

WELCOME

To the Advanced CBA
ReadyTalk Webinar Training
Equal Employment Opportunity Commission
January 9, 2007
11:00 a.m. – 12:00 p.m. Eastern Standard Time

Please:

- Check Browser for plug-ins
- Un-plug PDAs (Personal Digital Assistants)
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- Use chat feature to type in questions
- Presentation slides can be located at:
www.sbdccba.com



EEO Laws That Impact Small Businesses

By Michelle Crew, Settlement Officer
U.S. Equal Employment Opportunity Commission

Michelle Crew

In 2003 graduated Cleveland State University, receiving a Master's degree in Management Labor Relations and Human Resources, and a 1990 graduated Baldwin Wallace College receiving a Bachelor's degree in Business Administration. Ms. Crew's employment with the U.S. Equal Employment Opportunity Commission began in 1994, in the position of Investigator, and she has recently attained the position of Outreach Manager. Michelle began her federal career with the U.S. Social Security Administration, as a Claims Representative, hired through the Outstanding Scholar Program. Michelle is trained in mediation and has chaired the Professional Education Committee of the Mediation Association of Northeast Ohio (MANO). Michelle has investigated all issues of employment discrimination in the private sector and participates in the Federal Sector EEO as a Settlement Officer. Michelle coordinates outreach activities, conducts presentations and provides customer specific training.

The Equal Employment Opportunity Commission

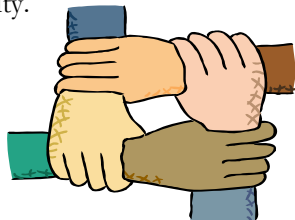
- **Our Mission:**
- **To ensure equal employment opportunity by enforcing federal laws prohibiting discrimination based on sex, race, religion, color, national origin, age or disability.**
- **www.eeoc.gov**

Laws Enforced by EEOC

- Title VII of the Civil Rights Act of 1964, as amended (Title VII)
- The Age Discrimination in Employment Act of 1967, as amended (ADEA)
- Title I of the Americans with Disabilities Act of 1990, as amended (ADA)
- The Equal Pay Act of 1963, as amended (EPA)
- The Civil Rights Act of 1991

What is illegal discrimination?

- A person treated differently because of his/her race, sex, color, religion, national origin, age, or disability.



Employment Issues

- Wages / Benefits / Terms & conditions
- Recruitment / Hiring / Discharge
- Training / Assignments / Promotion
- Discipline / Harassment / Testing
- Layoff / Recall / Reasonable Accommodation

Title VII of the Civil Rights Act, & Americans w Disabilities Act Coverage

- Private employers, state and local governments, education institutions that employ 15+ individuals
- Private and public employment agencies
- Labor organizations and joint labor management committees controlling apprenticeship and training

Title VII Highlights

- **National Origin**
Birthplace, ancestry, culture, linguistic
- **Religion**
Accommodation (Prayer, dress, schedule)
- **Sex Discrimination**
Gender, pregnancy, child birth, harassment
- **Race and Color**
includes shade of skin

Title VII Highlights

Retaliation

- 1) Opposition to discriminatory act
- 2) Participation in charge, investigation, discrimination lawsuit, etc.
- 3) Witness to discriminatory act



Title VII Highlights

What is Unlawful Harassment?

- The conduct is **unwelcome**
- The conduct is based on a **protected basis**
- The conduct results in a “**tangible employment action**” or creates a “**hostile work environment**”
- A legal basis for holding employer liable

Title VII Highlights Harassment

- **What is Tangible Employment Action?**
- Failure to promote or demotion
- Discharge
- Undesirable work assignments
- Significant change in benefits

Title VII Highlights Harassment

What is Hostile Work Environment?

