

## 2.8: EEO Best Practices

### Learning Objectives

1. Discuss EEO compliance best practices

As part of its E-Race (Eradicating Racism & Colorism from Employment) Initiative, the EEOC has identified a number of best practices that are applicable broadly, including the following:

### Training, Enforcement, and Accountability

Ensure that management—specifically HR managers—and all employees know EEO laws. Implement a strong EEO policy with executive-level support. Hold leaders accountable. Also: If using an outside agency for recruitment, make sure agency employees know and adhere to relevant laws; both an agency and hiring organization is liable for violations.

### Promote an Inclusive Culture

It's not just enough to talk about diversity and inclusion—it takes work to foster a professional environment with respect for individual differences. Make sure that differences are welcomed. Being the “only” of anything can get tiring, so make sure you're not putting further pressure on people by surrounding them in a culture that encourages conformity. A great way to promote an inclusive culture is to make sure your leadership is diverse and to listen to the voices of minorities.

### Develop Communication

Fostering open communication and developing an alternative dispute-resolution (ADR) program may reduce the chance that a miscommunication escalates into a legally actionable EEO claim. If you're not providing a path for employees to have issues resolved, they'll look elsewhere. Additionally, it's essential to protect employees from retaliation. If people think reporting an issue will only make the situation worse, they won't bring it up, which will cause the issue to fester and lead to something worse than it once was.

### Evaluate Practices

Monitor compensation and evaluation practices for patterns of potential discrimination and ensure that performance appraisals are based on job performance and accurate across evaluators and roles.

### Audit Selection Criteria

Ensure that selection criteria do not disproportionately exclude protected groups unless the criteria are valid predictors of successful job performance and meet the employer's business needs. Additionally, make sure that employment decisions are based on objective criteria rather than stereotypes or unconscious bias.

### Make HR Decisions with EEO in Mind

Implement practices that diversify the candidate pool and leadership pipeline. Provide training and mentoring to help employees thrive. All employees should have equal access to workplace networks.

### MAKING HR DECISIONS

Now that you've learned EEO compliance best practices, let's check your instincts and take a look at a few HR situations.

1. A manufacturing company that's traditionally been staffed by white men will do better in terms of performance and productivity if they don't rock the boat on diversity and continue to hire mostly white men. Do you agree?
  - No, they should focus on hiring a more diverse workforce and fostering a culture of inclusion because a variety of voices and experiences actually leads to better company performance.
  - Yes, the company should stay as it is. Cultural adjustment is expensive.
  - No, they should diversify their workplace to be appealing to diverse clients and customers.
2. Your employee, Laura, has been with the company for two years. About half of her job involves sitting at her desk inputting lading records for your office supply company. The other half involves emptying the delivery trucks and shelving the supply boxes in the proper places in the warehouse. Laura happily announces that she's pregnant. You immediately suggest

to your boss that you cut out the half of Laura's job that involves physical labor and also institute a temporary pay cut since someone else will have to do that work. Your boss says absolutely not. Which of the following is NOT a reason your boss may have rejected the suggestion to cut Laura's hours and pay?

- It is illegal to pay women less than men for the same job.
  - Laura should be encouraged to quit completely since she probably will anyway once the baby is born.
  - It is illegal to discriminate against a pregnant woman in employment.
  - It is legal for Laura to ask for reasonable accommodation in her job during her pregnancy, like more frequent breaks.
3. You run HR for a tech company that's starting to take off and needs to expand its staff. Part of what you offer potential employees is a chill atmosphere with flexible work hours (some people work 2p to 10p, for example) pinball machines, a beer tap in the kitchen, and a company kickball team. Your recruiting firm sends you a resume for a software engineer with amazing qualifications, but there's no identifying information. You decide you must have this coding wizard on your team. When the candidate shows up for the interview, you discover she's a 48-year-old Latinx woman. What do you do?
- Hire her for the job she's interviewing for but give her solo projects so she won't be uncomfortable with the rest of your team—or the team with her.
  - Hire her for the job she's interviewing for and let her do it—all you can do is wait to see what happens.
  - Interview her, but do your best to make it clear that this company isn't a good fit for her. The bros you currently employ wouldn't be comfortable working with her.
  - Change the job description to focus on project management since you could really use someone with her authority and, er, seniority in that role.
4. You are the hiring manager for a high-end car dealership. Most of your clients are wealthy, divorced older men who can afford a car that will make them look good as they search for their second wives. One of your applicants for a sales position is a well-dressed young white man who knows a lot about cars—the history of your brand, the features and attributes of specific models, and the innovations coming soon. He was also a top salesman at his previous job. In the course of the interview, he mentions that his husband isn't all that interested in cars. Do you make him an offer?
- Yes. He's highly qualified, and he might diversify our customer base to include more LGBT+ car buyers who can afford our brand.
  - Yes. We've been taking a hit on diversity, and if we hire him, we can claim to have some diversity while he still blends in with the rest of our sales force.
  - No. He wouldn't succeed because our clients would sense he's gay and shy away.
  - No, and we're covered because appealing to rich, straight, white guys is a Bona Fide Occupational Qualification for our dealership.
5. You're in charge of hiring for a web development company, and you need to expand your User Experience (UX) team. This team is responsible for making sure that the websites you build offer the smoothest, most intuitive, and easy interface for users. One of your current employees tells you about a guy he went to college with, Andy, who would be perfect for the role. He mentions that Andy has been recognized with industry awards, has written articles on UX, and oh, by the way, he's blind. What's your most thoughtful reaction in terms of your company's success?
- Interview and hire him. He'll be good for attracting new clients, especially with his name recognition.
  - Interview him and hire him. Your company will get a perspective on web accessibility for those with visual impairments that will shake up the way your entire engineering and UX teams think.
  - Interview and hire him but be ready to spend money on accommodations.
  - Interview him and hire him, and then see where he fits in with the team.
6. You've hired a recruiting firm to find you some new store manager candidates for your upscale unisex clothing store. The firm has sent you a bunch of resumés, and you're starting to interview people. You begin to notice that all the candidates are young, thin white women. What do you do?
- Call them and tell them you want more diversity overall in the candidate pool—and specify what you mean by that.
  - Call them and tell them you need to interview some men since you have male customers.
  - Accept it. This is who they're sending you, so they must be the best candidates.
  - Accept it. This is the kind of person you were picturing anyway, so you're going to roll with it.

