

CWA Human Rights Manual



Human Rights Department
Communications Workers of America

CWA Human Rights Manual

How to Use This Manual

The purpose of this manual is to help CWA Locals set up Civil Rights and Equity and Women's Committees and to initiate effective programs and projects.

This manual is intended to be used a resource. Committee members should feel free to use the material for newsletters, articles, flyers, or informational handouts.

For more information or training on the CWA civil Rights and Equity and Women's programs, you may contact your District Civil Rights and Equity or Women's Coordinator, or the Human Rights office in Washington, DC, at (202)434-1159 or visit our website at: <http://www.cwa-union.org/national-issues/human-rights>

Produced by
Human Rights Department
Communication Workers of America
501 Third Street NW
Washington, D.C. 20001
June 2016

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UNDERSTANDING AND RESPECTING PEOPLE WHO ARE NOT THE SAME AS ME

We are all products of our life experiences. Our gender, religion, race, and culture, among other factors, help define ourselves and our values. Although we may differ from our co-workers, through understanding we can foster a spirit of cooperation.

Our workplaces are characterized by this diversity. The diverse composition of today's workforce and the cultural clashes it can produce require us to pay attention to our differences; not only so that we can work together successfully, but so that we learn to value and take advantage of our differences.

We must attempt to better understand our differences and work through our prejudices so that we can celebrate and respect our diversity. Different does not mean better or worse, inferior or superior.

We must remember that we share two things in common—our union and our struggle for justice on the job. This is what unites us.

Workplace Communications

Effective communication is essential in dealing with generational conflict in the union context. Clarity, open, and honest "over communication" is recommended; in the age of email and text messaging, face-to-face contact is still essential even if the same information might be repeated. Avoiding assumptions is critical, especially when union sisters and brothers ask questions; most people are not trying to be disrespectful, so it is important to ask one's motive if unsure of the source of confusion or questioning.

CWA Next Generation Committee

CWA recently formed a Next Generation Committee that is composed of multigenerational members and addresses issues of work mobility, social networking, training, mentoring, and effective ways to engage younger CWA members in union activities.

UNDERSTANDING HUMAN RIGHTS

Universal Declaration of Human Rights

Adopted by the United National General Assembly in 1948, the Universal Declaration of Human Rights (UDHR) is widely recognized as the gold standard among progressive activists. It consists of a resolution containing 30 different articles that outline what the UN coined “the foundation of freedom, justice, and peace in the world.” See <http://www.un.org/en/universal-declaration-human-rights/index.html> for a complete listing. Of particular interest to trade unionists is Article 23:

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and protection against unemployment.
2. Everyone, without discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration [wages] ensuring for himself and his family, an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

What is the Difference between Human Rights and Civil Rights?

Not much. Many people think of civil rights as rights that are obtained by law, whereas human rights are inherent across the entire world and apply to all humans, regardless of where they live. Civil rights include the rights to free speech, to own property, to make and enforce contracts, to receive due process, and to worship one’s religion. It may be easiest to think of human rights as something inherent in every person while civil rights are victories obtained through legislative or policy pathways.

Movements to Protect Human Rights

It’s nearly impossible to list the many social movements to protect human rights, but if we were to name the countries where there is a current and heightened interest in stopping atrocities against select groups, the shortlist would include places such as Burma/Myanmar, Darfur/Sudan, Syria, Chechnya, Palestine, Iraq, Tibet/China, and Afghanistan. If we look at human rights through the lens of Article 23 of the UDHR; then the treatment of trade union leaders in Colombia would top the list of abuses; in 2009, over 34 leaders had been assassinated. And, in the words of Jose Diogene Orjuela Garcia, Organizing Director of the Colombian CUT union federation, “We want to have a country where union rights and human

rights are respected. If you add up all the acts of violence [against union members] there have been more than 10,000 in the past 20 years.”

Notable Human Rights Leaders

- Eleanor Roosevelt
- Martin Luther King
- Mahatma Gandhi
- Jimmy Carter
- Nelson Mandela
- His Holiness the Dalai Lama
- Elizabeth Cady Stanton
- Gloria Steinem
- Sojourner Truth
- Lech Walesa
- Harvey Milk
- Samuel Gompers

CWA’s Mission to Protect Human Rights

CWA’s Human Rights Program encompasses both the civil rights and women’s programs. By joining forces, we are better equipped to provide leadership and support to the many CWA activists who work for the rights of underrepresented groups.

Pivotal Moments in the Struggle to Establish and Protect Human Rights

Date	Event
1689	<ul style="list-style-type: none"> John Locke, an English philosopher, crafts that notion of natural rights and defines them as the right to life, liberty, and property.
1776	The U.S. Declaration of Independence proclaims “that all men are created equal, that they are endowed by their Creator with certain unalienable rights”.
1791	U.S. Bill of Rights is ratified
1814-1815	The first Congress of Vienna is convened. International concern for human rights is demonstrated for the first time in modern history.
1830	Trail of Tears: The Indian Removal Act forces 70,000 Native Americans to relocate, many perish during the journey.
1857	<i>Dred Scott v. Sandford</i> case ruling declared that people of African descent were not citizens of the United States and therefore not protected by the Constitution.
1863	The Emancipation Proclamation is signed into law, effectively freeing American slaves.
1864	The First Geneva Convention is signed; it outlines rules for protecting the injured in wartimes and gives immunity to hospital staff and the Red Cross in wartimes.
1866	The Civil Rights Act of 1866 passed; it states that all persons born in the United States are U.S. citizens regardless of race or color.
1868	The Fourteenth Amendment is added to the U.S. Constitution, declaring no state shall “deprive any person of life, liberty, or property, without due process of law: nor deny to any person within its jurisdiction the equal protection of the laws.”
1870	The Fifteenth Amendment is added to the U.S. Constitution, stating “the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous conditions of servitude.”
1882	U.S. Congress enacts the Chinese Exclusion Act, one of the most significant restrictions on free immigration in U.S. history.
1896	<i>Plessy v. Ferguson</i> case ruling declares segregation is constitutional as long as facilities are “separate but equal”.
1919	<ul style="list-style-type: none"> Leagues of Nations is founded to promote international peace, becomes a forerunner of the United Nations. International Labor Organization (ILO) is established to advocate for human rights represented in labor law.
1922	The International Federation of Human Rights Leagues is established.
1926	The Geneva Conference passes the Slavery Convention, demonstrating an international agreement to end slavery worldwide.
1934	U.S. Congress enacts the Indian Reorganization Act, which returns reservation land ownership to Native Americans.
1941	British Prime Minister Winston Churchill and U.S. President Franklin Roosevelt adopt the Atlantic Charter which states a hope “that all men in all lands may live out their lives in freedom from want and fear.”
1942	In response to the Japanese attack on Pearl Harbor, over 100,000 Japanese Americans are moved to internment camps for over 4 years.
1943	Magnuson Act is passed by U.S. Congress, allowing people of Asian descent to become U.S. citizens.

