



'Beauty Bias' In the Workplace Is Not Illegal

Publication

9.09.10

The controversy over discrimination in employment based on appearance is heating up again. *Newsweek* recently ran a special report entitled "The Beauty Advantage" that included a survey of hiring managers, 57 percent of whom said qualified but unattractive candidates will have a harder time landing a job. More than half of the managers in the survey advised job applicants to invest time and money in "making sure they look attractive" instead of on polishing a resume. In addition, Stanford law professor Deborah Rhode has authored a new book entitled *The Beauty Bias* that decries appearance discrimination and urges legal reforms to prohibit it.

The premise of much of this debate is that a "beauty bias" in the workplace is wrong and should be illegal if it isn't already. In fact, discrimination based on attractiveness is not illegal in most instances. Moreover, while it is easy for academics to posit that appearance discrimination should be unlawful, it is much more difficult to draft a law that could effectively address something so subjective as the perception of beauty.

Only a few jurisdictions presently have laws prohibiting discrimination based on appearance. The District of Columbia's statute prohibiting discrimination includes "personal appearance" as a protected category. Santa Cruz, California has an ordinance prohibiting discrimination based on "physical characteristics." Michigan's anti-discrimination statute includes height and weight as protected categories, as does a San Francisco ordinance. No other U.S. jurisdiction directly addresses the issue.

This article appeared in the September 9, 2010 issue of *Employment Law360*.