- Unwelcome conduct
- Conduct has purpose / effect of unreasonably interfering with work performance
- Creates a hostile, intimidating, or offensive work environment using *reasonable person standard* (context, frequency, severity)

Title VII Highlights Harassment

Standard of Liability

- Employer is responsible for the acts of its supervisors (vicarious liability)
- Employers should be encouraged to prevent harassment, and to encourage employees to limit the harm from harassment

The Age Discrimination in Employment Act of 1967, as amended (ADEA)

- The ADEA covers private employers, state and local governments, and educational institutions with 20+ employees
- Prohibits discrimination against employees and applicants who are at least 40 years old

ADEA Highlights

- Discrimination w/in the Protected Age Group
- Benefits
medical, pension, leave
- Stereotypes



The Equal Pay Act of 1964, as amended (EPA)

- One employee for coverage
- Prohibits sex discrimination in the payment of wages to men or women performing substantially equal work under similar working conditions in the same establishment



Title I of the Americans with Disabilities Act of 1990, as amended (ADA)

- Private employers, state and local governments having 15 + employees
- Prohibits discrimination against job applicants and employees on the basis of disability as defined by the law



ADA

Definition of Disability

- Physical or mental impairment that substantially limits a major life activity, or
- Record of such impairment, or
- Regarded as having such impairment



ADA

Highlights

- Confidentiality of medical records
- Reasonable accommodation
- No pre-employment medical inquiries or exams
DRUG TESTS ARE NOT MEDICAL EXAMS

The Civil Rights Act of 1991 (CRA)

- The CRA extends and amends the statutes administered by EEOC to include provision relating to remedy, suit rights, jurisdiction and various other interpretations of the laws.

Theories of Discrimination

■ Disparate treatment:

Employee or applicant treated differently because of his/her race, color, sex, religion, or national origin.

■ Adverse impact:

A policy, neutral on its face, that adversely impacts a class of individuals.

Theories of Discrimination

■ Accommodation theory:

Employee or applicant requires modification or job adjustment to accommodate disability or religious needs.

■ Retaliation theory:

Adverse action taken against employee or applicant because they participated in a protected activity.

Preventing Discrimination Claims

Training

- On EEO laws
- Fairness
- Conflict resolution skills

Preventing Discrimination Claims

ALL Decision Makers:

- Consistent
- Document
- Model
- Investigate

Cleveland Field Office

- Investigative Unit
- Mediation Unit
- Legal Unit
- Outreach Unit

Filing a Charge of Discrimination

■ Begins with Charging Party contact:

- Interview
- Documents
- Witnesses
- Comparators
- Class members
- Affidavit

**EEOC Processing
Charge of Discrimination**

- Charge docketed
- Charge Assessment
- Mediation Preference
- Notice served on Respondent

**Priority Charge Handling
Procedures
Cleveland Field Office**

- Charges are assigned “A, B, or C” assessments.
- “A” assessments contain class implications, and/or are litigation worthy, and/or appear on the national or local enforcement plan
- “B” assessments require further investigation and can either develop into an A or drop down to a “C.”
- “C” assessments occur when information does not support further investigation, not likely a violation of the statute.

Charge Referred to Mediation

- Mediation is a process in which a neutral third party, the “mediator”, helps the parties explore options and reach a mutually acceptable resolution

Benefits of Mediation

- Efficient
- Cost savings
- Fair
- Confidential
- No determination

Investigative Process
Charge Assigned to Investigative Unit:

- Interview Charging Party/ Witnesses
- Fact-finding conferences
- Request for information
- On-site investigations
 Respondent interviews, tour facility, documents

Investigative Process
Investigator's Recommendation

Investigator contacts Charging Party:
 EEOC is unable to conclude that the information obtained establishes violations of the statutes. 10 days for rebuttal.

Investigator contacts Respondent:
 Evidence demonstrates that Respondent violated the statute as alleged. 10 days for rebuttal.

Investigative Process Determination

- Dismissal and Notice of Suit Rights
- or
- Cause Finding

Conciliation Process

Contact parties to determine their interest in conciliation (remedy for Charging Party/victims)

- Successful Conciliation (signed agreement)
- or
- Impasse (transfer file to legal for litigation review)

EEOC and Ohio Civil Rights Commission

EEOC and OCRC have a worksharing agreement. When a charge is filed with either EEOC or OCRC, the charge is jointly filed with both agencies. Therefore, if you have already filed with OCRC, it is not necessary to file with EEOC.



U.S. Equal Employment Opportunity Commission

Preventing Discrimination in the Workplace

www.eeoc.gov



Any Questions??



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