7. Your company's workforce has been getting more and more diverse, in part because of a deliberate effort to hire a wider range of people and in part because the demographics of your area are changing, and younger candidates are more diverse as a result. There have been some challenges in terms of older employees wanting the new hires to learn to "fit in," and new hires feeling excluded or discriminated against. Basically, you've got diversity without inclusion. What's your best course of action for fixing this problem?
- Get the executive team together to talk this through and then issue a directive on acceptable behavior.
  - Start working on several levels to increase individual empathy as well as company-wide inclusion... but it's going to be expensive in terms of time and effort.
  - Go online and find a well-recommended diversity training firm. Then set aside some time for the whole company to go through their training.
  - Examine your official policies to see whether any of them inhibit inclusion.

### Answer

1. No, they should focus on hiring a more diverse workforce and fostering a culture of inclusion because a variety of voices and experiences actually leads to better company performance.
  - When a company is made up of people who are alike in terms of demographics, education, geography, and/or experience, those people tend to think a lot alike, which makes innovation and problem solving a lot more challenging. Diversifying the workforce isn't easy, but it's worth it in terms of measurable company performance.
2. Laura should be encouraged to quit completely since she probably will anyway once the baby is born.
  - Thanks to the Pregnancy Discrimination Act of 1978, Laura has the right to continue to do her job throughout her pregnancy. Any discrimination—even if it seems considerate of her condition—is illegal.
3. Hire her for the job she's interviewing for and let her do it—all you can do is wait to see what happens.
  - This is what you'd do with any other coder, right? She's experienced, and she has a lot to teach your team. Your job is to foster a culture of inclusion to make sure that she's treated as well as any other member of the team and that your company grows both from her experience in the field and from increasing its diversity.
4. Yes. He's highly qualified, and he might diversify our customer base to include more LGBT+ car buyers who can afford our brand.
  - If he's the best candidate in every way, you should hire him for two reasons: 1) he might expand your customer base to include LGBT+ car buyers, and 2) if you don't you might have a discrimination suit on your hands.
5. Interview him and hire him, and then see where he fits in with the team.
  - As you would with any other employee. Just having him around will change how your team thinks, and this has potentially huge returns for both your product and your profits. However, you shouldn't assume "blind guy equals blind people specialist." Andy may not appreciate that, and you may be missing out on a whole bunch of his other skills and specializations.
6. Call them and tell them you want more diversity overall in the candidate pool—and specify what you mean by that.
  - It's highly unlikely that the best candidates in terms of experience and ability all look exactly alike. Also, if someone decides to sue you for discrimination in hiring, the fact that you used a recruiting company doesn't shield you from being liable for discriminatory practices. Be very specific that you want a completely open recruiting process, and if they don't change their ways, you can find another company. It's still cheaper than paying lawyers.
7. Start working on several levels to increase individual empathy as well as company-wide inclusion... but it's going to be expensive in terms of time and effort.
  - From policies to teams to individuals, in order for inclusion to stick, the whole company needs to work on making sure there is space for every individual to get their job done to the best of their ability. Old guard employees need to know that the company does better when D&I are working well, and new employees need to see that the company is invested in them. Yes, it will cost something, but the payoff far exceeds the cost.

## Enforce an Anti-Harassment Policy

Establish, communicate and enforce a strong anti-harassment policy. You should conduct periodic training for all employees and enforce the policy. The policy should include:

- A clear explanation of prohibited conduct, including examples
- Clear assurance that employees who make complaints or provide information related to complaints will be protected against retaliation
- A clearly described complaint process that provides multiple, accessible avenues of complaint
- Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible
- A complaint process that provides a prompt, thorough, and impartial investigation
- Assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred

#### PRACTICE QUESTION

You are developing an anti-harassment policy for your organization. Based on your reading of EEOC's E-Race Initiative, you decide to:

- Develop an alternative dispute resolution process.
- Add a paragraph on anti-harassment to the employee handbook.
- Establish, communicate, and enforce a clear anti-harassment policy.
- Focus on harassment related to race and color only.

#### Answer

Establish, communicate, and enforce a clear anti-harassment policy.

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