Employment Law Basics: Foundation for Supervisor Success

Presented by:
Kimberly La Grange, SPHR
Prime Resources, LLC
The Goal of Employment Law

• To provide a workplace where employees are treated with respect and dignity
Employment Law

- The scope of regulation extends to:
  - hiring decisions
  - wage payment
  - benefit administration
  - discipline
  - promotion/demotion
  - termination/dismissal
  - overtime compensation
  - workplace safety
  - preferential rights for veterans
Employment Law

Enacted at the federal, state, and local level. Our focus today is federal law!

The BIG 3 Concerns:

1. Discrimination
2. Harassment
3. Retaliation
What is Discrimination?

• Definition: employment policy or action taken resulting in unfair disadvantage to a person or group considered part of a protected class

• Federal laws provide protection based on: race, color, religion, sex (gender), national origin, disability, age or genetic information
What is Discrimination? (cntd.)

- Includes decisions based on stereotypes and assumptions
- Denying employment opportunities based on marriage to, or association with, an individual in a protected class
- Must result in “tangible employment action” AND basis must be due to individual’s protected status
Are these Discriminatory Actions? Why or Why Not?

A supervisor:

1. Changes Mohamed’s job description so he can leave early on Friday
2. Assigns Juanita to the “graveyard” shift because she is always late
3. Reassigns George’s work assignments, which limits his opportunities for bonuses, salary increases and promotions
What is Harassment?

- A form of discrimination which is unlawful
- Unwelcome verbal or physical conduct based on a person’s race, color, religion, sex or gender, national origin, age (40 and over), disability (mental or physical), or genetic information
Fun or Harassment?
Crossing the Line

Harassment has occurred when:

Workplace conduct is severe or pervasive and unreasonably interferes with an employee’s work performance or creates an intimidating, hostile or offensive work environment
Examples of Harassment

- Flirting, advances and/or propositions of a sexual nature
- Remarks, insults, humor, jokes which are demeaning to an individual’s body/clothing, national origin, culture, race, age, religion, disability
- Offensive displays of sexually suggestive objects/pictures
- Offensive touching
Are these Examples of Harassment?

1. Joseph’s male co-worker persistently makes sexual advances toward him, which he rejects. Joseph complains to their supervisor, but the supervisor takes no action.

2. Kate’s supervisor, Ted, a vice president, subjected her to remarks about her age, such as asking her if she could “tell us what it was like to not have electricity, since you were around before the light bulb” and telling her he hoped she was taking advantage of all the great AARP benefits advertised on television. Kate was obviously upset when Ted made such remarks and made it known to Ted. However, Ted thought these comments were funny and did not stop. When Ted interviewed Kate for a promotion, he expressed reservations because Kate was “too old for this position” and “not the right image”. Kate was denied the promotion.
What is Retaliation?

- Occurs when an employer takes an adverse action against a covered individual because the employee engaged in a protected activity – either filing a charge of discrimination or participating in an investigation.
- Substantive action, not just a petty slight.
- It is illegal and the fastest growing type of charge being brought against employers.
Fairly New Federal Laws

- Genetic Information Non-Discrimination Act (GINA) – 2010
- Americans with Disabilities Act Amendments Act (ADAAA) – 2008
Questions
References

• Equal Employment Opportunity Commission (EEOC), Discriminatory Practices Overview
• Society for Human Resource Management (SHRM), Federal Job Discrimination Laws for Supervisors