

Department of labor (doll)



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Department of Labor (DOLL) is a federal administrator and enforcement agency of most federal employment laws such as those addressing safety and health standards and wages and hours of work. Other federal agencies also oversee laws that affect employment concerns. Two of these agencies are the U. S.

Equal Employment Opportunity Commission (EEOC) and the National Labor Relations Board (NLRB). The EEOC enforces laws that provide protection against discrimination in the workplace and the NLRB handles the law which governs the relationship between employers and unions.

Workplace laws apply to all employees whether or not they are disabled, however some laws are specific to employees with disabilities such as the Americans with Disabilities Act (ADA). Some laws apply to all employees but include disability related references including for those employees who endure work related illnesses or injuries.

These laws are the Family and Medical Leave Act (FMLA) and Workers Compensation. It wasn't until the 1950s and 60s where in my opinion, labor law wasn't enough to stop employment discrimination and there was a need for new legislation. At this time, I believe unions were part of the problem. Union's leadership deflected their own personal use, such as in the South white union leaders were no more interested in anti-discrimination than was anyone else. In the South, unions weren't interested in hiring minorities to work alongside with the white workers.

Some unions and companies worked hand in hand to keep African Americans from entering the trades such as plumbing and carpentry which were

considered high paying Jobs. Those who controlled entry into the trades, the unions, where ever they controlled access, enforced employment discrimination and segregation by excluding minorities from holding high paying Jobs.

This led to the need for new and more protections through the legal system, through new laws. This was not likely the case overall, however it's interesting how Title VII was applied to not only companies but also to labor unions. In present day unions are champions of individual rights, they are in the right frame of mind now, not in the early ass's when the Civil Rights Act was being drafted. Over time unions proved to be an Integral part of creating workplace norms such as weekends without work and an 8 hour work day.

At present, unions work towards the expansion of the DAD and other laws that protect workers. Title VII of the Civil Rights Act of 1964 is a landmark civil rights legislation in the United States (U. S.) that outlawed discrimination based on race, color, religion, sex or segregation in schools and in the workplace. Title VII was applied not only to companies but also to and labor unions. The Civil Rights Act covers not just employment issues, but also other things where the public comes in, such as access to education, public accommodations, access to voting.

The act was clearly a victory, however there was still room for interpretation. The roll of the National Association for the Advancement of Colored People (NAACP) and Title VII was highly visible. The NAACP is an African American civil rights organization in the U. S. Their mission is “ to ensure the political,

educational, social and economic equality rights of all persons and to eliminate racial hatred and racial discrimination” (NAACP, 1).

Its attorneys were very active, at first behind the scenes then after Title VII was enacted, they took very important cases to the U.

S. Supreme Court. In their pursuit of economic Justice and to bring awareness to the masses, they addressed the issue of employment discrimination. The NAACP was involved in the landmark case, *Griggs vs.*

Duke Power, a disparate impact case. *Duke Power* had a history of segregating employees by race and the best jobs were reserved for whites. African Americans were consigned to the labor department, where the worker making the most wages earned less than the lowest paid employee in other departments where only whites worked.

Just after Congress passed Title VII of the Civil Rights Act of 1964, which made it illegal for employers to discriminate on the basis of race, *Duke Power* ceased to specifically single out African Americans to the labor department and introduced new policies around hiring, promotion and transferring employees. In order to work in positions outside of the labor department, *Duke Power* required a high school diploma or scores on standardized IQ tests to be equal to the average high school graduate.

These new policies were not an improvement; instead they kept in existence the discriminatory policies that *Duke Power* had in place before the enactment of Title VII. Even though the testing and diploma requirements disqualified African Americans at a higher rate than whites, *Duke Power* did

not have measures in place to evaluate employees who held the Jobs and whether or not they were able to perform those Jobs. This case ultimately led to the Supreme Court issuing a unanimous ruling in *Griggs vs. Duke Power* which changed our nation's workplaces.

The Supreme Court adopted a dynamic legal tool, known as disparate impact. According to the legal dictionary, disparate impact is defined as “ a theory of liability that prohibits an employer from using a facially neutral employment practice that has an unjustified adverse impact on members off protected class. A facially neutral employment practice is one that does not appear to be discriminatory on its face; rather it is one that is discriminatory in its application or effect” (Dictionary. Mom, 2). The Court stressed that Title VII does not prohibit diploma or testing requirements for hiring or promotions.

