

What laws protect me in the workplace?

Chapter 3

The Law in the Workplace

Key Terms

discrimination
*Equal Employment
Opportunity Act*
EOE
Equal Pay Act
piecework
*Americans with
Disabilities Act*
*Age Discrimination
Act*
sexual harassment
*Family and Medical
Leave Act*

Chapter Objectives

After studying this chapter, you will be able to

- **define** discrimination and list several workplace examples.
- **identify** the laws that make workplace discrimination illegal in the areas of employment opportunity, pay, physical disability, and age.
- **describe** two general forms of sexual harassment.
- **propose** the steps to take to stop any sexual harassment or discrimination at work directed toward you.
- **list** the four conditions addressed by the Family and Medical Leave Act.

Key Concepts

- Knowing your rights can help you to avoid discrimination.
- Sexual harassment is illegal and there are actions to take to deal with it.
- The Family Medical Leave Act helps employees balance family and workplace demands.

What Is Discrimination?

This chapter discusses the laws regarding behavior in the workplace. (Laws concerning health and safety are discussed in Chapter 15, “Keeping Safety First.”)

Several laws exist to assure everyone a fair and equal opportunity for employment. These laws protect job seekers and workers from discrimination. **Discrimination** means treating a person or group of people differently from the others. This unequal treatment in the workplace is illegal. See 3-1.

Equal Opportunity

The **Equal Employment Opportunity Act** makes discrimination in the workplace illegal when it is based on race, color, religion, sex, or national origin. More recent laws make it illegal to discriminate against people for other reasons. These reasons include physical disability, age, and marital status.

discrimination

Unfairly treating a person or group of people differently.

Equal Employment Opportunity Act

A law that makes it illegal for an employer to discriminate because of race, color, religion, sex, or national origin. More recent laws make it illegal to discriminate against people for other reasons, such as disabilities, age, and marital status.



3-1

The law forbids illegal discrimination in all workplace policies and procedures, beginning with a firm's hiring practices.

Employers are prohibited from treating workers unfairly in all work practices. These include hiring, training, promoting, and firing employees. For example, an employer cannot reserve certain jobs for men and prevent women from applying or being considered. That is discrimination.

EOE
Equal Opportunity Employer.

Some employers include the initials *EOE* in their ads and recruitment materials. *EOE* means *equal opportunity employer*. Of course, all employers must abide by the law and treat all job candidates equally. By including *EOE* in ads, an employer is emphasizing a commitment to equal opportunity.

Employers look for workers with just the right skills and qualifications to do the job well. Employers are not guilty of illegal discrimination when they pass over unqualified job seekers. For example, an employer can require job applicants for a data processing position to keystroke 60 words per minute. An auto repair shop can require that technicians be certified to do repair work. Employers can legally turn away applicants who do not meet minimum job requirements.

Equal Work, Equal Pay

Equal Pay Act
Law that prohibits unequal pay for men and women who are doing essentially the same work for the same employer.

As a worker, you can count on being paid the same as others for doing the same job. The *Equal Pay Act* was a significant step in achieving equal pay protection.

The law was designed to help women get equal pay for equal work. It applies to all workers regardless of sex or other differences, 3-2. Basically, the law does the following:

- It prohibits unequal pay for men and woman doing basically the same work for the same employer.
- The law prevents employers from lowering the wages of either sex to comply with the law. (For example, suppose men are paid more than women for the same work. An employer cannot reduce the men's pay to match the women's level. Instead, the women's pay must be raised to match the men's.)
- The law also prevents labor organizations from forcing an employer to violate the law. In other words, unions cannot force companies to pay union members a higher wage than nonmembers receive.

Because of the Equal Pay Act, everyone can be assured of getting the same wage from an employer for doing the same job.

**3-2**

The Equal Pay Act requires employers to make pay levels uniform regardless of the race, color, religion, sex, or national origin of the jobholder.

Pay Differences

In some cases, certain factors can be considered that result in different pay levels. The following legal factors can result in higher pay for some people doing the same job:

- length of time with the company
- experience in the job
- advanced training
- productivity, or greater work output

Productivity is most easily measured when a job involves **piecework**. This term refers to a job in which something is produced by an individual that can easily be counted. People who do piecework usually have control over how much they can accomplish. An example of piecework is sewing buttons and buttonholes onto men's shirts. One completed shirt equals one piece.