1945	<ul style="list-style-type: none"> • U.S. drops atomic bombs on Japan, killing tens of thousands of people. • World War II ends. • The United Nations is founded. The primary purpose of the UN is the promotion of “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”
1946	The UN establishes the Commission on Human Rights.
1948	<ul style="list-style-type: none"> • UN Adopts the Convention for the Punishment and Prevention of Genocide. • UN adopts the Universal Declaration of Human Rights. • ILO passes the Convention on the Freedom of Association and Protection of the Right to Organize.
1949	ILO adopts the Right to Organize and Collective Bargaining.
1950	<ul style="list-style-type: none"> • UN adopts the European Convention on Human Rights and the Convention for the Suppression of Traffic in Persons and Exploitation or Prostitution of Others.
1954	Racial segregation in U.S. public schools is ruled unconstitutional by the Supreme Court in <i>Brown v. Board of Education</i> .
1960	<ul style="list-style-type: none"> • Amnesty International founded. • Anti-apartheid protests turn violent and 69 people are killed, leading the South African government to ban groups, such as the African National Congress (ANC) that oppose the apartheid.
1964	<ul style="list-style-type: none"> • Omnibus Civil Rights Bill signed into law, it bans discrimination in voting, jobs, public accommodations, and other activities.
1966	UN sets up Optional Protocol to the International Covenant on Civil and Political Rights, which allows individuals to charge violations of human rights.
1968	First World Conference on Human Rights held in Tehran.
1969	U.S. movement for gay rights is sparked by the Stonewall Riots in New York City.
1973	Un adopts the International Convention on the Suppression and Punishment of the Crime of Apartheid.
1975	UN adopts the Declaration on Rights of Disabled Persons.
1978	Human Rights Watch founded; began using publicity tactics to shine light on abusive governments.
1990	Americans with Disabilities Act is signed into law.
1994	The first UN High Commissioner for Human Rights, Jose Ayala Lasso, takes his post.
2001	U.S. Congress ratifies the Patriot Act, which reduces the rights and freedoms of Americans, in response to terrorist attacks.

WHAT ARE CIVIL RIGHTS?

Our civil rights are those described in the United States Constitution.

Even though the Constitution guarantees each of us specific civil rights, these rights can be denied us in our everyday life. If an individual's (or group's) civil rights-as guaranteed by the Constitution-are violated, he/she may take his/her complaint to the Supreme Court.

Congressional legislation as well as Executive Orders have strengthened and supplemented civil rights protections. But here again, the Supreme Court has the final word and can decide that specific civil rights legislation or Executive Orders are unconstitutional and therefore invalid.

The Civil Rights Act of 1964 (which includes Title VII) and the 1965 Voting Rights Act are examples of civil rights legislation that strengthened our rights but were challenged in the Supreme Court. The Supreme Court found both pieces of legislation to be constitutional within the powers of Congress.

An example of an Executive Order that strengthened Civil Rights is President Truman's 1948 Executive Order banning segregation in the armed forces.

In addition, our civil rights can be expanded through amendments to the Constitution. In 1971, for example, the 26th Amendment was ratified, thereby granting the vote to all citizens 18 years or older. The Equal Rights Amendment, which would have become the 27th Amendment, failed when only 35 of the necessary 38 states ratified it. The proposed amendment would have guaranteed equal rights for all citizens regardless of race.

WOMEN'S RIGHTS AND ISSUES

History of Struggle

Women have been advocating for human rights for centuries. For example, in the U.S., the Suffrage Movement of the 19th and early 20th centuries resulted in the right of women to vote in 1920. Women continued to fight for their rights-for reproductive health care, for equal pay in employment, for property protections, and for access into areas of employment, to name a few. World War II was a significant turning point, as the war economy pulled the country out of the Great Depression and encouraged more women to work in industrial settings while men were deployed. While women always worked-particularly poor and minority women-the sheer increase in numbers of women wage earners influenced the labor movement's fight for women's rights. Alternatively, when parts of the labor movement condoned sexism or ignored the issues affecting working women, a burgeoning feminist movement of the 1960s and '70s filled the gap. Major rights were won during this period that centered on reproductive freedom, pay equity, harassment, and discrimination protections.

CWA Highlights in the Struggle for Women's Rights: Women Operators and Flight Attendants

While there are many issues that affect both men and women or that may affect white women and women of color to varying degrees, women in the industries CWA currently represents have a long history of struggle for inclusion and equality.

Telephone Operators

Prior to the 1880s, white men exclusively held the position of telephone clerk. Over time, men moved into technical roles while women were recruited to perform operatory functions. The work was monotonous, low paying, and increasingly routinized. The Telephone Operators' Union, led by Julia O'Connor from 1919-38, held notable strikes in New England in 1919 and 1923. Union women were stretching the boundaries of what it meant to be an independent wage earner. They demanded improvements on the job such as shorter work days, paid breaks, and overtime. In 1919, AT&T introduced company unionism in the Bell System. That, along with factional disputes and the 1923 strike caused the union to collapse. Later, a new union, CWA, was formed in 1947 and the operators often led women-dominated locals until the 1980s and were critical to many successful strikes.

Flight Attendants

Women entered the profession in the 1930s, first as registered nurses and shortly afterward were labeled "sky girls". Until the 1960s, women were forced to resign or were fired if they got married, were overweight, became pregnant, wore eyeglasses, or entered their 30s. These discriminatory practices were fought by unions, but were difficult to remove until Congress passed the Civil Rights Act of 1964 and Title VII made it illegal to discriminate on the basis of gender. It took until 1971, though, for the courts to finally reject sex as a "bona fide occupation qualification" for flight attendants.

The Association of Flight Attendants (AFA_CWA) worked to change the image of flight attendants from glamour girls to trained professionals.

Issues Facing Working Women Today...

Today, many of the biggest workplace challenges facing women revolve around gender. Why do females still earn less than males holding the same job? Will the glass ceiling ever be shattered? Is a balance between family and career attainable? What will it take to establish a work environment where gender is not an issue? Other issues include:

- Fixing the Nation's Health Care System
- Ending Domestic Violence
- Fighting for Pay Equality
- Work/Life Balance
- Sexual Harassment in the Workplace
- Quality Affordable Child Care

