

## Title VII of the Civil Rights Act of 1964

Title VII prohibits employers from discriminating against employees or applicants on the basis of race, color, national origin, religion, or sex. The Equal Employment Opportunity Commission (EEOC) was created to enforce these provisions.

### KEY DEFINITIONS

**Sex discrimination** includes discrimination based on gender, sexual harassment, and pregnancy discrimination.

**Sexual harassment** may be defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature made to an employee under the following conditions.

- a. When submission to such conduct is made a term or condition of an individual's employment.
- b. When submission or rejection is used as the basis for employment decisions (promotions, transfers, terminations, layoffs).
- c. When the conduct interferes with an individual's work performance.
- d. When the conduct creates an intimidating, hostile, or offensive working environment.

**Pregnancy discrimination** is discrimination based on pregnancy or a related condition. Pregnant women must be treated the same as other applicants and employees on the basis of their ability or inability to work.

A **bona fide occupational qualification (BFOQ)** is an essential job requirement or duty that creates the need to hire, or seemingly discriminate against, certain people. It may be used as a legal defense for employment practices that appear to violate Title VII.

### COVERAGE

Employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year must comply with Title VII.

Exempt from Title VII prohibitions and protections are:

- religious corporations, associations, educational institutions, or societies employing individuals of a particular religion;
- *bona fide*, tax-exempt private clubs;
- businesses on or near an Indian reservation to the extent that they give preferential treatment to individuals living on or near the reservation;
- jobs that contain a BFOQ necessary to perform the job;
- aliens employed outside the United States.

### REQUIREMENTS

- An employer may not use an individual's race, color, religion, sex, or national origin as a basis for:

- a. failing or refusing to hire an applicant for employment;
  - b. discharging or otherwise disciplining an employee;
  - c. determining an employee's compensation, including fringe benefits, or other terms, conditions, or privileges of employment; or
  - d. limiting, segregating, or classifying an employee or an applicant for employment in a way that would tend to deprive him/her of an employment opportunity or otherwise adversely affect his/her status as an employee.
- An employer may not discriminate against an applicant or an employee because he/she has opposed an employer practice that is unlawful under Title VII or because he/she has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII.

## **SEX DISCRIMINATION**

The following practices may land an employer in Title VII hot water for discrimination based on gender.

- Asking female applicants questions about child care or marital status during a job interview.
- Immediately eliminating female applicants from consideration because of potential work/family conflicts (e.g., overtime requirements).
- Height and weight requirements that are not BFOQs.
- Taking a female applicant's spouse's occupation into consideration when making a hiring decision, but not taking into consideration the occupation of a male applicant's wife.
- Help wanted ads that use discriminatory terms such as "Girl Friday".
- Different dress and appearance codes for female and male employees that cannot be justified as BFOQs.
- Doing a deeper reference check on males than females.
- Classifying certain job categories as typically male or female.
- Pay differentials between genders in essentially the same jobs that cannot be justified.