By considering these four legal factors, employers can reward workers who are faster, better trained, and more experienced. An employer cannot use any practice, however, that unfairly sets pay differences.

piecework

A job in which something is produced by an individual that can easily be counted.

A Barrier-Free Workplace

One of a country's greatest resources is its people. Many people with physical disabilities can contribute greatly to

an employer's business. Workers who are disabled are just as much a part of the team as all other workers. They can contribute a great deal in the workplace. Enabling a person who is disabled to work, however, may require certain changes to the workplace. Employers must attempt to accommodate an applicant with a disability.

Americans with Disabilities Act

Law that prohibits employers from discriminating against people with physical disabilities.

The *Americans with Disabilities Act* prohibits employers from discriminating against people with a physical disability. A wheelchair ramp that allows more people to enter and exit the building is one of the most common changes made. Perhaps a piece of machinery may need to be lowered. Employers must make reasonable changes to provide employment free of physical barriers, 3-3.

Medical and physical requirements of workers must be related to business needs. For example, a homebuilder can require a bricklayer to climb scaffolds and read blueprints. The builder cannot, however, require the worker to have

3-3

Offices and mass transit systems must not restrict workers who need a special chair to move around.



Community Connections

Investigate whether workplaces are free of barriers for people with physical disabilities. Students can learn which local companies and organizations have added wheelchair ramps or have made other necessary modifications. Report your findings to the class.



perfect hearing since that is not needed for the job. Any physical exam required by an employer must reflect the duties of the job. Consequently, the builder cannot require the physical exam to cover hearing ability.

An employer cannot ask an applicant about a disability. An employer can, however, ask questions about the person's ability to do the job. Employers need not lower their standards or work quality to satisfy the law's requirement. They can make performance a *condition of employment*. This means keeping the job depends on doing what the job requires.

Age Discrimination

This form of discrimination applies most often to people over 40 years old. The **Age Discrimination Act** prohibits employers from not hiring older people simply because of their age. It also forbids employers from denying any person a promotion, benefit, or favorable job assignment because of age. The law applies to all employers with 20 or more employees. See 3-4.

Several decades ago, people in their 40s were often considered too old for sales positions. No legitimate reason existed for closing these jobs to people over 40. Instead, it was an industry practice based on discrimination.



Making a Difference

Investigate items that you can make for people with disabilities. (The local United Way is a good contact.) Nursing home residents could use bags that carry their personal items and attach to wheelchairs and walkers. Such bags can be created from scrap material. Find out what other items are needed and involve members of your class in deciding ways to make them.

3-4

Older workers have the same right to employment as everyone else.

Age Discrimination Act

Law that prohibits employers from not hiring people simply because they are older.

Age discrimination continues to draw attention today. The issue usually involves experienced older workers who are left jobless after a company reorganizes. Often, workers retire from one job and seek employment in another job to supplement their retirement income. These older workers have a vast amount of knowledge and experience upon which to draw in making a contribution in the workplace. Age discrimination also affects women returning to the workforce after raising their children.

Setting age preferences or limitations as a job requirement is generally unlawful. In certain cases, however, it is legal. For example, if state or federal laws set age requirements, these must be followed. When legal age restrictions are set, they must be applied to everyone in the same manner.

Consider the job of a forklift operator. If state or federal law requires a person to be 18 years of age to operate a forklift, a 16-year-old cannot be hired to operate a forklift no matter how well he or she can do the job. Other restrictions could also be set. For example, it is legal for the job to also require several years of driving experience with a clean driving record.



Your Reading

What laws can protect you from discrimination?

sexual harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when it is made a condition of employment or of a person's work performance or environment.

What Is Sexual Harassment?

All forms of sexual harassment in the workplace are against the law. **Sexual harassment** is unwelcome sexual advances. It can be a request for sexual favors. It can also be verbal or physical conduct of a sexual nature. It is illegal in the workplace under the Civil Rights Act and many state human rights laws. The harasser and the victim can be either sex.

Advances from Authority Figures

There are two basic kinds of sexual harassment. The first type is described as *something given to get something in return*. The legal name is *quid pro quo harassment*. A supervisor or someone in authority usually initiates this kind of sexual harassment. It almost always involves a threat or the promise of a reward.

