authority...

...

(c) The authority shall periodically review the effectiveness of the program and the reasonableness of the program goals

# **Disadvantaged Business Enterprise & Minority & Woman-Owned Business Enterprise Programs Policy - Policy 1.04 Res. No. 990159**

Section 1: DART has a compelling interest & a policy to provide remedies for the ongoing effects of past & present discrimination that have resulted in discrimination against minority & women owned business in the provision of goods & services to DART

...

Section 5: The Board... shall regularly, at least every 6 years, determine whether there is a continuing need for the DART M/WBE Programs

(Policy 1.04, Admin., Res. No. 990159)

# Pregnant Workers Fairness Act; Providing Urgent Maternal Protection for Nursing Mothers Act

- PWFA requires employers to provide reasonable accommodations to a qualified employee's or applicant's known limitation related to, affected by or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an undue hardship on the operation of the covered business.
- Under PWFA, coverage is the same as Title VII and the Americans With Disabilities Act, and reasonable accommodation should be available to help apply for a job; to perform a job; to enjoy equal benefits & privileges of employment and to temporarily suspend the performance of an essential job function if certain conditions are met.
- PWFA addresses limitations in coverage under Title VII, ADA and the FMLA.
- EEOC posted PWFA proposed regs; EEOC to issue final regulations on 12-29-23.
- PUMP Act extends the rights of nursing mothers to have time & a private space to pump breastmilk at work.

## Am I covered under the PUMP Act?

Thanks to the PUMP Act, more workers have the right to break time and private space to pump breast milk during the workday. Most nursing employees now have **the right to reasonable break time and space to pump at work** for up to one year after their child's birth.

## What does my employer need to do?

Employers must provide covered employees with **space that is:**

- functional for pumping milk,
- shielded from view,
- free from intrusion,
- available as needed, AND
- **NOT a bathroom**

## Scan the QR code

to find out if you're covered



Wage and Hour Division  
U.S. Department of Labor

[dol.gov/pump-at-work](https://dol.gov/pump-at-work)  
1-866-487-9243

**40** years  
DART  
Forty Proud. Forty Forward.



# ***Groff v. DeJoy*, U.S. Sup. Ct.**

## **Religious Liberty & Accommodation**

- US Postal Service EE w/religious belief that he shouldn't work on Sundays. Amazon contracted w/USPS to deliver their packages. Accommodations made.
- Groff sued USPS for disparate treatment & failure to accommodate his religion under Title VII of Civil Rights Act.
- Supreme Court rejected the long-standing “de minimis” standard established in *TWA v. Hardison* (1977). *Groff* states that an accommodation imposes an undue hardship on the employer only if it **substantially** increases costs directly related to business operations. Court emphasized that the impact of accommodation on co-workers is considered an undue hardship only if it affects the overall conduct of the business. Court noted that an accommodation that may compel other employees to work overtime does not automatically meet the criteria for undue hardship.
- **Consideration:** Substantial increase in cost of operations/business; Quantify cost; Increase rigor on accommodation denial.

# Students for Fair Admissions v. Univ. of N. Carolina & Harvard Univ

- Supreme Court held that Harvard-UNC's race-conscious practices violate the Equal Protection Clause b/c they discriminate based on race & the proffered justifications "lack sufficiently focused and measurable objectives warranting the use of race" and the practices do not withstand strict scrutiny, as the reasons do not rise to the level of compelling government interest.
- Exception. Military academies excluded - "potentially distinct interest"
- **Consideration:** Harvard-UNC applies to higher-education admissions.
- FTA recipients must assure no person is "...excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, religion, national origin, sex, disability, or age." [49 U.S.C. § 5332\(b\)](#)



# TXSB 17 DEI In Higher Education Prohibited

- Prohibits a Public University (PU) from establishing/maintaining a legal office or other unit, hiring or assigning an EE who is an attorney, or contracting w/a 3<sup>rd</sup> party attorney or law firm to ensure the PU's compliance w/any applicable court order or state/federal law;
- Prohibits a PU from requiring students, employees, or applicant for employment at PU to participate in training on DEI, bias, oppression, gender identity, or related concepts as a condition of admission, enrollment, employment, graduation...
- Requires Mission Statement; Penalties of \$1M or 1% of PU operating budget; AG may file suit against PU; PU EE discipline for violations.

# **TXSB 1361/HB 2700 Electronic Transmission, Possession or Promotion of Certain Lewd Visual Material**

- New Penal Code offense to criminalize the non-consensual production or distribution by electronic means of “deep fake video”
- Deep Fake Video defined as a video, created with the intent to deceive, or that appears to depict a real person performing an act or action that did not occur in reality
- Class A misdemeanor

# **TXSB 1325 Duties of Peace Officer Investigating Stalking, Harassment or Terroristic Threat**

- Requires a Peace Officer who investigates a stalking, harassment or terroristic threat to advise an adult victim of “all reasonable means to prevent” the occurrence of future offenses.
- Same notice requirement in Family Violence cases.
- Health & Human Services Commission to provide written notice by 12-1-23. New duty applies after 1-1-24.

# **TXSB 1893 Use of Certain Social Media Applications & Services on Governmental Devices Prohibited**

- Requires all governmental entities to prohibit the installation/use of certain social media apps on any device owned or leased by the gov't entity
- Exceptions made for law enforcement & security purposes
- Department of Information Resources (DIR) and Department of Public Safety will create model policy and gov't entity must adopt the policy within 60 days of issuance.

# TXHB 2127 Texas Regulatory Consistency Act

- Act preempts local policies & ordinances related to statutes in agriculture, business & commerce, finance, insurance, labor, occupations, property, local government and natural resources code. Provides injunctive relief against city/county that adopts or enforces an order, ordinance or rule that is already addressed by certain state statutes.
- Houston sued State over HB 2127. San Antonio joined in the suit.

# **TXSB 2127 Law Enforcement Agency Duties; Preemployment Procedures; Employment Termination Report**

- Requires law enforcement agency or gov't entity that wants to hire a person licensed by TX Comm on Law Enforcement (TCOLE) to first review information & personnel file kept by TCOLE
- Hiring law enforcement agency must certify to TCOLE that it obtained & reviewed applicant's database & files maintained by TCOLE
- Repeals termination designation of honorable, general or dishonorable discharge on F-5 form

**40** *years*  
DART  
Forty Proud. Forty Forward.

**Thank you**

DART *let's go.*

