Managing a Compliant and Diverse Workplace

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Author Note

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An ideal working environment is epitomized by a culture that demonstrates courtesy and equality to all the members of a community regardless of their identity, national origin, and status. The ideal culture is free of any discrimination, abuse, and harassment at the workplace. Organizations that do not take care of the laws and regulations protecting employees against discrimination may face lawsuits that are not in favor of the organization in the long run. Claims regarding harassment at workplace, failure to provide reasonable accommodation to disabled employees and work-life balance are important concerns raised by employees of numerous organizations. This paper seeks to highlight concerns regarding these issues and the related regulations as guidelines to avoid such situations.

# Impacts of Workplace Harassment on EEO

Workplace harassment and bullying is a form of discrimination, which involves unwelcomed, offensive, abusive and embarrassing behavior towards an individual or a group, because of some real or perceived characteristics including sexuality, disability, and ethnicity. It can take the form of practical jokes, bullying, calling names, pinching or taunting and displaying offensive content in the form of pictures and posters. Harassment and bullying in the workplace are serious offenses that hurt the organization's ability to promote a work culture of equal employment opportunity for all (Boland, 2005).

EEO means promoting and creating a workplace that is free of any form of discrimination based on sex, which also accounts for sexual harassment. It applies to all the people in the organization. The EEO deals with discrimination, harassment, and affirmative action, and every organization is responsible for creating a workplace that is free of any kind of discrimination and unfair practices. Harassment negatively affects the organization's ability to creating a safe workplace. A plaintiff can take the case of harassment and bullying at the workplace according to the EEOC. An employee can take the claim to the court of law if there is no anti-harassment policy at the workplace. If the employee has been punished for filing the complaint, they can take the claim to a court of law. If the employer does not have any good investigation process and if the leadership or higher management is not committed to creating a safe workplace, all these factors can take the plaintiff to the court of law (EEOC, 2018). The law requires the person to go through the policies and procedures an organization has defined in case of harassment and bullying.

An organization can eliminate these elements by making a defining and clear policy that highlights the examples of what constitutes such conduct. The policy must also ensure employees that they will not be retaliated on making complaints. Having a clear reporting procedure is also essential to facilitate employees in reporting such behaviors at the workplace. An organization must have a clearly defined procedure for investigating the issue so that the victim can be protected.

# Reasonable Accommodation of Disability and Plaintiff’s Claims

The Americans Disability Act 1990 is a civil law, which disallows an organization to discriminate against the employees with disabilities in all the areas of life including schools transportation and jobs, etc. This law ensures public accommodations of disabling employees to promote equal employment opportunity at the workplace. Employers are obliged to provide reasonable accommodation to disabled employees, who qualify a certain job, to permit them to perform necessary job functions. Reasonable accommodation involves making necessary changes to a position or a workplace to enable disable employees to perform their job duties. This includes making the height of tables and chairs suitable, installing telecommunications for deaf or allowing a worker flexible work week so that they can receive medical treatments timely. Other few possible accommodations involve hiring a temporary specialist, offering unpaid leaves and relocating employees. There are unlimited possibilities for reasonable accommodation.

A plaintiff can make a claim regarding the failure to accommodate under the Americans Disability Act 1990. In order to establish a claim under this Act, the plaintiff has to demonstrate certain elements. The first thing he/she has to validate is that plaintiff is a person with a disability under the meaning of disability in Title I of ADA, and the employer covered by the law also took notice of his/her disability (DREDF, 1997). Plaintiff could have performed job responsibilities of the job under issue if he/she would have been provided with reasonable accommodation and the employer denied to provide such accommodations. Only those employees who qualify for the essential job functions are protected against discrimination under ADA. Employers are not required to hire or retain the employees unable to perform necessary job tasks. The qualified employee must prove that they have the necessary skills, degrees, license, and qualification for the job and can perform essential duties. A job duty is essential if the job exists to execute that function, only a few people can complete that task, the function requires the hiring of experts or specialized people to perform that function (England, 2015). These factors are used by the EEOC to evaluate if the job function is essential or not.

# Bona Fide Occupational Qualification Law and Religious Organizations

The Bona Fide Occupational Qualification is the business capabilities that employers are allowed to consider while making any decisions about recruitment, selection, and promotion of employees. The qualification must be related to an essential job function and is considered compulsory for the operation of the specific enterprise. The BNOQ allow hiring of employees based on religion, sex, age, and national occupation if these features are a bona fide occupational qualification. This is a special case in the Title VII of the Civil Rights Act of 1964 that safeguards employees from discernment and exploitation dependent on religion, sex, age, national origin and color of their skin at the place of work. However, different religious organizations such as churches, temples, and mosques do not typically rely on this BFOQ defense because of the exception permitted in the Title VII which allow them to have a preference on their co-religionists (Zimmer, 2004). A religious organization can be distinguished on the following factors, its articles of joining that demonstrate a religious reason, working each day with some religious center and on the off chance that it is a revenue making an organization.

A "BFOQ" represents Bona Fide Occupational Qualification and differs from the right to discriminate as it permits an organization to separate out the employees based on religion, sex or national origin if the job position entirely requires any of these ensured classes. For instance, a female attire designer may not hire a male fashion designer because it would not bode well for the profession. Same is the cases with a religious organization, a Jew cannot be hired as a father of the Church. A Catholic school can deny hiring a non-Catholic teacher as it's a Bona Fide Occupational Qualification (ready to show Catholicism) and the institute holds the freedom to separate.

# FMLA, Pregnancy Discrimination Act, and common Managerial Mistakes

Laws and regulations seek to allow employees to maintain a balance between the family and work responsibilities. Pregnancy Discrimination Act and the Family and Medical Leave Act (FMLA) are examples of such laws. Title VII of the Civil Rights Act prohibits organizations from sex discrimination on the basis of pregnancy and childbirth (England, 2015). The FMLA, on the other hand, allows employees to take the time off from work to take care of their family without having fear of losing their jobs. Serious health issues of any of the family member make an employee eligible for some paid leaves. The PDA and FMLA are though unrelated to each, one is linked with discrimination while the other is associated with leaves, and however, PDA may also require taking leave for pregnancy. FMLA requires that an employer has to offer unpaid leaves to employees for a medical reason that may be pregnancy such as paternal leaves.

With regard to FMLA and PDA managers can make several mistakes that may land them in court. One such mistake is taking action against an employee that may return from FMLA leaves. Since FMLA states that employee coming back after leaves must be subjected to the same job and equal pay. Saying unreasonable things when employees request FMLA leaves can also make an organization face lawsuit because FMLA encourages the employee to make their health the priority (Zeidner, 2018). Another mistake is making assumptions that certain ailments and medical conditions do not specifically need FMLA leaves, however, ailments like flu can also be considered severe. In addition, revealing the private medical information of an employee and punishing employee in case of unexpected FMLA leave are some blunders which may land managers to the court, therefore, supervisors handling FMLA must be aware of these issues.

# Conclusion

To sum up, the U.S. government has made different laws to guard employees against discernment. The Civil Rights Act of 1964 is the landmark which bans discrimination of employees. Title VII specifically related to equal employment opportunity is the quick guide for employers to avoid age, pregnancy, disability and gender discrimination. Law also allows employers to discriminate in specific cases such and based on a specific trait that is BFOQ essential to perform typical job duties. Managers must also avoid making blunders regarding family and pregnancy leaves by taking care of the conditions outlined in FMLA and PDA acts.

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