2 Equal Opportunity and the Law
Learning Objectives

1. Explain the importance of and list the basic features of Title VII of the 1964 Civil Rights Act and at least five other equal employment laws.

2. Describe post-1990 employment laws including the Americans with Disabilities Act and how to avoid accusations of sexual harassment at work.
Learning Objectives

3. Illustrate two defenses you can use in the event of discriminatory practice allegations, and cite specific discriminatory personnel management practices in recruitment, selection, promotion, transfer, layoffs, and benefits.

4. List the steps in the EEOC enforcement process.

5. Discuss why diversity management is important and how to install a diversity management program.
Explain the importance of and list the basic features of Title VII of the 1964 Civil Rights Act and at least five other equal employment laws.
Equal Opportunity Laws Enacted From 1964 to 1991
Title VII of the 1964 Civil Rights Act

- Title VII of the 1964 Civil Rights Act
  - Who Does Title VII Cover?
  - The EEOC
Executive Orders

- Signed into law by various presidents
- Affirmative Action
- Office of Federal Contract Compliance Programs (OFCCP)
Equal Pay Act of 1963

• Unlawful to discriminate on basis of sex
• Jobs involve:
  o Equal work
  o Equivalent skills
  o Similar conditions
Age Discrimination in Employment Act of 1967

- Under ADEA, no discrimination for those between 40 – 65
- No slack for employer if fired employee replaced by one much younger
Vocational Rehabilitation Act of 1973

• Federal contracts > $2,500.
• Affirmative Action
• Reasonable accommodations
Pregnancy Discrimination Act of 1978

- Prohibits using pregnancy, childbirth, or related medical conditions to discriminate in:
  - Hiring
  - Promotion
  - Suspension, or
  - Discharge
Federal Agency Guidelines

- EEOC
- Civil Service Commission
- Department of Labor (DOL)
- Department of Justice (DOJ)
Early Court Decisions, Equal Employment Opportunity

- Griggs v. Duke power company
- Albemarle paper company v. Moody
Review

• Title VII of the 1964 Civil Rights Act
• Executive Orders
• The Equal Pay Act
• The Vocational Rehabilitation Act
• The Pregnancy Discrimination Act
• Federal agency guidelines
• Court decisions on equal employment
Describe post-1990 employment laws including the Americans with Disabilities Act and how to avoid accusations of sexual harassment at work.
The Laws Enacted from 1991 to the Present
The Civil Rights Act of 1991

- Burden of proof
- Money damages
- Mixed motives
The Americans with Disabilities Act

- Mental impairments and the ADA
- Qualified individual
- Reasonable accommodation
- Traditional employer defenses
- The “new” ADA
The Americans with Disabilities Act

- Do not deny a job to a disabled individual if the person is qualified and able to perform the essential job functions.
- Make a reasonable accommodation unless doing so would result in undue hardship.
- Know what you can ask applicants. In general, you may not make preemployment inquiries about a person’s disability before making an offer. However, you may ask questions about the person’s ability to perform essential job functions.
- Itemize essential job functions on the job descriptions. In virtually any ADA legal action, a central question will be, what are the essential functions of the job?
- Do not allow misconduct or erratic performance (including absences and tardiness), even if that behavior is linked to the disability.
State & Local EEO Laws

• Uniformed Services Employment Rights Act
• Genetic Information Act of 2008 (GINA)
• State and local employment discrimination
• Employment opportunity agencies
• Religious and Other Types of Discrimination
IMPROVING PERFORMANCE: HR Practices Around the Globe

• Workforces are increasingly international
• German company moved an employee from Germany to New York
• Problem arose at the New York subsidiary
Review

- Legal terminology
- The Civil Rights Act of 1991
- Americans with Disabilities Act
- State and local EOO laws
Sexual Harassment

- What Is Sexual Harassment?
- Proving Sexual Harassment
- When Is the Environment “Hostile”?
Sexual Harassment

- Supreme Court decisions
- Implications
- When the law isn’t enough
- What the employee can do
Review

• Sexual harassment
• Affirmative Action duty
• Federal Violence Against Women Act 1994
• Supreme Court decisions
Illustrate two defenses you can use in the event of discriminatory practice allegations, and cite specific discriminatory personnel management practices in recruitment, selection, promotion, transfer, layoffs, and benefits.
Defenses Against Discrimination Allegations
The Central Role of Adverse Impact

- Showing adverse impact
  - Disparate rejection rates
  - The Standard Deviation Rule
  - Restricted policy
  - Population comparisons
  - McDonnell-Douglas Test
Bona Fide Occupational Qualification (BFOQ)

• Age
• Religion
• Gender
• National origin
Other Adverse Impact Issues

- Business Necessity
- Other considerations
  - Good intentions
  - Collective Bargaining Agreements (CBA)
  - Defense not only recourse
Review

• Disparate Treatment and Impact
• The Central Role of Adverse Impact
• Employer Defenses
• Other Adverse Impact Issues
List the steps in the EEOC enforcement process.
The EEOC Enforcement Process
The EEOC Enforcement Process

- File charge
- Charge acceptance
- Serve notice
- Investigation
- Cause/no cause
- Conciliation
- Notice to sue
The EEOC Enforcement Process

- Voluntary mediation
- Mandatory arbitration of discrimination claims
Review

• The EEOC Enforcement Process
  o Seven-step process

• The EEOC Enforcement Process
  o Voluntary mediation
  o Mandatory arbitration of discrimination claims
Discuss why diversity management is important and how to install a diversity management program.
Diversity Management and Affirmative Action Programs

- Threats to Diversity
- Diversity Benefits
- Managing Diversity
Diversity Management and Affirmative Action Programs

- EEO vs. Affirmative Action
- Implementing an Affirmative Action Program
- Reverse Discrimination
Review

• Diversity threats and benefits
• Managing diversity
• Diversity management and Affirmative Action programs
• EEO vs. Affirmative Action
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