

DuaneMorris

IN THE YEAR 2525*

prepared for

Greater Valley Forge Human Resource Association



GVFHRA

presented by

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EEO

1. Prior to 1964
 - a. Lawful to ask applicant:
 - i. What is your religion?
 - ii. What is your race?
 - iii. Are you pregnant?
 - iv. Are you fertile?

EEO

1. Prior to 1964

b. Lawful to terminate employee because of his or her:

- i. Race
- ii. Age
- iii. Sex
- iv. Religion

EEO

2. Federal Civil Rights Legislation

- a. Civil Rights Act of 1964—gender, race, color, religion and national origin
- b. Pregnancy Discrimination Act—pregnancy
- c. Age Discrimination in Employment Act—age (40 plus)
- d. Vocational Rehabilitation Act—handicap (government contractors and subcontractors)
- e. Americans with Disabilities Act—disability
- f. Immigration Reform and Control Act—citizenship
- g. Genetic Information Non-Discrimination Act—genetic information

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3. Protected Groups in Other States and Some Local Jurisdictions in PA, such as Philadelphia
 - a. Sexual Orientation
 - b. Gender identity or expression
 - c. Marital status
 - d. Civil union/domestic partner status
 - e. Parental or familial status

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4. Horizon in PA

- a. Sexual orientation
- b. Gender identity or expression

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5. Horizon in Other States

- a. Unemployed
- b. Homeless

EEO

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- a. White men: will be minorities in many workplaces and bring more claims
- b. Older workers: will challenge to an even degree adverse actions following voluntary retirement programs (represented by Mick & Cher, LCC)

Unions

1. Pre 1935—workers could be and were abused
2. National Labor Relations Act of 1935—right to organize protected
3. Management-labor collusion—sweet heart deals
4. Taft-Hartley Act of 1947—unlawful for employers to assist, dominate, etc. labor organization
5. NLRB—pendulum swings as presidents change

Unions

6. Current Labor Board: BFF of unions
 - a. Extreme Decisions, for example:
 - i. Horton
 - ii. Costco
 - iii. Special Healthcare
 - b. Proposals
 - i. Notice Posting
 - ii. Election procedures

Unions

7. 2525

- a. I-9 and union membership as condition of employment
- b. Anti-union thoughts=death penalty

Leaves of Absence

1. Pre ADA—right to terminate because of need for medical leave (subject to narrow exceptions)
2. ADA—leave as reasonable accommodation
3. FMLA—12 weeks' leave because of serious health condition (broadly defined)
4. ADAAA—we are all disabled now!

Leaves of Absence

4. State Leave Laws
 - a. Paid Sick Leave
 - b. Veteran's Day Leave
 - c. Domestic Violence leave
 - d. Violent Crime Leave
 - e. Election Officer Leave
 - f. Voting Leave
 - g. Emergency Responder Leave

Leaves of Absence

5. ADAAA as interpreted by EEOC—EEOC attacks on:
 - a. Maximum leave provisions (happening)
 - b. Minimum requirements for leave (coming soon to a courtroom near you)

Leaves of Absence

6 2525—leave for:

- a. EEOC: attendance not essential function of a job
- b. Employee Right Not To Work Act

Wage and Hour

1. 1938
 - a. Manufacturing economy
 - b. No TV, internet, social media, etc.
2. FLSA enacted in 1938
3. Interim minor adjustments, for example, 2004 re: White Collar Exemptions
4. 2011
 - a. Service economy
 - b. Social media is no longer kewl

Wage and Hour

5. Outdated non-exempt rules, for example:
rest breaks versus meal break rules
6. Hot litigation issue: remote work
7. 2525
 - a. Duty to Report Conscious Thinking Act
 - b. Unconscious Dreaming Worker Protection Act

Technology

1. Progression
 - a. Letter
 - b. Overnight
 - c. Fax
 - d. E-mail
 - e. Social media

Technology

2. Social media Issues

- a. Hiring
- b. Harassment
- c. Promotional
- d. Disparagement
- e. Friending

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- a. Bedrooms on boardrooms
- b. Open door becomes open brain

Harassment

1. Pre-1986: sexual harassment not recognized
2. 1986-Vinson case
3. 1991-Hill-Thomas Hearings
 - a. Public awareness on sexual harassment
 - b. Dramatic increase in sexual harassment claims
4. Subsequently, increase in claims of other kinds of harassment, such as race, color and religion

Harassment

5. Harassment prevention—rule and not exception
 - a. Valuable and necessary
 - b. But sometimes overbroad definition of harassment
 - c. Results
 - i. Diminishes seriousness
 - ii. Reinforces rescue mentality
 - iii. Produces fear (and avoidance)
6. Employees also claim that managing them is harassing them

Harassment

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- a. Anti-Bullying legislation
- b. Employee Right to Select Manager Act

Crazy Laws—Top 7

1. Los Angeles
 - a. Toads may not be licked

Crazy Laws—Top 7

2. New York

- a. The penalty for jumping off a building is death

Crazy Laws—Top 7

3. New York

- a. It is against the law to throw a ball at someone's head for fun

Crazy Laws—Top 7

4. Arkansas

- a. Alligators may not be kept in bathtubs

Crazy Laws—Top 7

5. West Virginia

- a. Road kill may be consumed for supper

Crazy Laws—Top 7

6. Florida

- a. It is unlawful to have sex with a porcupine

Crazy Laws—Top 7

7. Texas

- a. When two trains meet each other at a railroad crossing, each shall come to a full stop, and neither shall proceed until the other has gone