

EEO FACT SHEETS

Knowing the subject matter of EEO will help keep you a well-informed employee. A well-informed employee is an effective employee. The following information is provided to assist you in becoming a well-rounded, well-informed employee in the area of EEO.

FACTS ABOUT

THE AMERICANS WITH DISABILITIES ACT (ADA)

Title I of the Americans with Disabilities Act of 1990, which was effective July 26, 1992, prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.

A qualified individual with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- Job restructuring, modifying work schedules, reassignment to a vacant position;

- Acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters.

An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an undue hardship on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation, nor is an employer obligated to provide personal use items such as glasses or hearing aids.

Medical Examinations and Inquiries

Employers may not ask job applicants about the existence, nature or severity of a disability. Applicants may be asked about their ability to perform specific job functions. A job offer may be conditioned on the results of a medical examination or inquiry, but only if the examination or inquiry is required for all entering employees in the job. Medical examinations or inquiries of employees must be job related and consistent with the employer's business needs.

Drug and Alcohol Abuse

Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA, when an employer acts on the basis of such use. Tests for illegal drugs are not subject to the ADA's restrictions on medical examinations. Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.

EEOC Enforcement of the ADA

The U.S. Equal Employment Opportunity Commission issued regulations to enforce the provisions of Title I of the ADA on July 26, 1992. Charges of ADA discrimination may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most telephone directories under U.S. Government; information on all EEOC-enforced laws may be obtained by calling toll free to (800) 669-EEOC. EEOC's toll free TDD number is (800) 800-3302.

If you have been discriminated against on the basis of disability, you are entitled to a remedy that will place you in the position you would have been in if the discrimination had never occurred. You may be entitled to hiring, promotion, reinstatement, back pay or other remuneration, or reasonable accommodation including reassignment. You may also be entitled to damages to compensate you for future pecuniary losses, mental anguish and inconvenience. Punitive damages may be available, as well, if an employer acted with malice or reckless indifference. You may also be entitled to attorney's fees.

This fact sheet is available in the following formats: print, Braille, large print, audio tape and electronic file on computer disk. For further information, call the Equal Employment Opportunity Commission at (202) 663-4395 (voice), (202) 663-4399 (TDD) or FTS 989-4395 (voice), 989-4399 (TDD).

*Reference: EEOC-FS/E-5
January 1992*

FACTS ABOUT RELIGIOUS DISCRIMINATION

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. The act also requires employers, to reasonably accommodate the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer (see also 29 CFR 1605). Flexible scheduling, voluntary substitutions or swaps, job re-assignment and lateral transfers are examples of accommodating an employee's religious beliefs.

Employers cannot schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at a certain time, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employee can prove that not doing so would cause an undue hardship.

An employer can claim undue hardship when accommodating an employee's religious practices if allowing such practices requires more than ordinary administrative costs. Undue hardship also may be shown if changing a bona fide seniority system to accommodate one employee's religious practices denies another employee the job or shift preference guaranteed by the seniority system.

An employee whose religious practices prohibit payment of union dues to a labor organization cannot be required to pay the dues, but may pay an equal sum to a charitable organization.

Mandatory "new age" training programs, designed to improve employee motivation, cooperation or productivity through meditation, yoga, biofeedback or

other practices, may conflict with the non-discriminatory provisions of Title VII. Employers must accommodate any employee who gives notice that these programs are inconsistent with the employee's religious beliefs, whether or not the employer believes there is a religious basis for the employee's objection.

Filing A Charge - Charges of religious discrimination may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most local telephone directories under U.S. Government. Information on all EEOC-enforced laws may be obtained by calling toll free on 800-USA-EEOC. EEOC's toll free TDD number is (800) 800-3302. For TDD calls from the Washington, DC Metropolitan Area, dial (202) 663-4494.

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Reference: EEOC-FS/E-3

December 1990

FACTS ABOUT

PREGNANCY DISCRIMINATION

The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Hiring - An employer cannot refuse to hire a woman because of her pregnancy-related condition as long as she is able to perform the major functions of the job. An employer cannot refuse to hire her because of its prejudices against pregnant workers or the prejudices of co-workers, clients or customers.

Pregnancy and Maternity Leave - An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. For example, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her same as any other temporarily-disabled employee; for example, by providing modified tasks, alternative assignments, disability leave or leave without pay.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer may not have a rule that prohibits an

employee from returning to work for a predetermined length of time after childbirth.

Employers must hold open a job for a pregnancy-related absence the same length of time a job is held open for employees on sick or disability leave.

Childcare - Leave for childcare purposes is not covered by the Pregnancy Discrimination Act. However, Title VII requires that leave for child care purposes be granted on the same basis as leave granted to employees for other non-medical reasons, such as non-job related travel or education.

Health Insurance - Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered.

Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable and customary charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional, increased or larger deductible can be imposed.

