

## 2.3: The Law and Discrimination

### Learning Objectives

1. Describe the laws designed to prevent bias and discrimination in hiring

A SHRM article emphasizes: “Discrimination costs employers millions of dollars every year, not to mention the countless hours of lost work time, employee stress and the negative public image that goes along with a discrimination lawsuit.” Equal employment opportunity isn’t just the right thing to do, it’s the law. Specifically, it’s a series of federal laws and Executive Orders designed to eliminate employment discrimination. Illegal discrimination is the practice of making employment decisions such as hiring, compensation, scheduling, performance evaluation, promotion, and firing based on factors unrelated to performance. There are currently nine categories protected under federal law: age, disability, genetic information, national origin, pregnancy, race and color, religion, and sex. Although the final category is being disputed (more on this later), the EEOC currently interprets “sex” to include gender, sexual orientation, and gender identity.

Employment discrimination laws and regulations are enforced by the Equal Employment Opportunity Commission (EEOC), an agency established by the Civil Rights Act of 1964 (Title VII). The agency’s mission is to stop and remedy unlawful employment discrimination. Specifically, the EEOC is charged with “enforcing protections against employment discrimination on the bases of race, color, national origin, religion, and sex.” Congress has expanded the agency’s jurisdiction over the years and the EEOC is now responsible for enforcing the Equal Pay Act of 1963 (APA), the Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). In 1972, Congress expanded Title VII protections to include federal government employees and granted the EEOC authority to pursue independent litigation against private employers under Title VII. Note that state and local laws may provide broader discrimination protections. If in doubt, contact your state department of labor for clarification.

### PRACTICE QUESTION

You are preparing a briefing on discrimination law for new managers and supervisors. You want to start with a big picture view. Which of the following would best serve that purpose?

- Discrimination protections legislation is applicable to all employment decisions.
- There are currently 5 protected categories: age, race, religion, gender, and disability.
- Discrimination legislation is more of a suggestion than a requirement.
- Discrimination protections apply only to the hiring process.

### Answer

Discrimination protections legislation is applicable to all employment decisions.

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