History and evolution of title vii and amendments essay

Business, Management

All together it has been said that there was 28 amendments to Title VII of the Civil Rights Act of 1964. Within that title it dealt with the employment issues facing the organizations. Most of the title is dealing with discrimination. At the time the main focus was racial discrimination because it was a heavy issue in the county at that time, but in the end, it started to make the impact on employment discrimination also. One of the statements that exemplify that is “ it shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual’s race, color, religion, sex or national origin” (Bennett-Alexander ; Hartman, 2007, p.

70). One of the best acts that came out of this title and is easily defined in that statement is The Equal Employment Act in 1972 (Bennett-Alexander ; Hartman, 2007). The title made a closer look into work relations and sexual harassment between employees. Due to discrimination being the foundation of the title other acts dealing with different discrimination came from it because of all amendments as issues started to arise. Examples of those acts are the Pregnancy Discrimination Act.

Of 1978, the Age Discrimination Act, and the Americans with Disabilities Act of 1990. Application of Title VII and Amendments in the WorkplaceThe application of Title VII and amendments in the workplace started back in 1943, when Congress introduced the first equal employment bill. Unfortunately, this bill did not pass both houses. Over the next twenty years,

Congress introduced a set of equal employment bills but they too were either denied by the committee or died in the Senate.

The failures of these bills were no surprise given the history of continued discrimination that this country was under. However, the country would be surprised at the success of the equal employment provisions of the Civil Rights Act of 1964. Before President John F. Kennedy was assassinated in 1963, he spoke out in support of Title VII in a speech on June 11th of 1963. It was on June 19th that he would send this bill to congress, which would help the Civil Right legislation directed toward racial equality. Since his death it would be promoted by President Johnson and was signed into law on July 2, 1964. Out of this Act also came the (EEOC) or the Equal Employment Opportunity Commission.

Since the inception of the EEOC it has expanded there role to cover more. According to The National Archives (2010), " Today, according to the U. S. Government Manual of 1998-99, the EEOC enforces laws that prohibit discrimination based on race, color, religion, sex, national origin, disability, or age in hiring, promoting, firing, setting wages, testing, training, apprenticeship, and all other terms and conditions of employment. Race, color, sex, creed, and age are now protected classes.

The proposal to add each group to protected-class status unleashed furious debate" (Equal Employment Opportunity Commission, para. 3). Who is Covered and Not Covered under Title VII ; AmendmentsAny company that employs more than 15 or more employees, along with federal, state and

local governments is prohibited from discrimination under Title VII and its amendments, PDA, ADA. Title VII covers all public and private sector employees, including all levels and types of employees (Alexander-Bennett ; Hartman, 2007). After the Civil Rights Act of 1991, coverage was extended to citizens employed by American companies outside the United States and non-U. S. citizens within the United States.

However, exceptions are granted, for instance, “ businesses operated on or around Native American reservations” can award special treatment to Native Americans (Alexander-Bennett ; Hartman, 2007, p. 78). People that are associated with any form of Communist party are not covered under Title VII.

Other exceptions include religious institutions and associations to discriminate, if necessary, for their activities. An example, per Alexander-Bennett and Hartman, (2007), a Catholic priest can not successfully sue for religious discrimination under Title VII for being denied a job to lead a Jewish synagogue (p. 78). Situations such as this may fall under religion as a bona fide occupational qualification (BFOQ). The American Disability Act (ADA) covers any individual that has record of a physical or mental impairment or is perceived as being impaired. Once identified, an employer can not base an adverse decision of employment solely based on the disability (Alexander-Bennett ; Hartman, 2007).

The Pregnancy Discrimination Act (PDA) covers women during pregnancy, childbirth, and related medical conditions (EEOC, 2010). The Age Discrimination in Employment Act (ADEA), covers all employees who are at

least 40 years of age, however, it does not cover anyone under 40, meaning they can be discriminated against because of their age (Bennett-Alexander ; Hartman, 2007). One variation with the ADEA, it only applies to employers with 20 or more employees. As mentioned with religious discrimination, BFOQ may also be applied to various discrimination charges under Title VII and its amendments. Disparate Impact Discrimination vs. Disparate Treatment Discrimination; For many decades discrimination has pervaded the workplace and encumbered many lives.

For this reason under the Title VII act employers are held liable for illicit employment actions and workers are protected from disparate impact and disparate treatment discrimination. First, disparate impact discrimination is neutral and indirect. Sometimes an employer's business practice can be considered a discriminatory act. Disparate impact discrimination occurs when an employer's neutral employment practices negatively affects a member of a protected class and the fact cannot be explicated by a business requirement (Burke ; Wilson, 2005). For example, ABC Childcare is recruiting candidates for a child care specialist position. One primary requirement of this position is that an applicant must possess five or more years experience working in a childcare setting.