A History of the Struggle for Women's Rights

Date	Event
1791	Olympe de Gouges pens the <i>Declaration of the Rights of Women</i> and encourages women to "join in all activities of men", asserting their equality with men.
1792	Mary Wollstonecraft writes the <i>Vindication of the Rights of Women</i> , in which she maintains that women are human beings deserving of the same rights as men.
1848	More than 200 women and men meet in Seneca Falls, NY to draft a "bill of rights" outlining civil, social, and religious rights of women.
1850	The first National Women's Rights Convention is held in the U.S.
1869	The National Women Suffrage Association is founded in New York City.
1885	A Woman Suffrage Society is founded in Norway.
1888-1889	An Australian Women Suffrage League and a Danish Women Suffrage Society are founded.
1893	New Zealand becomes the first nation to grant women the right to vote.
1902	The International Alliance of Women for Suffrage and Legal Citizenship is founded by leading American suffragists at a meeting in Washington attended by women from eleven countries.
1919	The Women's International League for Peace and Freedom is established.
1920	The Nineteenth Amendment to the U.S. Constitution grants women the right to vote.
1928	British women are granted the right to vote.
1932	Brazilian women gain the right to vote.
1946	Commission on the Status of Women is established by UN Economic and Social Council.
1949	Women gain right to vote in China.
1952	The UN adopts the Convention on Political Rights of Women.
1961	President John Kennedy appoints Eleanor Roosevelt to spearhead the first Presidential Commission on the Status of Women.
1972	Title XI is passed in the United States, guaranteeing the "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under and education programs or activity receiving federal financial assistance.
1973	<i>Roe v. Wade</i> establish the right to privacy for women in U.S and the right to legal abortions.
1978	National Coalition Against Domestic Violence is founded in the U.S.
1979	The UN adopts the Convention on the Elimination of All Forms of Discrimination Against Women.
1985	The UN adopts the Nairobi Forward-looking Strategies for the Advancement of Women.
1993	The UN adopts the Declaration on the Elimination of Violence against Women.
1995	World Conference on Women is held and Beijing Declaration is drafted, stating in part that "Women's rights are human rights."

CWA CIVIL RIGHTS AND EQUITY AND WOMEN'S PROGRAM

The CWA Civil Rights and Equity and Women's Program is developed, supported, and implemented by thousands of grassroots CWA activists.

The CWA Human Rights Director and a staff in Washington, D.C. office lead the various campaigns, training sessions, and activities. Each district has a Civil Rights and Women's Coordinator who:

- Provides information and
- Pulls local activists together on regional issues and campaigns

Local Civil Rights and Equity and Women's Committees, as well as local activist, participate every year in campaigns, education programs, and gatherings that advance justice for all workers.

Major Program Goals

1. Work to fully integrate civil rights and women's issues with core work of the union.
2. Increase grassroots activity on civil rights and women's issues.
3. Increase community visibility of CWA Civil Rights and Equity and Women's Committee
4. Aggressively seek CWA representation in grassroots civil rights and women's organizations that share our common goals.

Roles and Responsibilities

I. CWA Human Rights Staff (Headquarters)

- Work with CWA local activists and community groups to advance and protect the rights of all workers and to ensure that all members have a voice in our union.
- The Human Rights Office also serves as a resource and information center for the union on both internal and external civil rights and equity and women's rights issues. An important component of this is to collect and share successful grassroots strategies and campaigns.
- In addition, the office strives to integrate civil rights and women's issues with ongoing union campaigns and struggles, as appropriate.
- The Human Rights Office also sponsors education and training opportunities for activists.

II. District Civil Rights and Equity and Women's Coordinator's

- Work with the Human Rights Director and the National Civil Rights and Equity and Women's Committees in coordinating the Civil Rights and Women's program in the Districts.
- Work with District Vice Presidents to recommend National Civil Rights and Equity and Women's Committee Representatives

- Work directly with the National Civil Rights and Equity and Women’s Committee Representatives in Coordinating Civil Rights and Equity and Women’s function in the District
- Is a resource person for each District.

III. National Civil Rights and Equity and Women’s Committees

- Recommended by the District Vice President and District Civil Rights and Equity and Women’s Coordinators and appointed by the President for a term of three years.
- Meet at least twice a year-one meeting to be held in conjunction with the Convention.
- These Committees make a report to the Convention.
- Help organize District and National Civil Rights and Equity and Women’s conferences.
- Report at District Meetings.
- Help carry out the National Civil Rights and Equity and Women’s Program.

IV. State Civil Rights and Equity and Women’s Representatives

- Work with the District Civil Rights and Equity and Women’s Coordinator and with the National Civil Rights and Equity and Women’s Committee Representative from the District.
- Report at state meetings when requested by the District Vice President.

V. Local Civil Rights and Equity and Women’s Committees

- Establish a Civil Rights and Equity and Women’s Committee in each local.
- Train the committees, utilizing the CWA Human Rights Resource Manual.
- Work closely with State and National Civil Rights and Equity and Women’s Committee Representatives.
- Plant work that supports the three sides of the CWA triangle.
- Carry out the CWA Civil Rights and Equity and Women’s Rights Programs within their local.

HISTORY OF CWA’S CIVIL RIGHTS AND EQUITY PROGRAM

HISTORY OF CWA WOMEN’S PROGRAM

THE NATIONAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEES

The National Civil Rights and Equity and Women's Committees meet annually to discuss civil, human, and women's rights issues and concerns, to make recommendations to the CWA Executive Board and to propose reports to the Convention. The Committees are composed of one representative from each District. Committee members are recommended by the District Vice President and appointed by the President and serve a three year term.

MISSION OF THE NATIONAL COMMITTEE ON CIVIL RIGHTS AND EQUITY

The mission of the National Committee on Civil Rights and Equity is to develop and promote the CWA Civil Rights and Equity Program. Our vision is to build a union where members of all cultures, religions, sexual orientations, genders, disabilities, ages, and nationalities feel welcomed, respected, and heard; and where the leadership reflects the diversity of our membership.

The National Committee will:

1. Provide guidance and information to the districts and locals on the CWA Civil Rights and Equity Program.
2. Keep the National Executive Board informed about civil and human rights issues that affect our members and communities and, when necessary, offer a course of action.
3. Research, report, and make recommendations to give direction to the Convention delegates on current civil and human rights issues.
4. Work along all sides of the CWA triangle.

MISSION OF THE NATIONAL WOMEN'S RIGHTS COMMITTEE

The mission of the CWA National Women's Committee is to educate, inspire, and empower women while working all sides of the CWA triangle.

In Support of its Mission, the Committee:

1. Encourages Locals to establish an active committee.
2. Creates programs and strategies to assist Local committees in starting and maintaining programs which are active in their Local and community.
3. Educates on health, economic, and social issues that affect women.
4. Encourages and supports women in fighting at the local, state, and national level for legislation designed to improve the status of working women and their families.
5. Promotes and encourages women to run for elected public office and support candidates.

6. Support efforts to recruit and train women organizers in CWA's effort to organize women.
7. Strives continuously to educate women on the labor movement while encouraging involvement at all levels.

WHY A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE

One of the cornerstones of unionism has been the struggle for just and equal treatment on the job and in society.

A local union's Civil Rights and Equity and Women's Committee can offer the expertise and skills needed to work union campaigns and programs on all three sides of the CWA Triangle (collective bargaining, organizing, and legislative/political).

An active Civil Rights and Equity and Women's Committee will also make it clear to management and to all union members that the union is committed to dealing with the needs and protecting the interests of the ***entire membership and our communities***. This message will increase the credibility and the strength of the Local.

HOW TO ESTABLISH A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE

A Local Civil Rights and Equity and Women's Committee should be established per the CWA Constitution with the support of the local leadership. The committee, as with other Local committees, should function under the direction of the Local's Executive Board. The chairperson and all members of the committee should be appointed by the local executive board, or elected according to local bylaws, past practices, and constitutionally accepted practices.

The Local Civil Rights and Equity and Women's Committee should have representatives for all the groups represented in the Local. Although this may not always be achievable, it should always be the goal.