If a health insurance plan excludes benefit payments for pre-existing conditions when the insured's coverage becomes effective, benefits can be denied for medical costs arising from an existing pregnancy.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Fringe Benefits – Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions.

If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions.

Employees with pregnancy-related disabilities must be treated the same as other temporarily-disabled employees for accrual and crediting of seniority, vacation calculation, pay increases and temporary disability benefits.

Filing A Charge - The U.S. Equal Employment Opportunity Commission has issued guidelines, including questions and answers, interpreting the Pregnancy Discrimination Act (29CFR 1604.10).

Charges of sexual discrimination may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most local telephone directories under U.S. Government. Information on all EEOC enforced laws may be obtained by calling toll free on (800) USA-EEOC. EEOC's toll free TDD number is (800) 800-3302. For TDD calls from the Washington, D.C. Metropolitan Area, dial (202) 663-4494.

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*Reference: EEOC-FS/E-2
December 1990*

FACTS ABOUT NATIONAL ORIGIN DISCRIMINATION

Title VII of the Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of national origin as well as race, color, religion and sex.

It is unlawful to discriminate against any employee or applicant because of the individual's national origin. No one can be denied equal employment opportunity because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. Equal employment opportunity cannot be denied because of marriage or association with persons of a national origin group; membership or association with specific ethnic promotion groups; attendance or participation in schools, churches, temples or mosques generally associated with a national origin group; or a surname associated with a national origin group.

Speak-English Only Rule - A rule requiring employees to speak only English at all times on the job may violate Title VII, unless an employer shows it is necessary for conducting business. If an employer believes the English-only rule is critical for business purposes, employees have to be told when they must speak English and the consequences for violating the rule. Any negative employment decision based on breaking the English-only rule will be considered evidence of discrimination if the employer did not tell employees of the rule.

Accent - An employer must show a legitimate, nondiscriminatory reason for the denial of employment opportunity because of an individual's accent or manner of speaking. Investigations will focus on the qualifications of the person and whether his or her accent or manner of speaking had a detrimental effect on job performance. Requiring employees or applicants to be fluent in English may violate Title VII if the rule is adopted to exclude individuals of a particular national origin and is not related to job performance.

Harassment - Harassment on the basis of national origin is a violation of Title VII. Ethnic slurs and other verbal or physical conduct because of an individual's nationality is harassment if it creates an intimidating, hostile or offensive working environment, unreasonably interferes with work performance or negatively affects an individual's employment opportunities.

Employers have a responsibility to maintain a work place free of national origin harassment. Employers may be responsible for any on-the-job harassment by their agents and supervisory employees, regardless if the acts were authorized or specifically forbidden by the employer. Under certain circumstances, and employer may be responsible for the acts of non-employees who harass their employees at work.

Immigration-Related Practices Which May Be Discriminatory - The Immigration Reform and Control Act of 1986 (IRCA) requires employers to prove all employees hired after November 6, 1986, are legally authorized to work in the United States. IRCA also prohibits discrimination based on national origin or citizenship. An employer who singles out individuals of a particular national origin or individuals who appear to be foreign to provide employment verification may have violated both IRCA and/or Title VII. Employers who impose citizenship requirements or give preference to U.S. citizens in hiring or employment opportunities may have violated IRCA, unless these are legal or contractual requirements for particular jobs. Employers also may have violated Title VII if a requirement or preference has the purpose or effect on discriminating against individuals of a particular national origin.

Filing A Charge - Charges of national origin discrimination may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most local telephone directories under U.S. Government. Information on all EEOC-enforced laws may be obtained by calling toll free on 800-USA-EEOC. EEOC's toll free TDD number is (800) 800-3302. For TDD calls from the Washington, D.C. Metropolitan Area, dial (202) 663-4494.

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For more information about employment rights and responsibilities under the Immigration Reform and Control Act, you may call the Office of Special Counsel for Immigration-Related Unfair Employment Practices on (800) 255-7688.

*Reference: EEOC-FS/E-1
December 1990*

FACTS ABOUT SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances. Sexual harassment includes, but is not limited to:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The victim has a responsibility to establish that the harasser's conduct is unwelcome.

It is in the victim's best interest to directly inform the harasser that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

An employer may be held liable for acts of sexual harassment regardless of whether the employer knew or should have known of their occurrence. When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. Employees should be informed of their rights, a complaint or grievance process should be established and immediate and appropriate action should be taken when an employee complains.

Filing a Charge - Charges of sexual harassment may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most local telephone directories under U.S. Government. Information on all EEOC-enforced laws may be obtained by calling toll free on 800-USA-EEOC. EEOC's TDD number is (202) 634-7057. This fact sheet may be obtained in large print, Braille or on tape by writing EEOC, Office of Communications and Legislative Affairs, Washington, DC.

Reference: EEOC

Or contact Equal Employment Opportunity of Ohio EPA (614) 644-3553.