Although, the employer's intentions were not to discriminate, this essential business requirement eliminated a vast amount of men versus women. " Fifty-five per cent of parents questioned by the Children's Workforce Development Council said they would like their child to have a male childcare worker in their early years setting" (Gaunt, 2009, p. 9). However, in

this scenario a disparate impact occurred based upon gender. Overall, disparate impact implies discrimination when neutral requirements are specified that have a discriminatory effect (Burke & Wilson, 2005). Next, disparate treatment discrimination is deliberate and direct. In most cases discrimination is done on purpose.

Disparate treatment occurs when an employer intentionally treats an individual from a protected class differently because he or she is in the protected class (Burke & Wilson, 2005). For example, ABC Childcare finally hires two employees, Jack and Jill, to fill the child care specialist positions. Jack and Jill both have more than five years experience in a child care setting and possess degrees in the Early Childhood field. However, Jack's earns $16. 00 per hour, while Jill earns $14. 50 per hour. In this scenario the employer clearly is discriminating against Jill because she has the same amount of experience and education as Jack, but earns $1. 50 less than Jack.

Therefore, there is disparate treatment based on gender. As a result, the employer is in violation of the Title VII act. Overall, disparate treatment involves discrimination when an employer treats an individual differently from another person or group. Furthermore, although, disparate impact is indirect and disparate treatment is direct, both theories are unlawful under the Title VII act.

Thus, companies must develop and implement policies to avoid violations of Title VII. Policies that companies must have in place to avoid violations of Title VIIEEOC impose absolute liability on an employer if any of Title VII and

its amendments are violated. Therefore it is important for an employer to fully understand the law and its requirements.

The law allows employers to act in the best interest of the company, as long as the actions are in good faith and follow both state and federal regulations. In any employment, an employee may terminate a problem employee or avoid hiring a possible one. To avoid these types of problems an employer must focus on the application and hiring process. During an interview an employer may not indicate a preference, limitation, specification, or discrimination in employment based on race, color, religion, sex, or national origin" (Azria, 2008, P.

3). A good procedure to have in place for questions and discussion should be predetermined and examined prior to interviews. To help employers, certain screening procedures can be use to assist management in hiring the best suited individual; for example, aptitude test, physical ability (position requires), and drug test.

An employee must be careful with a policy, procedure or test used to weed out applicants, as it can turn out to be considered intentional discrimination. An employer can avoid litigation by ensuring all of the above are explainable and justifiable as job related. As an employer a company can be found liable if an employee causes an injury to a third party.

Therefore, qualifications are an important part of this process, as long as is in the best interest of the company. There are two types of exemptions under Title VII. The first is religious institutions; it allows any church, college,

and university to hire and employee and individual of particular religion, if the organization is supported, owned, or control by a religious corporation. The second exemption allows employers to discriminate based on sex, race, or religion.

A “ bona fide occupational qualification (BFOQ) permissible discrimination if legally necessary for employer’s that particular business” (Alexander-Bennett & Hartman, 2007, p. 91). An overall rule to protect an organization from Title VII claims is to have a legitimate reason for the requirement of the job and treat every employee and their actions equally. Sexual Harassment and Employer’s ResponsibilityTitle VII of the Civil Acts Right of 1964 prohibits sexual harassment in the workplace. The guidelines of the United States Equal Employment Opportunity Commission define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, 2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment (29 C.

F. R. § 1604. 11 [1980]) (Legal Dictionary, 2010)The main point here is that these actions are unwelcome. When actions are unwelcome, they are prohibited by law. This becomes an issue in the workplace and can create major legal issues for an employer. It is the employer’s responsibility to

make sure that complaints in the workplace are addressed properly and efficiently. Employer's should make sure that they keep the complaints confidential because each person involved has a reputation and if it happens that the claim is false, employer's would not want to tarnish or jeopardize someone's reputation in the work place.

Keeping this confidential will help protect all parties' privacy. Another step employer's must take is to take action if harassment did occur. Some measures of action can include demotion, discharge, or even suspension. These actions are intended to stop any future harassment situations in the future from occurring. Sexual harassment is a serious issue and employers must take the proper steps to ensure their employees are safe working with the company.

Conclusion (125 words)ReferencesAzria, S. M. (2008). Employment Problems and the Law.

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