The Civil Rights and Equity Committee is not just a committee for minorities, nor is the Women's Committee a female-only committee in a sense that only minorities and women can be members. The Civil Rights and Equity and Women's Committees are committees that work on campaigns on the three sides of the CWA Triangle and issues of fairness.

These issues may be directed at an African American male or female, a Hispanic female member, a white pregnant female, a gay white male member, an Asian member, a disabled or transgendered member, an old or younger worker, etc.

THREE STEPS TO ESTABLISH A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE

Step 1

- Approach the local leadership with a proposal identifying needs and opportunity within your local and your community.
- You can start small: a good committee need not have lots of members, but rather ones that are committed to the principles.
- Once your committee is established, you should meet regularly-at least as often as local union meetings are held.
- Committees should have a mission statement or goals.

Step 2

Local Civil Rights and Equity and Women's Committees across CWA are involved in a wide range of activities working along every side of the CWA Triangle.

These programs help to educate members on Civil, Human, and Women's Issues.

Examples of successful programs are:

- Voter Registration and Get Out the Vote Drives
- Educating members on legislation that impacts working men and women.
- Organizing new workers.
- Community service projects such as women's and homeless shelters, breast cancer, AIDS awareness, and literacy programs.

Step 3

Once you committee is fully established, the committee should set short-term priorities and long-range goals.

When establishing priorities and selecting specific activities to begin its work, the committee should keep the following in mind when getting started:

- Communications should be established with other committees and stewards in the local.
- Rank-and-file members should be informed of the existence of both the Civil Rights and Equity and Women's Committee.
- A "success" is needed to establish the credibility of the committee, which could be the establishment of a new program.
- The Local Civil Rights and Equity and Women's Committee should always keep the Local President/Executive Board informed of its activities.

DUTIES AND RESPONSIBILITIES OF LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEES

The duties and responsibilities of the Local Civil Rights and Equity and Women's Committee are to:

- **Build** an effective committee which provides a valuable service to the Union and the membership, and works on the three sides of the CWA Triangle.
- **Work** cooperatively with the Local Union Executive Board, other Local communities, stewards, and community activists.
- **Educate** the membership on the role of the Civil Rights and Women's committees and current civil, human, and women's issues and inform the membership on laws and protections.
- **Strengthen** labor by working with communities, minority, and women's organizations and coalitions which aim to eliminate discrimination.

CIVIL RIGHTS AND WOMEN'S ISSUES IN THE WORKPLACE AND OUR SOCIETY

Local Civil rights and Equity and Women's Committees can expect to encounter many issues. This section briefly describes some of the current issues that the Committee may need to address or investigate.

INSTITUTIONAL RACISM/SEXISM

Institutional racism/sexism involves the systematic application of policies, practices, and procedures that discriminate against minorities and women. Racist/sexist practices can be found in hiring, training opportunities, testing, promotions, job assignments, and awarding overtime.

At its 1989 convention, the AFL-CIO adopted a resolution reaffirming its support for affirmative action programs and urging efforts to eradicate the vestiges of employment discrimination.

Civil Rights and Equity and Women's Committees should prioritize combating institutional racism. Employer and union policies, practices, and procedures, should be free of racism/sexism in the workplace and in the union.

PERSONAL RACISM/SEXISM

Personal racism/sexism results any time a person is treated in a way that is based upon racial or gender stereotypes rather than personal characteristics. This type of behavior is most often exhibited by individuals who have been educated and socialized to believe that members of minority groups or women are inferior. Sometimes, they are threatened by or are uncomfortable with their differences and act in a degrading manner.

The Civil Rights and Equity and Women's Committees should continually educate and sensitize the Union's members to understand that racial/gender and cultural differences must be respected and actually add to our society and the workplace. Instances of personal racism/sexism must be confronted when they arise both in the workplace and in the union.

DISCRIMINATION AGAINST GAYS AND LESBIANS (HOMOPHOBIA)

Discrimination against lesbian, gay, bisexual, and transgender individuals ("LGBTQ"), involves systematic policies, practices, and procedures which discriminate against persons who are within that group. Procedures and practices that discriminate against LGBTQ individuals are frequently permitted and encouraged in the workplace and in our society. Discriminatory practices aimed at homosexuals can be found in the areas of hiring, job assignments, training opportunities, promotions, and the awarding of overtime.

The AFL_CIO at its 1983 convention adopted resolutions protesting any personal actions taken against a worker on the basis of sexual orientation and supporting enactment of legislation at the federal, state, and local level that would guarantee the civil rights of all persons without regard to sexual orientation in employment, housing, credit, public accommodations, and public service. Although sexual orientation is not protected under the Civil Rights Act, there are more than 130 ordinances/laws/executive orders nationwide providing gays and lesbians with protections.

DISCRIMINATION AGAINST TRANSGENDER PERSONS

Definition

Transgender is an umbrella term for people who gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth; including but not limited to transsexuals, cross dressers, androgynous people, and gender non-conforming people. “Trans” is shorthand for “transgender.” Gender is more about one’s internal sense of masculinity or femininity rather than who we are attracted to sexually.

Freedom of Expression

Our society is harsh on gender-variant people. Some transgender people have lost their families, their jobs, their homes, and their support. Transgender children may suffer abuse at home, school, or in their communities. As a union, we fight against intolerance, hate, and discrimination. The right of individuals to freely express their gender identity is part of our struggle for justice for all workers.

Workplace Policy Considerations

Simply put, the same types of discrimination that might be exercised against women, people of color, or other groups also applies to transgender people.

The questions we might think about as trade unionists who promote inclusion of transgender people would probably start with a concrete example:

What is the right approach for workplace restrooms for transgender workers?

Many transgender people, particularly those who do not “pass” as one gender or the other, face considerable challenges in society at large in locating safe and accessible places to change and to use the bathroom. Non-transgender people may feel threatened by a gender non-conforming person in the restroom and may respond with hostility or even violence. It’s the responsibility of the employer to ensure and communicate that the restrooms are safe. That said, the most acceptable solution is to provide gender-neutral restrooms.

Additional Resources

For more information on bathroom access solutions, see the Transgender Law Center's Peeing in Peace resource <http://transgenderlawcenter.org/resources/public-accommodations/peeing-in-peace> . The Sylvia Rivera Law Project also has a film and companion piece <http://srlp.org/resources/toilettraining/> .

Union Representation

The duty to represent all people and to promote fairness and equality at work is the responsibility of union members. When a small group of uncomfortable CWA members went to management to protest sharing a restroom with a transgender colleague, the union agreed with the existing policy for workers to use the bathroom for which the employee is dressed. Union leaders also met with concerned members, educated them on the issue and encouraged them to get to know the transgender worker. When one of the uncomfortable workers was assigned to sit next to the transgender co-worker, it took only one week for her to change her opinion and develop a friendship.