The Court explained that Congress said that any tests in place should measure the person for the Job and not the person himself.

Since these standards of education and IQ testing applied to all employees, they were facially neutral; however these standards had a greater impact on blacks versus whites because the educational system was inferior for blacks as compared to whites. The Court held that when an employment unless there are extreme circumstances and the role in question requires highly peccadillo skills, which the employer must prove is needed to perform the Job.

In this case, Duke failed to meet these standards. In the end the courts found that the policy at Duke Power violated Title VI', ruling that the company's

employment requirements did not pertain to the applicant's ability to perform the job and was discriminating against black workers. Prior to Title VII the workforce at Duke Power was segregated and minority workers were at a great overall disadvantage. Following the passing of Title VI', affirmative action was a policy designed to offset the ingrained attitudes towards past discrimination.

Unions can be viewed positively with implementing affirmative action.

Unions negotiated collective bargaining agreements (CBA) for workers. Before, access to good paying trades or craft jobs was primarily accessed based on seniority; with the people of color always on the bottom and having to endure lengthy wait times get access to good paying jobs, if at all. *Weber vs. Steelworkers* was about a company that implemented an affirmative action based training program in order to raise the ratio of black skilled trade workers.

Half of the qualified positions into the training program were set aside for blacks. *Weber* as passed on for participation in the program.

Since he was white, he claimed that he was the target of reverse discrimination. The question is whether or not the training program violated Title VI', prohibiting discrimination on the basis of race.

The Supreme Court held that the training program was legitimate because the Civil Rights Act did not intend to ban companies from taking steps to effect the purpose of Title VI'. The intent of the program was to irradiate racial segregation while to not stop whites from advancing in their careers.

The program was found to be consistent with the intent of the law. In the sass's sex discrimination problems were the trend.

According to the EEOC, " sex discrimination involves treating someone (an applicant or employee) unfavorable because of that person's sex" (EEOC, 3). Discrimination against a person because they are transgender is discrimination on the basis of sex and therefore violates Title VI'.

Additionally, gay and bisexuals may also initiate sex discrimination claims which could include sexual harassment or discrimination due, perhaps, to the ignorance or prejudices of others. Discrimination on the basis of sex, or because of sex, includes regnant women, pregnancy is a sex discrimination issue.

There is also a glass ceiling women and minorities are faced with blocking us from rising to the top which could be viewed as discriminatory. Religious discrimination is another protected class under Title VI'. According to the EEOC, " religious discrimination involves treating a person (an applicant or employee) unfavorable because of his or her religious beliefs" (EEOC, 4). The law does not allow discrimination to any aspect or term and condition of employment such as, pay and role, promotions, training, hiring and firing.

The Daily Labor Report notes that as of late, employers are facing more and more issues of religious discrimination towards Muslims in the workplace. Muslim women wear special clothing and men typically grow their beards providing grooming standards. The article further discusses generally these types of cases are accommodation cases where once the employee proves that they are indeed subscribing to a specific religion, the burden shifts to

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the employer who has to prove they handled the situation in good faith and worked to accommodate the religious belief or that the accommodation would result in an undue hardship to the many.

Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. The EEOC issued guidelines on all but on color discrimination.

I wonder if they consider that color would be covered under national origin or race, and is why it is not addressed by itself. Color discrimination happens and it happens between people in the same race with different color skin. There have been lawsuits by same race people with some darker skin than others with lighter color skin. Perhaps the EEOC should consider adding guidelines on color discrimination in the near future.

Title VII is celebrating its 50 years in July. It's interesting to see what's transpired over the last 50 years.

Current trends include the State of New Jersey is working on a new law regarding transgender employees becoming more visible at work, creating a need for addressing issues arising in the workplace. This will likely raise interesting issues, some very emotional. Another modern trend involves social media and privacy between employees, employer s and the law. At the NULL, their major initiatives for 2014 include “ protecting employee use of social media as a means of engaging in protected concerted activity’ (NULL, 5).