

Laws Affecting the Workplace

Employment law is a broad area of the law that controls how employers must treat employees, former employees, and applicants for employment. The laws affecting the workplace are largely federal laws, and require employers to create and preserve workplace environments where all employees have equal employment opportunity. Employers, however, still retain the right to determine duty assignments, apply discipline and terminate employees, provided the reason for the change of status or disciplinary action is not based on a “protected status” in the law, such as race or national origin, age, gender, or disability. Sometimes the discrimination is open and hostile, but it can also be discrete, and difficult to establish. It is not uncommon for example, to encounter an employee who contends she has been treated unfairly in the workplace because she is a woman, while at the same time her employer asserts the adverse workplace treatment has to do with performance not gender. Such disputes often become contentious, particularly when jobs or job opportunities are lost.

Employment law encompasses a wide variety of legal issues including pay and benefits, severance and retirement, and sexual harassment and employment discrimination. Title VII of the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and state law counterparts to these laws, are some of the laws providing an array of protections to employees, and guidance to employers. These laws are the law of the land and prohibit discrimination and reprisal against employees and job applicants, while requiring employers to take reasonable steps to establish a workplace that will prevent mistreatment on the basis of a “protected” status, i.e. race, religion, gender, age, disability.

Though many of these protections have been around for some time (Title VII of the Civil Rights Act, which prohibits discrimination in private and public sector employment on the basis race, sex, and religion has been “on the books” for over forty years!) discrimination in American workplaces remains commonplace. In 2006 alone, over 20% of polled employed women in all fields of endeavor have reported being sexually harassed in the workplaces of America! The statistics for other protected statuses are as alarming. The Equal Employment Opportunity Commission (EEOC), which is the federal agency responsible for enforcement of federal discrimination laws, continues to report and investigate tens of thousands of workplace claims of discrimination annually, in every category of discrimination and retaliation. Nonetheless, substantial progress in educating employers and employees about these laws and workplace rights and protecting workplaces has been made, and the statistics reveal improvement and reduction in the number of hostile workplaces.

If involved with disputes involving such issues as termination, sexual harassment, or discrimination (gender, age, religion, disability, pregnancy, national origin, and race), employees should immediately consult an attorney in order to determine if workplace rights have been violated. Retaining counsel promptly to address illegal treatment may give the individual an advantage in dealing with an employer trying to avoid paying for mistakes.