DISCRIMINATION AGAINST IMMIGRANTS IN THE WORKPLACE

History

Both world history and the history of the United States demonstrate that one group of immigrants or another has faced persecution due to their status as a newcomer. While it is sometimes difficult to tease out other forms of discrimination—such as racial/ethnic, religious and gender bias—the immigrant often finds him/herself working jobs that are low-paying, dangerous, and difficult. From the import of Irish indentured servants in the 1850s to the influx of farm workers from Latin America over the last century, U.S. employers have tried to use immigrants' language barriers and legal status to drive down wages. Rampant abuses are documented throughout time, but there is also a story to tell about amazing courage, leadership, and organizing victories.

Immigrant Organize Into Unions

Even though union density has been shrinking over the last three decades, immigrant workers have been joining unions in larger percentages than their native-born counterparts. (According to the AFL-CIO, the number of immigrant workers who are union members grew by 30% from 1996 to 2006. At the same time, the number of native-born union members decreased by some 9%.) While many might think of farm workers and, in particular, the United Farm Workers Union and its leader of the 1970s, Cesar Chavez, there are many recent examples of immigrant-led organizing successes. From 1999–2009, over 200,000 home care workers—many of whom were immigrant women and people of color—organized into unions in California. In 2008, Latino and African American workers united to gain representation with UFCW at the

Smithfield slaughterhouse in North Carolina. And, within CWA, African immigrants led a victorious campaign among rental car agencies in Denver; Latino cleaners organized at the Newark, New Jersey airport and immigrant researchers from around the globe formed a union at SUNY Stony Brook.

Issues Facing Immigrant Workers Today

Long hours, low pay, lack of healthcare coverage, poor working conditions, and unpaid wages are common issues that affect immigrant workers today. Unscrupulous employers repeatedly break our weak labor law and discriminate against immigrants in hiring and promotion practices. The Economic Policy Foundation, a business-funded think tank, estimated that companies annually steal \$19 billion in unpaid overtime, predominantly from immigrants. Additionally, some employers retaliate against their employees' immigration status by contacting law enforcement when workers at their company try to exercise their rights.

Conclusion

While there are numerous examples of discrimination against immigrants in the workplace and serious problems with the current immigration system, it is important to remember that immigrant rights and civil rights go hand-in-hand as we struggle for dignity and respect in our families, our communities, and our workplaces.

LANGUAGE DISCRIMINATION

Language discrimination involves the prohibition of any language other than English at any time in the workplace, or discrimination against those who speak with what is or may be perceived as foreign accents. Legislation has been introduced in some states that would limit the use of any language but English. The "ENGLISH ONLY" effort is typically led by those hostile to immigrants and/or individuals whose primary spoken language of choice is not English. The AFL-CIO, at its 1989 convention, adopted a resolution opposing the "ENGLISH ONLY" efforts and legislative proposals.

Language rights in the workplace are governed by Title VII. The ban on national origin discrimination in these laws has been interpreted to restrict employers' ability to discriminate based on a worker's English language proficiency, accent, or desire to speak another language. The federal courts have held that not giving a person a job promotion because of his or her accent is unlawful except in cases where the accent significantly impairs the individual's ability to perform the job.

The Civil Rights and Equity and Women's Committee should educate members and the Local's Legislative Committee about the real intent of the "ENGLISH ONLY" campaigns and address any attempt by employers to limit worker's use of their native language during breaks or off hours.

DISCRIMINATION AGAINST THE DISABLED

The Americans with Disabilities Act of 1990, as amended, forbids employers from discriminating against otherwise qualified persons in hiring, firing, promotions, compensations, or other terms of employment because the person has a physical or mental disability.

The ADA requires employers and unions to “reasonably accommodate” otherwise qualified persons with disabilities as long as it does not cause “the employer undue hardship.” The AFL-CIO and its affiliates supported and worked for the passage of their important civil rights legislation.

The Civil Rights and Equity and Women’s Committees should make sure that employers and union treat the disabled equitably and provide equal access to services, meetings, and conferences.

SEXUAL HARASSMENT

Sexual harassment is any repeated or unwanted verbal or physical sexual advances, sexually explicit statements, or remarks made in the workplace that are offensive or objectionable to the worker or that cause the worker discomfort or humiliation or that interferes with the worker’s job performance.

Sexual harassment is a form of sexual discrimination and is unlawful under Title VII of the Civil Rights Act. In many instance, it is a supervisor who is the harasser. There are, however, situations where the harasser is a co-worker. Sexual harassment can take many forms, including:

- Offensive or suggestive comments
- Touching, pinching, or patting
- Sexually suggestive pictures or objects in the workplace
- Staring or leering at a person’s body
- Suggestive gestures or looks (winking, licking lips, etc.)
- Propositions or explicit demands for sexual activity not mutually agreeable to both parties.
- Offers of promotions or increase benefits in exchange for sexual favors

Remember, sexual harassment depends on how the person being harassed is affected, not on the harasser’s internet.

The Civil Rights and Equity and Women’s Committees should educate the members and management on the seriousness of sexual harassment. Instances of sexual harassment should be taken seriously and confronted when they arise. Management is responsible for providing a harassment-free work environment.

Most employers have a sexual harassment policy which the committees should review. The contract clause that should be cited in filing a sexual harassment grievance is the non-discrimination clause. In addition, the CWA Executive Board adopted a harassment policy that covers all CWA employees. A poster/handout on sexual harassment can be found in Chapter 8.

AGE DISCRIMINATION

Discrimination based on age against any person 40 years old or older is illegal. Employers cannot refuse to hire, discharge, or otherwise discriminate against any individual in that category with respect to compensation or terms and conditions of employment because of age.

The Civil Rights and Equity and Women's Committees should make workers in this category aware of their rights and should monitor employer policies to ensure these workers are not discriminated against due to their age.

RELIGIOUS DISCRIMINATION

Federal law (Title VII of the Civil Rights Act of 1964) prohibits employers from discriminating against employees or applicants because of the person's religious belief or practice. The prohibition applies whether the person's belief or practice is that of a traditional, organized religion, sincerely held religious belief, ethical beliefs, or moral beliefs.

The Civil Rights and Equity and Women's Committees should monitor employer practices that may discriminate against people of certain religious, ethical, or moral beliefs in hiring, promotion, training opportunities, and job assignments.

HIV/AIDS DISCRIMINATION

HIV/AIDS is found in males and females of every age, race, and sexual orientation.

Ugly stereotypes, however, have encouraged prejudice and fear, both on the job and in our communities.

Workers with HIV/AIDS may face discriminatory attitudes and practices from both employers and co-workers. We must strive to protect access of members with HIV/AIDS to medical benefits, and their right to remain on the job as productive workers as long as they are physically able. The employment protections in the Americans with Disabilities Act (ADA) cover persons with HIV/AIDS.

In 1986, the CWA Convention adopted an "AIDS in the Workplace" resolution which outlines protections and guidelines. The AFL-CIO adopted a resolution in 1989 on HIV/AIDS stating it will fight HIV/AIDS discrimination and work for health protections for workers exposed to infectious diseases.

The Civil Rights and Equity and Women's Committees should be alert to the discriminatory treatment of members with HIV/AIDS. The Civil Rights and Women's Committees, in cooperation with other appropriate local committees, should work to educate the members on this issue.

