

Title VII Cheat Sheet

What Employers Are Covered?

Those with 15 or more employees

What's Prohibited?

- Discrimination or harassment on the basis of race, sex, national origin, color or religion with respect to hiring, firing or any term or condition of employment
- Retaliation against an individual who engages in protected activity
- Disparate impact against a protected class

What Constitutes "Disparate Impact"?

A policy or action that is facially neutral but nevertheless adversely affects a protected class

What about BFOQs?

A very narrow exception to Title VII allows employers to discriminate on the basis of religion, sex or national origin (but never race) if a characteristic is intrinsic to the job (e.g., a women's restroom attendant). The employer must prove that no member of the group it discriminated against could perform the job – a very tough standard.

May an Employer take Adverse Action against Protected Individuals?

Yes, so long as it bases its decision on a legitimate nondiscriminatory reason

What Types of Harassment Are Prohibited?

- *Quid pro quo*: employment terms, conditions or decisions are conditioned on sexual demands by the victim's supervisor
- *Hostile work environment*: severe and pervasive conduct that creates an intimidating, hostile or offensive work environment
- For more, see Harassment Cheat Sheet

Examples of "Protected Activity"

- Filing a charge of discrimination with the EEOC or state
- Complaining to the employer about alleged discrimination
- Acting as a witness in connection with a discrimination investigation, hearing or judicial proceeding
- "Association" with persons in a protected class may also be covered

What Are the Potential Penalties?

- Back and/or front pay
- Compensatory damages
- Reinstatement
- Punitive damages
- Attorneys' fees

Top Title VII Tips

- Include anti-discrimination/harassment policies in your employee handbook
- Apply employment policies consistently to all employees and applicants
- Provide training on a regular basis
- Avoid the temptation to provide inflated ratings in performance reviews
- Take all complaints of discrimination and harassment seriously and take prompt corrective action
- Recognize that some state anti-discrimination laws provide broader protection than federal law
- Avoid setting quotas or requirements that a certain percentage of positions be filled by persons from protected classes
- Understand that just because an employee is in a protected class doesn't insulate him/her from legitimate nondiscriminatory job actions