

PREVENTING WORKPLACE DISCRIMINATION... FOR MANAGERS AND SUPERVISORS

COURSE OUTLINE

- **Studies show that significant numbers of employees... men, women, whites, African Americans, Hispanics, LGBTs and others... experience discrimination on the job.**
- **"Workplace discrimination" can be a serious problem both for people and the companies they work for.**
 - It can be emotionally devastating for its victims.
 - It reduces productivity and increases expenses.
- **Since discrimination is also illegal, it can also result in significant legal fees, settlements and plaintiff awards.**
 - Your employer depends on managers/supervisors like you to help prevent discrimination within your organization.
- **When a person is treated unfairly because of who they are... their age, gender, skin color, religion, sexual orientation or other personal attributes... that behavior is called "discrimination".**
- **Workplace discrimination was made illegal in the United States by the Civil Rights Act of 1964.**
 - Title VII of that historic legislation outlawed discrimination against employees and job applicants based on their sex, race, color, religion or national origin.
- **Other anti-discrimination laws that have been enacted since then include:**
 - The Age Discrimination in Employment Act ("ADEA"), which prohibits discrimination on the basis of age for workers over 40.
 - The Americans with Disabilities Act (ADA), which prohibits discrimination against certain disabled individuals and requires employers to make "reasonable accommodations" for them in their facilities.
 - The Family and Medical Leave Act (FMLA), which prohibits discrimination against workers who must take care of family or medical needs, and requires employers to allow them time off to do so.

- **More recent regulations have extended protections to include discrimination based on gender identity, sexual orientation and genetic information.**
- **Anti-discrimination laws also forbid any type of retaliation against a person:**
 - Who files a complaint about discrimination on the job.
 - Is involved in an investigation or lawsuit that is related to discrimination.
- **Federal laws that prohibit discrimination apply to private employers as well as state, local and federal governments, employment agencies and labor unions.**
 - These regulations are enforced by the Equal Employment Opportunity Commission (EEOC).
 - Individual states and communities may have their own statutes on workplace discrimination as well.
- **It's important for managers and supervisors to be familiar with these laws and understand how they apply to their company, and to themselves.**
 - More information about the federal regulations can be found on EEOC's website at www.eeoc.gov.
 - Details about the anti-discrimination laws in your area are available from your local Department of Labor.
- **A company that ignores the issue of workplace discrimination creates an environment where this type of behavior is more likely to occur, and even thrive.**
 - Every company should create a written anti-discrimination policy that clearly states what types of behavior are not acceptable in its workplace.
- **The policy should also establish the procedures that should be followed when:**
 - Reporting potential discrimination.
 - Investigating this unfair treatment.
 - Preventing retaliation.
 - Resolving a situation that involves discrimination.
- **It should require training for employees on how to recognize and prevent discrimination in their workplace, as well.**
- **While some types of discrimination are obvious, others are not.**
 - Using racial slurs or making critical comments about a coworker's race, age, religion or sexual orientation are blatant types of discriminatory behavior.

- **More subtle forms of workplace discrimination can include:**
 - A want ad saying that certain "types" of candidates will be preferred at the company.
 - An employer assigning maternity leave or unemployment benefits unequally to different employees.
 - A company not allowing workers to dress or groom themselves in accordance with their religious beliefs.
- **A supervisor who makes decisions based on personal prejudice rather than a fair assessment of a person's qualifications or their performance is engaging in discrimination as well.**
- **It's important to remember that "harassment" is also considered to be a type of discrimination.**
 - An employee could discriminate against their coworkers in various ways under the pretext of "good-natured" jokes, teasing or horseplay.
- **There are more subtle forms of harassment, too.**
 - Posters, reading material, emails and even conversations can be "harassing" to others under certain circumstances.
 - All of this behavior is prohibited by law.
- **With all of this, avoiding discriminatory behavior can sometimes seem like walking through a minefield.**
 - Being in a supervisory position means your behavior will be under even greater scrutiny than most employees.
 - You also represent your company, and any "slip of the tongue" or inappropriate action will reflect directly on your employer.
- **So take care to think before you speak... and never behave towards others in a way that they might feel is discriminatory.**
- **In addition to knowing their company's anti-discrimination policy and following it themselves, supervisors are also expected to help enforce it.**
 - So you need to be aware of how people are interacting in your department.
- **As a manager you need to get the subject of workplace discrimination out in the open in your department and keep it there.**
 - Address the issue during department meetings and staff discussions, as well as in training sessions.