LEGISLATIVE SUMMARY

Civil Rights and Equity Committee and Women's Committees should familiarize themselves with the following legislation that deals with equity issues.

Age Discrimination in Employment Act (ADEA)

The Age Discrimination in Employment Act of 1967 (ADEA), as amended, prohibits discrimination on the basis of age against any person 40 years old or older.

The ADEA does not provide legal protection to individuals under age 40, but it does prohibit discrimination among individuals within the protected age group (e.g., an employee who is age 50 can claim discrimination because of the actions involving someone who is 40). The ADEA applies to both employees and to applicants for employment.

It is unlawful under ADEA for an employer to refuse to hire, discharge, or otherwise discriminate against any individual with respect to compensation or terms or conditions of employment "because of age".

As with Title VII and The ADA, the ADEA applies to employers, employment agencies, and labor organizations. The Supreme Court has held that the ADEA was intended primarily to prevent employment decisions influenced by "stereotypical" assumptions about people based on age (e.g., "older workers are less efficient"). Decisions that can be shown to be based on factors other than age (such as plant closings motivated by purely economic considerations) may not violate the ADEA. ADEA claims can be proven by showing that a decision affects older workers more harshly (a "disparate impact" claim). An ADEA claim can also be proven by showing that an individual was harmed by a decision that was specifically based on the individual's age. Such a decision would constitute intentional discrimination (a "disparate treatment" claim).

It is violation of the ADEA to use age preferences or limitation in job advertisements or specifications. Age limitations are also generally unlawful in job apprenticeship programs. The law does not apply when age is a bona fide occupation qualification for a job. Not does the law car an employer from observing the terms of a bona fide seniority system or bona fide employment benefit plan, such as retirement, pension, or insurance plan, Decisions based on "reasonable factors other than age" do not violate the law.

ADEA applies to:

All public employers and private employers with 20 or more employees, employment agencies and labor unions with 25 or more members are covered under the ADEA.

In 1990, Congress passed the Older Workers Benefit Protection Act (OWBPA), which amended the ADEA to specifically protect older workers from employer actions denying or reducing employment benefits such as insurance or severance due to age. The OWBPA also protects employees when an employer asks for a waiver of claims in exchange for some benefit such as an early retirement incentive package. Any such waiver must be in writing.

Remedies for Violations of ADEA

Monetary and equitable relief are available under the ADEA, including front pay and back pay, reinstatement and similar relief. Compensatory and punitive damages are not available, although it is possible to recover “liquidated” damages if an ADEA violation is proven to be “willful”. Under the statute, liquidated damages are calculated as double the amount of monetary damages. As with other civil rights statutes (e.g., ADA, Title CII), successful plaintiffs may also recover their reasonable attorneys fees and litigation costs.

Where to file a complaint:

The EEOC enforces the ADEA. A person may file a charge with the EEOC if the person believes s/he has been the victim of age discrimination. If the individual wants to remain anonymous, another person or organization may file the charge on the individual’s behalf and the EEOC will attempt to keep the individual’s name confidential. However, if you want to preserve the right to file a private suit, you must file a charge, and the employer must be informed about who is making the charge. As with other civil rights actions enforced by the EEOC, charges must be filed within 180 days of the discriminatory action.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) of 1990, as amended, prohibits discrimination against people with disabilities in employment and in public services, public and private transportation, public accommodations, and telecommunications services.

A person with a disability is defined under ADA as someone who: 1) has a physical or mental impairment such as blindness, epilepsy, diabetes, or cerebral palsy, “that substantially limits one or more “major life activities”; 2) has a record of such impairment; or, 3) is regarded as having such an impairment.

“Major life activities” can include such functions as walking, standing, breathing, lifting, seeing, or hearing, as well as caring for oneself, thinking, or concentrating. “Major life activities” also include the operation of a major bodily function such as digestive functions or normal cell growth. Working is also considered a major life activity.

“Substantially limited” generally means that an individual’s ability to perform the activity is significantly less than the average person’s. Generally, medical or other expert documentation is necessary to establish an individual’s “substantial” limitation.

An employer or covered entity cannot discriminate against an individual who has a record of a disability as defined by the ADA. The ADA also prohibits discrimination against an individual who is “regarded as”

having a disability as defined by the ADA. In this category, the person may or may not have a mental or physical impairment that is not substantially limiting. An employer or other covered entity cannot make judgements about an individual's abilities or entitlements based on stereotypes or generalized data.

Also covered is anyone with a physiological disorder, disfigurement, or condition, emotional or mental illness, or learning disability, or a person who is HIV-positive.

In addition, employers may not require applicants to take a medical exam until after an offer of employment has been made and before the employee begins work, and only if all new employees in the same type of job are required to take the same exam. Employers may not ask "disability-related" questions during the pre-offer process.

Once hired, employers are required to "reasonable accommodate" employees with disabilities, as long as it does not cause the employer "undue hardship".

Employers are required to provide "reasonable accommodations" to otherwise qualified job applicants with disabilities to enable them to compete for a position on the same level as nondisabled candidates. This may mean, for example, allowing extra time to take a test, or providing a reader or interpreter to explain instructions or questions. Employers are also required to provide "reasonable accommodations" to employees to enable them to perform essential job duties or meet key job standards. An employer does not have to excuse an individual's inability to perform essential functions of a job so long as effective reasonable accommodations have been provided.

A reasonable accommodation must be determined on a case-by-case basis. Reasonable accommodations can include making physical adjustments at the workplace, such as widening a door frame or installing a ramp to accommodate a wheelchair, or providing equipment to assist an employee in lifting or moving heavy objects. Reasonable accommodation can also include modifying a job to eliminate marginal duties (such as removing telephone answering responsibilities from an individual whose primary job is record-keeping) or changing work hours or shifts. Reasonable accommodation can also mean providing technical assistance, such as computer programs with special prompts or enhancements designed to assist individuals with learning or emotional disabilities. Leaves of absence can operate in certain circumstances as a reasonable accommodation, such as in cases where an employee needs time to adjust to medications or undergo medical treatments.

Finally, reasonable accommodations may mean transferring an employee to a different, but equivalent, vacant position for which she or he is otherwise qualified. If no vacant position exists at the same level and status, an employer can offer a lower level position as an accommodation. The employer is obligated to provide reasonable accommodation in any new position to ensure that the employee can perform those essential job functions. Reassignment is generally an accommodation of "last resort". An employer is never required to bump another employee from a job to create an opening for an employee with a disability. Similarly, an employer cannot provide an accommodation that would violate collective bargaining rights of other employees.

Employees with disabilities must be accorded equal access to all medical plans and other employment benefits offered to non-disabled employees.

ADA applies to:

The ADA applies to private employers with 15 or more employees. State and local government employers with 25 or more employees are required to comply with the ADA.

The ADA's obligations cover private employers, employment agencies, state and local government, labor organizations, and joint labor-management committees. Exception from the law are the United States government, Indian tribes, a corporation wholly owned by the United States, or a bona fide private membership club.

