

Title VII of the Civil Rights Act of 1964

Federal Anti-discrimination
Law Webinar Series



It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.



It shall be an unlawful employment practice for an employer to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. .



Overview

- **What it does:** prohibits discrimination in terms of firing/hiring based on race, color, religion, sex, and national origin. Prohibits discrimination in terms of classifying or segregating employees or applicants based on race, color, religion, sex, and national origin.
- **Applies** to employers with 15 or more employees (but see Colorado law)
- **Protects** – applicants and employees
- **Enforcement** – Equal Employment Opportunity Commission (EEOC)



Administrative Requirements



Notice

- Every employer shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth the excerpts from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint.



No Title VII Coordinator Required

However your designated coordinator(s) and HR personnel should be aware and knowledgeable about Title VII provisions and how to direct individuals with complaints to the proper grievance procedure.



Grievance Procedure

- Statute and regulation do not mandate a grievance procedure
- However, it would be in the school's best interest to have a grievance procedure that could handle a Title VII complaint in a similar fashion to ADA complaint.
- Nothing in statute that prevents you from having one – if you do not have a grievance procedure that is well known, the alternative is to go to EEOC or Colorado Civil Rights Commission.



Grievance Procedure

- Note that a person with a complaint is not required to go through you
- In many instances with employees, it is likely that they won't come directly to you with a complaint but rather retain outside counsel or file with the EEOC.



Areas of Concern



Unlawful Harassment

- A form of discrimination
- Most litigated is sexual harassment
- EEOC defines sexual harassment as unwelcome sexual advances; requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - Submission to such conduct is made explicitly or implicitly a term or condition of employment.
 - Submission to or rejection of such conduct is used as the basis for employment decisions.
 - Such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Types of Unlawful Harassment



- Quid pro Quo
 - “something for something”
 - Example: A supervisor threatens a subordinate employee’s job or aspect of employment and carries out that threat. The threat can be explicit or implicit.
- Hostile Work Environment
 - A supervisor threatens a subordinate employee’s job or aspect of employment but does not carry out that threat.

Elements of Hostile Work Environment Harassment



- Behavior is unwelcome
- Behavior is offensive to a reasonable person
- Behavior is directed at the employee because of the employee's protected status
- Behavior is severe or pervasive
 - *all of these elements must be met



Retaliation

- Law prohibits adverse action against employees because they have made a harassment complaint or participated in a compliant investigation.



Religion

- Title VII requires an employer to reasonably accommodate the religious observance or practices of an employee unless the employer demonstrates that an accommodation would result in an “**undue hardship**” on the conduct of its business.
- Prohibits discrimination based on religious beliefs in hiring, firing, and other terms and conditions of employment.
 - Terms and conditions: construed broadly. Work-related activities and practices, compensation, benefits, assignments, promotions, demotions, and discipline



Religious Belief

- “Religious practice” = moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views
 - Does not need to be associated with an established or organized religious group. Religious belief or practice need only be a strongly held belief or practice of a religious nature.
 - **Example:** An employee asserts that he is a member of the Preservation of American Resources Club and that the beliefs of the organization are his religion. He says his beliefs require him to carpool to work to conserve fuel. He seeks an accommodation with respect to his working hours so he can join a carpool. Even though his belief in the organization is sincerely held, he is not entitled to the accommodation because conserving fuel is not a belief religious in nature.



Undue Hardship

- Supreme Court has held that an accommodation causes “undue hardship” on the employer whenever the accommodation results in more than a de minimus cost (marginal).
- Case by case basis
- **Example:** *A public school’s requirement that Jewish teachers take unpaid leave to observe religious holidays does not violate Title VII. Although the school’s holiday scheduling may include paid leave for Christmas and Good Friday, the unpaid leave policy reasonably accommodates the Jewish teachers, even though there is some cost to the employee. The law does not require employers to accommodate the religious practices of an employee in exactly the way the employee would like.*
- *General obligation to accommodate*

Dress and Grooming Standards



- Obligation to accommodate religious beliefs and practices, unless undue hardship is shown, applies equally to religious dress and grooming.
- **Example:** *An employer requires workers to wear pants while operating assembly line machinery to protect them from suffering burns and getting loose clothing caught in machinery. An employee claims that her religion requires women to wear only dresses. Undermining the safety of plant operations is an undue hardship on the company because of the increased job hazard. The employer can refuse to accommodate her.*



State Law



Colorado Law

- Discrimination law not dependent on number of employees
- Prohibits discrimination based on sexual orientation, transgendered status, and marital status.



Resources



Resources

- **EEOC – Title VII:**
<https://www.eeoc.gov/laws/statutes/titlevii.cfm>
- **EEOC Guidance:**
<https://www.eeoc.gov/laws/guidance/index.cfm>
- **Employers Council**



Schedule

- **All School Leaders Meeting**
 - Title IX Presentation
 - February 27th