

**Management 450 Exam 1**  
**Chapters: 3, 4, 5, Readings & Lecture Material**

**Major federal employment laws**

Employment Law is complicated

- Federal anti-discrimination laws
  - Court rulings
  - EEOC guidelines (equal employment opportunity commission)
- Difficult to actually win a case
- Hiring decisions
  - Pay attention to skills; how well they can do the job
  - (costs firm money)
- Even if people don't file a complaint or sue; costs money
- State/local laws
  - Variation across state
  - Ex: can you fire someone based on sexual orientation? Answer: Depends
  - Ex: no longer hiring smokers, employees have six months to stop smoking.  
Answer: Depends
    - Fired if fail Nicotine test
- Laws and regulations vary based on:
  - Size
  - Government contractors
    - Fewer than 15 people, law doesn't apply
    - Contractor for government □ more rules apply
    - Ex: Dell computers sell to government

**Major anti-discrimination Laws**

- Title VII of Civil Rights Act of 1964
  - Employs to employment
  - Race and color
  - White people can file discriminatory claims
  - Religion
    - Questions to ask: are there days you are unable to work?
    - Faith based organizations have leeway
    - Ex: Christian schools
  - National origin
    - Employer cant discriminate on citizen status
    - Ex: City University in NY □ Italians filed claims
    - Ex: employers cant tell people they cant speak their native language
  - Gender
    - Not originally part of the law
    - Don't ask people if they are married □ discriminate against married women, not men

- Ex: 1960s flight attendant ad- beautiful women hired, cant gain weight or get married
- Civil Rights Act 1991
  - Specifies all terms and conditions of employment
  - Clarifies burden of proof
  - Compensatory and punitive damages
  - Jury trials (not just a judge)

#### Age Discrimination in Employment Act

- Different than title VII
- Have to be over 40 (at federal level)
- More difficult to win after 2009 □ burden of proof on employee
- Older workers have a harder time finding a new job after being laid off

#### Background Checks and Criminals

- High proportion in US have criminal records
- Men are more likely to have records; it adversely affected if employer hires based on record

#### EEOC

##### Charges Filed with the EEOC

- Record number in 2010
  - Climbed because of recession: claims filed for “discrimination”
  - If discrimination □ 1<sup>st</sup> step: file claim with EEOC

##### Religion Based Charges

- Cases doubled from 1997-2009
- Administrative closures □ people don't follow through
- No reasonable cause □ doesn't cost money, no reason
- Illegal to punish to punish someone for filing a complaint
  - But still repercussions for employee

#### Disparate Treatment (Proving Discrimination)

- Presumably intentional
- BFOQ (bona-fide occupational qualification)
  - Never race; only sex and religion
  - Ex: Hooters- the way they define the job. Not only servers, arouse male customers as defined by job
  - Ex: 30 years ago, women were not allowed to work in male prisons but they can now

#### Disparate impact

- Less obvious
- If practice has disproportionate impact, must show job relatedness/validity

- o Ex: height requirement- state trooper has to be 5'9" to apply; tall women could be hired (not discrimination) □ ethnic men file claims
- 4/5<sup>th</sup> rule
  - \*\* Do not have to have fair hiring practices, prove there is no disproportionate impact□

### Reasonable accommodation

#### Americans with Disabilities Act (ADA)

- Qualified to do essential job functions: people assume certain functions cannot be done
- Reasonable accommodation
  - o No undue hardship, must accommodate
- "Disabled"
  - o Major life activity substantially limited
    - Ex: visually/hearing impaired
  - o History of such a disability
    - Ex: treated for cancer 5 years ago
  - o Perceived as having such
    - Ex: burn or dis-configuration

\*Substance abuse can count as a disability □ used to be addicted alcohol is a legal drug- some protection

1. Show disability
2. Show you were discriminated against because of it

#### ADA Amendments Act 2008

- Broadens definition of disability
- Mitigating measures not usually relevant
  - o If medication cant fix it, cant generally be used against you

#### Outcomes of ADA

- Employers more careful about:
  - o Pre employee inquires □ cant do medical test until the end when they have been deemed qualified, if the test is relevant to the job
  - o Ex: anthrax lecture/ training, hearing impaired couldn't follow

#### Pregnancy Discrimination Act 1978

- Update to title VII
- Cant treat differently than short term disability
- No requirement to provide benefits to spouses; if you do, provide for both
- Health insurance has to cover pregnancy and child birth

\*\* Most common complaint filed: Retaliation

#### Sexual harassment

- Quid pro quo (coercion) "sleep with me or you're fired"
- Cheesecake factory □ men harassing other men; 1/5 cases filed by men
- Hostile environment
- Derives from title seven