A group leader may threaten to fire or block a promotion if the victim rejects his or her advances. A supervisor might

promise to promote or give a pay raise to the victim. Often sexual harassment involves the use of power to control a new employee or one with less importance or rank in the organization.

A Hostile Environment

The second kind of sexual harassment deals more with the workplace. In this case, a person makes an environment unpleasant enough to interfere with the other worker's performance. Aspects of the workplace that are considered hostile include sexual pictures, signs, objects, and music. A hostile environment also includes offensive language, jokes, gestures, and comments.

Recognizing Sexual Harassment

Threats and rewards for sexual actions are clear and easy to identify. This behavior is always wrong and illegal! Identifying a hostile environment, however, is not as easy. It can even be confusing. The signs of sexual harassment can be physical, verbal, or nonverbal.

- *Physical harassment* is touching, holding, grabbing, and all other unwanted physical contact.
- *Verbal harassment* is telling offensive jokes, using offensive language, and making suggestions of a sexual nature.
- *Nonverbal harassment* involves offensive gestures and actions, such as staring at a person's body or circulating letters, e-mails, cartoons, or other material of a sexually oriented nature.

Discouraging Sexual Harassment

As an employee, you can discourage cases of sexual harassment by following these guidelines.

- Dress appropriately for the job. See 3-5.
- Become familiar with your right to a workplace free from sex discrimination.
- Know your company's policy and procedures for reporting harassment.
- Conduct yourself in a businesslike manner at all times.



Community Connections

Ask your school principal about the sexual harassment policy at your school. Discuss situations that students may not realize could get them into trouble. Review how you should handle suspected cases and discourage sexual harassment at school.

3-5

If your job does not require a uniform, you will be expected to wear clothing that is appropriate for that workplace.



Your Reading

How can you recognize and discourage sexual harassment?



You should receive a copy of the company's sexual harassment policy during your first week as a new employee. If not, ask what the procedure is so you are informed.

Facing Discrimination or Sexual Harassment

Reputable employers want to provide a workplace free of harassment for their employees. It is in their best interest to provide a productive environment. A workplace with constant tension is not productive. Large and midsize companies have at least one person who handles equal rights matters. The human resources office is usually where they work.

Your greatest weapon against discrimination and harassment at work is to know your rights. When you do, you can confidently proceed.

Action to Take

If you are faced with discrimination or sexual harassment at work, you should follow these steps:

- **Remain professional.** Avoid being too emotional. See 3-6.
- **Speak to the offender.** Let that person know what he or she is doing is illegal and you want it stopped. If the harassment continues, report the person's actions to your immediate supervisor. Most employers have a form that employees can complete to register complaints. Make sure you get a copy of any forms you complete.
- **Record the facts.** Write down all the important details of any continuing event as soon after it occurs as possible. Explain the who, what, when, where, and how of the incident. Be prepared to provide names of witnesses or others who can support your claims.



3-6

It is important to always act business-like with coworkers in all settings.



Your Reading

What actions can you take if you face sexual harassment?

- **Report the offense if it does not stop.** Report it to your supervisor, unless he or she is the source of the offense. Then go to someone higher in the company. Contact the person designated by your company to handle such complaints. If you are a union member, you can also go to your union representative. Outside the company, you can contact the Equal Employment Opportunity Commission (EEOC) or your state's Department of Human Rights. Going outside the company is a step to take only after contacting the appropriate source within the company.

As a last resort, the Civil Rights Act gives you the right to take your case to court. If you win the case, you can receive money that you lost because of the discrimination. Loss of money may be due to dismissal, demotion, lost benefits, or other reasons. Employers cannot retaliate against employees who file a complaint or testify as witnesses.

The Family and the Workplace

Workplace demands sometimes clash with family demands. How to care for young or sick children while at work is one of the biggest issues facing employees. Child care issues especially affect single-parent households and those with both parents working outside the home. Caring for sick family members and aging parents are additional concerns. See 3-7.

Juggling family and workplace demands can cause workers to arrive late or go home early. Employees with special family demands often find it difficult to keep their minds on their work. Often workers use up their sick days caring for other family members.