ADA Enforcement

The ADA is enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and, in the case of state and local government employers, the Department of Justice. The Department of Justice also enforces claims pertaining to physical access to public accommodations, such as theaters, sports arenas, stores, and medical facilities. Before making a claim in court, an individual must file a Charge of Discrimination with the EEOC or local fair employment practices agency as soon as possible after the discrimination occurs (generally between 180 and 300 days).

Resources

ADA: What You Need to Know, is available from CWA for a small fee per copy.

Civil Rights Act of 1964: Title VII

Title VII of the Civil Rights Act of 1964 is one of the principal federal laws that protects workers from discrimination in employment.

Title VII makes it unlawful for an employer to discriminate on the basis of:

- Sex
- Race
- Color
- Religion
- National origin

Under Title VII, it is unlawful for an employer to discriminate with regard to job advertisements; recruitment; testing; hiring and firing; compensation; assignments or classification of employees; transfer; promotion, or job assignments; layoff or recall; use of company facilities; training and apprenticeship programs; fringe benefits such as life and health insurance; pay, retirement plans, and disability leave; causing or attempting to cause a union to discriminate; retirement; and other terms, and benefits or conditions of employment.

Employers may have somewhat different obligations under Title VII depending on what type of discrimination is being alleged. An Employer may not make employment decision based on race/color or national origin, including the use of stereotypes about performance or traits of individuals in certain groups. Similarly, no opportunities can be denied based on marriage to or associate with an individual of a different race. Membership, in particular ethnic-based groups, or attendance at schools or other organizations generally associated with certain minorities. Title VII also prohibits an employer from using neutral job standards or policies that may disproportionately exclude minorities unless they can be shown to be job related. An employer may not segregate employees based on race or color or assign them to predominately minority geographic areas, or take other actions that effectively classify or segregate employees based on race or color.

Employers are also prohibited from harassing employees based on race/color or national origin. Offensive remarks or racial “jokes” or slurs will violate the law if they create a hostile or intimidating atmosphere that interferes with an individual’s ability to perform her or his job or otherwise creates a hostile work environment.

In the case of national origin, employers may not deny employment because of an individual’s accent or manner of speaking unless speaking in a certain manner is necessary to perform a particular job. Similarly, employers cannot impose a rule that only English is to be spoken on the job unless such a requirement is critical for business purposes. If such rules are used to exclude individuals of a certain national origin, the law is violated. The Immigration Reform and Control Act of 1986 (IRCA) requires proof that employees hired after that date are legally authorized to work in the United States. IRCA also extends the prohibition against national origin discrimination to smaller employers; i.e., those with between 4-14 employees. However, an employer may violate both Title VII and IRCA if it singles out individuals of a particular origin to provide verification of their status. Requiring employees to be U.S. citizens may violate IRCA.

Employers may not make adverse employment decisions based on religion. In addition, employers are required to reasonably accommodate an individual’s religious preference or practices in matters such as scheduling, assignments, or dress codes, unless doing so would cause an “undue hardship.” “Undue hardship” in this context has a lower standard than the employer has to meet in the ADA context.

Title VII also prohibits discrimination based on an individual’s sex. Intentional discrimination is forbidden, such as the use of job standards or requirements that have a disparate impact on one sex and cannot be justified as a “bona fide occupational qualification” for the job and essential to the operation of the business. Some specific forms of gender, or sex, discrimination are discussed in the following sections.

Title VII also protects workers who file charges of discrimination against their employers from retaliation. If you think you have been retaliated against for filing a Title VII charge, you should immediately file another charge.

Title VII applies to:

- Any private employer, state, or local government, educational institution and labor organization having 15 or more employees.
- Title VII also prohibits discrimination by the federal government, private and public employment agencies, and joint labor-management committees for apprenticeships and training.
- Exceptions from the law include religious institutions, which are excluded with respect to hiring persons of particular religion, but are covered with respect to discrimination based on sex, race, or other protected status.

Where to file a complaint:

Charges of employment discrimination may be filed at any of the 53 field offices of the U.S. Equal Employment Opportunity Commission (EEOC).

As with the ADA, there are time limits on filing charges. A charge should be filed as soon as a discriminatory action occurs or is discovered, and within 180 days (6 months) of the act complained of.

Civil Rights Act of 1991

Title VII has been amended several times since 1964 to expand its protections. The Civil Rights Act of 1991 amended Title VII of the Civil Rights Act of 1964 as well as several other civil rights statutes: Section 1981 of the Civil Rights Act of 1866, the Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act of 1967.

Remedies for Violations of Title VII

Under Title VII of the Civil Rights Act of 1964 and Title I of the American with Disabilities Act of 1990, a complaining party may recover compensatory and punitive damages and be provided jury trials in cases of intentional discrimination.

Punitive damages are monetary awards intended to punish the offender for malicious or intentional and reckless conduct. A complaining party must show that the respondent engaged in an intentional discriminatory practice “with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

Compensatory damages are monetary awards intended to compensate an individual for related pain and suffering, out of pocket medical expenses, etc. Compensatory damages do not include back pay, interest on back pay, or comparable relief already authorized under Title VII.

Both compensatory and punitive damage awards are subject to statutory limits that differ depending on the size of the employer:

- More than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year \$50,000;
- Those with more than 100 employees but fewer than 201 under the same circumstances, \$100,000;
- Those with more than 200 employees but fewer than 501, \$200,000;

- Those with more than 500 employees, \$300,000.

Any party can demand jury trials for compensatory and punitive damages and the court shall not inform the jury of the limitations on damages. There is also a new prohibition to Title VII regarding the use of test scores. Employers may not “in connection with the selection or referral of applicants or candidates for employment or promotion” use different scores or adjust those scores or alter the results of employment-related tests on the basis of race, color, religion, sex, or national origin.

The Equal Pay Act

The Equal Pay Act of 1963 prohibits discrimination in pay and other forms of compensation between women and men who perform work requiring substantially equal skill, effort, and responsibility, performed under similar working conditions with similar job content within the same work place, The employer must pay equal wages not only for identical jobs, but also for substantially similar jobs.

If wage payments are made pursuant to a bona fide, non-discriminatory system (such as seniority systems, merit systems, or systems that reward worker productivity), differences in compensation based on that system do not violate the provisions of the Equal Pay Act.

The Equal Pay Act applies to:

The Equal Pay Act is part of the Fair Labor Standards Act (FLSA), and protects most workers whose employers are covered by the FLSA, including those employees who are exempt from minimum wage and overtime requirements.

Where to file a complaint:

If you think someone is not receiving equal pay for equal work, you may file a complaint with the EEOC which enforces the Equal Pay Act. Federal contractors are obligated to comply with the Equal Pay Act. Complaints alleging compensation discrimination can also be filed with the U.S. Department of Labor’s Office of Federal Contract Compliance Program.

Under the Equal Pay Act, individuals also have a right to sue privately, without first going to the EEOC, for back pay, damages, attorney’s fees, and court costs. The suit must be filed within two years of the violation, except in the case of a willful violation, in which case there is a three-year time limit.

You may not sue the employer if you have already been paid full back wages under EEOC supervision or if EEOC has filed a suit in court to collect these wages.

