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S U M M A R Y

Fair Employment Practices Act

I. COVERAGE

Title VII of the Civil Rights Act of 1964 becomes effective July 2, 1965. After July 2, it will be applicable to discriminatory practices of employers having more than 100 employees, employment agencies which deal with such employers and labor organizations with 100 or more members. 1)

A covered employer must also be a person engaged in an "industry affecting commerce." This phrase parallels and incorporates similar provisions in other legislation which have been held by the courts to represent an extremely broad exercise of congressional regulatory power. Therefore, it is fair to assume that employers of 100 or more employees, agencies which deal with them and unions of 100 or more members, are covered by FEP.

It should be noted that FEP does not apply to governmental units, indian tribes and private membership clubs. There are other exceptions with respect to certain positions at educational institutions and religious bodies.

II. Practices Prohibited

It is an unlawful employment practice for an employer, on the grounds of race, color, religion, sex or national origins to refuse to hire or to discharge or otherwise discriminate against any individual with respect to compensation, terms, conditions or privileges of employment or to limit, segregate or classify on such grounds. An employment agency is forbidden to refer for employment on these grounds or to classify or to refuse to refer on such basis. Labor organizations are forbidden to deny membership or otherwise discriminate in any way which would affect adversely an individual's status as an employee or applicant for employment. 2)

Differences in treatment bases on the operation of bona fide seniority or merit systems which measure earnings by quantity or quality of production are not unfair employment practices.

Written ability tests administered to job applicants are permissible if not used with intent to discriminate.

1 During the first year, the Title is applicable to employers of 100 or more employees and labor organizations with 100 or more members. The coverage is lowered to 75 during the second year, 50 during the third year and 25 thereafter.

2 There are exceptions to this wide coverage but they should not affect the usual case. In certain instances, where religion, sex or national origin are bona fide occupational qualifications, there is an exemption but this exemption does not apply to race. Religious institutions may discriminate on religious grounds in their hiring policy.

III. Enforcement

Enforcement of FEP has been assigned to an Equal Opportunity Commission composed of five members. The Commission Opportunity Commission composed of five members. The commission investigates and attempts to conciliate complaints but cannot force compliance by a lawsuit. I may promulgate record keeping requirements applicable to all covered employers, agencies and unions. It may make its investigatory results available for use in a court proceeding begun by a private person subsequent to a failure of the commission to achieve compliance. If a successful legal action has been maintained by a private person, then the Commission may go to court itself in order to enforce the successful judgment. The Commission can also recommend that the Attorney General bring suit in cases of general public importance.

IV Complaint Procedure

The procedure of the Commission is initiated by the filing with it of a written charge of unlawful discrimination which must be under oath. It must be filed within 90 days after the occurrence of the alleged discrimination. It may be filed by the person aggrieved or by a member of the Commission. But the Commission is not authorized to conduct an investigation without a formal charge from a private person.

If after investigating, the Commission determines there is reasonable cause to believe the charge is true, it attempts to conciliate. If the Commission is unable to obtain compliance, the person aggrieved may seek equitable relief in federal court.

There are substantial differences in this procedure when a state or local authority has power to act under a local anti-discrimination law.