- **See that everyone has a copy of the company's anti-discrimination policy, including contractors or other temporary workers.**
 - The policy will help clarify for them what behaviors are discriminatory, and reinforce that the behavior will not be tolerated within the company or your department.
 - Make sure they understand that violations of the policy could result in disciplinary action, including termination.
- **Let your people know that they need to get involved in the process themselves, by recording any situations where they felt they were discriminated against.**
- **They should write them down as soon as possible after the incidents occur, and include:**
 - Where and when the incidents took place.
 - Who was involved.
 - What was said and done.
 - Why they feel the behavior was discriminatory.
- **Explain that if they are comfortable doing it, they can try handling the situation themselves, by speaking directly to the other person involved.**
 - They should keep the conversation professional, not confrontational, and explain their concerns about what happened.
 - Sometimes a talk like this may be all that is needed to clear things up.
- **But if the discriminatory behavior doesn't stop, the employee should continue to record it, and report it to you or another supervisor, or someone in the Human Resources Department.**
- **You need to be on the lookout for discrimination in your department as well.**
 - If you notice behavior that concerns you, deal with it promptly.
 - Remind the offending individual that type of discrimination is against company policy as well as illegal.
 - Make sure they understand that if the behavior continues, it could lead to disciplinary action.

- **If one of your people comes to you with a report about possible discrimination in your department, the law requires you to respond promptly.**
 - You need to proceed systematically as well... because what you do as a supervisor reflects on the company you work for.
 - It's important for you to dot all the i's and cross all the t's... because even unintentional mistakes could come back to haunt you and your organization in the form of complaints, lawsuits, even fines.
- **Initially, you must be sure to:**
 - Take the report seriously.
 - Demonstrate concern for the employee and the situation.
 - Keep the matter confidential.
- **Speak with the person who is making the report in private. Treat them with respect and sensitivity.**
 - Remember, they are the victim and not the cause of the problem.
 - They shouldn't feel penalized in any way for coming forward.
 - Don't forget that it's against the law to punish someone for complaining about discrimination.
- **Find out exactly why the employee feels that they have been discriminated against.**
 - Keep an open mind and listen carefully.
 - Examine any evidence or documentation they have brought, including their written description of the incident itself.
- **Get specifics about the "who", "what", "where", "when" and "why".**
 - Find out who else was there.
 - Ask questions.
 - Take notes.
- **Then start your own "paper trail" by writing up a summary of the report and your conversation.**
 - Have the employee read your summary and sign it when they're satisfied that it's accurate.
- **Explain to them in general terms how the investigation and resolution process will proceed.**
 - Encourage them to inform you immediately if they experience any type of retaliation for making the complaint.

- **Begin a file on the report, starting with the summary of your conversation.**
 - Keep the file up-to-date and organized.
 - Don't rely on your memory.
 - Document everything.
- **Investigating a complaint about workplace discrimination is serious business.**
 - To safeguard yourself and your company from later problems and possible legal action, you need to follow your anti-discrimination policy and proceed impartially.
 - Your goal is to gather clear and accurate information, to establish solid facts "for the record".
- **When you interview an employee who is accused of discrimination, explain what you've heard about the incident and ask them for their side of the story.**
 - Create a summary of their responses, then have them read and sign it.
- **Contact any witnesses and find out what they saw and heard.**
 - Gather relevant documents such as time cards, schedules or emails.
- **Keeping a "journal" about your investigation can help you stay on top of the project.**
 - Record the actions you take.
 - Note dates, time and locations.
 - Describe documents and other types of evidence that you accumulate.
- **When all the facts are in, decide what you think happened based on what you have learned, and whether you feel that it constitutes discrimination.**
- **Determine what sort of disciplinary action, if any, is required. This could include:**
 - Warning the employee.
 - Requiring them to receive additional training or counseling.
 - Terminating them.
- **Remember, if no discrimination has occurred, the correct response may be to do nothing.**
- **Once you make a decision, don't delay. Follow through.**
 - Make sure to notify the person who made the complaint about the resolution of their case.

- **Sometimes an employee may take their complaint of discrimination directly to the EEOC or an equivalent state or local agency.**
- **If that agency conducts its own investigation, you should:**
 - Be cautious but cooperative.
 - Provide any documents that they request.
- **The EEOC requires private employers and labor unions to retain all personnel and employment records for a period of one year from a worker's termination date.**
 - Educational institutions, state and local governments and apprenticeship committees have to retain the records for two years.

*** * * SUMMARY * * ***

- **Discrimination against employees and job applicants is prohibited by federal, state and local laws.**
- **Managers and supervisors have a responsibility to protect both employees and their organization from workplace discrimination.**
- **You and the employees you supervise should be familiar with your employer's anti-discrimination policy, and follow it.**
- **Encourage your people to report any instances of workplace discrimination immediately, so that it can be stopped in its tracks.**
- **All reports of discrimination should be investigated impartially and resolved fairly, in accordance with your employer's anti-discrimination policy.**
- **Now that you understand how workplace discrimination can occur, and know the policies and procedures that you can use to prevent it, you can help to make your facility discrimination-free... every day!**