Pregnancy Discrimination Act

Title VII was amended in 1978 by Congress to include the Pregnancy Discrimination in Employment Act (PDA). The PDA prohibits an employer from treating a woman differently due to or on the basis of pregnancy, childbirth, or pregnancy-related medical conditions, and requires that women within that group be treated the same as all other individuals with respect to all terms and conditions of employment, including employee health benefits.

Employers may not refuse to hire pregnant applicants who can perform essential job functions, even if client, co-workers, or customers prefer otherwise. It is also unlawful to single out pregnant employees and require special medical screening to determine their ability to work, although they can be subjected to routine medical examinations or certifications applied to all employees seeking leave. Employees who take leave due to pregnancy must be allowed to return as soon as they are medically able to do so.

A woman who is temporarily unable to perform her job due to a condition related to pregnancy or childbirth must be treated the same as any other temporarily disabled employee. She is entitled to return to her job with no loss of seniority and no loss of pension service credit if these benefits are provided to other workers who take leave for temporary disabilities. Employers are also required to provide sick leave, health insurance, and other medical fringe benefits to employees who are temporarily disabled due to pregnancy, childbirth, or related medical conditions if they provide these benefits for other employees with temporary medical disabilities.

The employer can exclude elective abortions from health insurance coverage, except where the life of the mother is endangered or where medical complications have arisen from an abortion,

The PDA *does not* require employers to provide special benefits to individuals protected by the PDA. The employer must only provide the same level and type of benefits provided to all other employees. However, the laws of some states give employees additional rights with respect to pregnancy, child birth, or related conditions.

Employers must provide spouses of male employees and female employees the same level of health benefits. Pregnancy-related benefits cannot be limited to married employees.

A pregnant employee cannot be forced or required to take mandatory leave at any stage of her pregnancy. A woman who is able to perform her job is entitled to work up to the day of her delivery if she so chooses.

PDA applies to: The same as Title VII.

Where to file a complaint: File complaint with EEOC

Sexual Harassment-Sexual Discrimination (Title VII)

Sexual harassment is a form of sex-discrimination and as such is unlawful under Title VII. This applies to men and women workers alike. Sexual harassment includes “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature” that affect an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment. This form of sex discrimination can, however, also consist of non-sexual offensive remarks about a person’s sex or gender.

Sexual harassment can take place in many circumstances:

- The victim and the harasser may be either a woman or a man: the victim may be a member of the same or opposite sex.
- The harasser can be the victim's supervisor, a supervisor in another part of the company, a co-worker, an agent authorized to act for the employer or a non-employer.
- The victim does not have to be the person harassed, but can be someone adversely affected by the offensive conduct.

Unlawful sexual harassment may occur without any economic injury to the victim. Conditioning any employment benefit (e.g., promotion, assignment, salary, continuation of a job) on the performance of sexual favors violates Title VII. In addition, any unwelcome behavior or conduct that is sexually offensive (e.g., lewd comments, sexually derogatory remarks, pornographic pictures) and continuing may constitute a hostile environment. An employer that allows such conduct to continue after being told about it may be held liable under that statute.

Employers should establish and publicize meaningful complaint procedures that encourage employees to complain about sexual harassment. Failure to do so may result in employer liability for sexual harassment. Any complaint process allows the individual to complain to someone who is not the alleged harasser. If an employer does not adequately investigate complaints and provide remedies in situations where harassment has occurred, liability may also result. However, if fair and effective complaint procedures have been established and made available to employees, the employer may have a defense against liability if an employee fails to take advantage of them.

Employees should be encouraged to follow the employer's complaint procedures if they are fair and effective. Depending on the language of the specific contract, the employee can also file a grievance through the negotiated grievance procedure. Whether the harasser is a coworker or member of management, the individual needs to communicate to the harasser that the conduct is unwelcome and s/he wants it to stop. Efforts should be made to increase local members' awareness of sexual or other forms of harassment, including posting information on union bulletin boards, conducting training for members, or asking the employer to do so. The union should also try to resolve such issues so that they do not become serious problems requiring the filing of formal employer complaints or grievances.

Employees covered: The same as Title VII.

Where to file a complaint: File complaint with EEOC.

The 19th Amendment to the U.S. Constitution-Women's Right to Vote

The 19th Amendment guarantees all American women the right to vote. Achieving this milestone required a lengthy and difficult struggle; victory took decades of agitation and protest. Beginning in the mid-19th century, several generations of woman suffrage supporters lectured, wrote, marched, lobbied, and practiced civil disobedience to achieve what many Americans considered a radical change of the Constitution. While few of the movement's early supporters lived to see final victory-victory was achieved on August 26th, 1920, changing the face of the American electorate forever.

Family Medical Leave Act

The Family Medical Leave Act (FMLA) is the first federal law to require flexible work options in the private sector. The law, enacted in 1993, enables employees to balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interest of employers and promote equal employment opportunity for men and women.

FMLA applies to all public agencies, all public and private elementary and secondary employees. These employers must provide and eligible employees with up to 12 weeks for the following reasons:

- For the birth and care of a newborn child of an employee;
- For placement with employee of a child for adoption or foster care;
- To care for an immediate family member (spouse, child, or parent) with a serious health issue
- To take medical leave when the employee is unable to work because of a serious health condition

Employees are eligible for leave if they have worked for their employer at least 12 months, and work at a location where the company employes 50 or more employees and worked within 75 miles. Whether an employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours or work.

Time taken off work due to pregnancy complications can be counted against the 12 weeks of family medical leave.

Lilly Ledbetter Fair Pay Act

The Lilly Ledbetter Fair Pay Act of 2009 is an Act of Congress enacted by the 111th United States Congress and signed into law by President Barack Obama on January 29th, 2009.

The bill amends the Civil Rights Act of 1964 stating that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new discriminatory paycheck. The law was a direct answer to the Ledbetter v. Goodyear Tire and Rubber Co., 550 U.S.618 (2007), a U.S. Supreme Court decision holding that the statute of limitations for presenting an equal-pay lawsuit begins at the date the pay was agreed upon, not at the date of the most recent paycheck, as a lower court had ruled.

Mathew Shepard and James Byrd, Jr.-Hate Crimes Prevention Act

After more than a decade of advocacy by the Human Rights Campaign, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) was signed into law by President Barack Obama on October 28th, 2009.

A hate crime occurs when the perpetrator of a crime intentionally selects a victim because of who the victim is. Hate crimes tear the fabric of our society and fragment communities because they target an entire community or group of people, not just the individual victim.

The HCPA gives the Department of Justice (DOJ) the power to investigate and prosecute bias-motivated violence by providing the DOJ with jurisdiction over crimes of violence where a perpetrator has selected a victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability.

In addition, it provides the DOJ with the ability to aid state and local jurisdictions with investigations and prosecution of bias-motivated crimes of violence. The HCPA also authorizes the DOJ to provide grants to state and local communities to cover the extraordinary expenses associated with the investigation and prosecution of hate crimes.

Furthermore, the HCPA requires the Federal Bureau of Investigation to track statistics on hate crimes based on gender and gender identity (statistics for the other groups were already tracked).