The ***Family and Medical Leave Act*** allows some flexibility in the normal work routine to handle special family matters. The law addresses the following four conditions:

- having or caring for a new baby
- adopting a child or adding a foster child to the family
- being unable to work because of serious illness
- caring for a sick child, spouse, or parent

Family and Medical Leave Act

A law that allows 12 weeks off without pay per year in certain cases to handle special family matters.

**3-7**

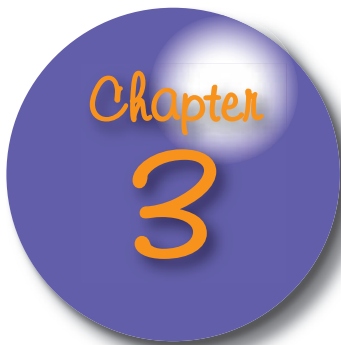
Too many employees use up all their sick days caring for other sick family members.

The law applies to employers of 50 or more employees. It generally covers those working at the same company for at least 12 months. Under this law, employees can take a total of 12 weeks off without pay. Also, they can keep their health insurance during the time off and return to their jobs or similar jobs with no loss of benefits or pay.



Your Reading

What law helps employees balance the demands of family and the workplace?



Chapter 3

Summary

Employers cannot discriminate against anyone in their hiring, training, promoting, or firing practices. Laws prohibit using race, color, religion, sex, national origin, age, a disability, or marital status as a requirement for employment. Discrimination occurs when there is different treatment of one person or group of people.

Discrimination sometimes affects a person's pay. All workers must receive equal pay for equal work with the same employer. Sometimes pay can be higher for some when certain legal factors are considered.

Sexual harassment in the workplace is illegal. It involves unwelcome advances of a physical, verbal, or nonverbal nature. Sexual harassment can affect the way people do their jobs and feel about themselves. When faced with discrimination or harassment, it is important for employees to know their rights under the law and exercise them.

The law also allows greater flexibility in work schedules for some workers with special family demands.

Reviewing Key Concepts

1. True or false. It is *not* discrimination if a bank hires only applicants who have a driver's license.
2. True or false. It is *not* discrimination if an employer requires all employees to complete special training programs to be promoted.
3. Productivity is most easily measured when a job involves _____.
4. Under the Americans with Disabilities Act, employers must make reasonable changes to provide employment free of physical _____.
5. True or false. Sexual harassment only occurs between a man and a woman.
6. List three steps an employee can take to discourage sexual harassment in the workplace.
7. What is the greatest weapon against discrimination and sexual harassment at work?
8. What are the four steps to take if you are the target of discrimination or harassment at work?
9. What government agency is responsible for enforcing the fair treatment of people in the workplace?
10. Under the Family and Medical Leave Act, an employee of a company with at least 50 employees can take a total of _____ weeks off without pay to handle special family matters.

Building Academic Skills

1. **Social Studies.** Research the issue of gender equality and sexual harassment in the workplace. Find out the number of males versus females in various occupational areas and write a report on your findings. Are the number of sexual harassment cases higher in some occupational areas than others?
2. **Social Studies.** Investigate which president was in office when the Family and Medical Leave Act was signed into law. Do other countries allow more or less time away from work to handle special family matters? Research at least three other industrial nations.

Building Technology Skills

1. Videotape an interview with the principal or district superintendent of your school to discuss how your school complies with the Equal Pay Act, Americans with Disabilities Act, and Age Discrimination Act. View the tape in class and discuss what you learned.
2. Conduct an online search to learn more about the Equal Employment Opportunity Commission (EEOC). Find the answers to these questions: What powers does the Commission have? What happens when the EEOC determines that an employer is guilty of discrimination or sexual harassment?

Building Career Knowledge and Skills

1. Research the psychological effects of discrimination on people. What are the three most important facts you learned? Share them with the class.
2. Write a paper explaining how to distinguish between innocent flirting and sexual harassment involving people your age.
3. Invite a lawyer to class to discuss how he or she prepares for a sexual harassment case. What kind of information is needed to substantiate a sexual harassment claim?

Building Workplace Skills

Contact a large employer in your community. Find out who in the organization is responsible for making sure equal employment laws are followed. Schedule a telephone or in-person interview to get answers to the following questions: How does the company make sure the rules regarding sexual harassment and discrimination in the workplace are followed? What training programs are offered to company employees, and who is required to attend? What handouts are given to employees on the subject? Prepare a presentation for your class describing your findings. Use any materials gathered in your contacts.