

Compliance Training: Who Needs It?

A Research Bulletin by:

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Compliance Training: Who Needs It?

How important is it to train your employees about their obligations under employment discrimination and harassment laws? Consider these statistics: for fiscal year (FY) 2005, the Equal Employment Opportunity Commission (EEOC) received over 75,000 complaints of employment discrimination and recovered more than \$270 million in back wages for the complaining employees through settlements, mediation, and other administrative resolutions. Employees alleged in these claims all forms of employment discrimination (race, sex, including harassment, national origin, religion, age, and disability) involving such issues as hiring, termination, promotion, and leaves.

HR and legal experts agree that most of these complaints are the direct result of managers and employees making bad decisions because they do not understand the employment laws. For example, if a supervisor does not follow proper procedures to resolve a harassment complaint, you could easily end up in court defending the manager's inaction.

But, compliance training can be hard to sell since the expense is clear and immediate but its benefit is often intangible and measured by a lack of complaints being filed. Still, if you do not properly train your employees in these important issues, you risk becoming an EEOC statistic with a weak or nonexistent defense.

Below is a breakdown of the claims filed in the most recent period with the EEOC, plus six simple actions you can take to avoid being added to these statistics.

EEOC Claims for FY 2005 Focus on Race, Sex, and Retaliation

Overall, the EEOC reported that 75,428 complaints were filed with the agency in FY 2005. Race discrimination was alleged the most, accounting for over 35% of the claims filed. Sex discrimination accounted for over 30% of the claims, and over half of those cases involved sexual harassment. Here is a summary of the complaints filed:

	No. of claims	% of total
Race	26,740	35.5%
Sex	23,094	30.6%
Retaliation	22,278	29.5%
Age	16,585	22.0%
Disability	14,893	19.7%
National Origin	8,035	10.7%

Religion	2,340	3.1%
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(Note that because employees often file charges claiming multiple types of discrimination, the number of total charges for the year is less than the total of the seven types of discrimination listed.)

The EEOC collected \$271.6 million in back wages for the aggrieved employees through settlements, mediation, and other administrative settlements. In addition, the agency litigated 383 cases in court and collected over \$107 million to resolve them, an average of \$279,000 per case litigated (before legal expenses).

Six Steps to Prevent Claims

Given the time and money costs, you really don't want to be in the position of defending against a claim, even if you win in the end. Most legal experts put a price tag in the many thousands of dollars on the formal resolution of a complaint at the government agency level. Add a court battle to that, and your external legal expenses alone can quickly spiral to many times that amount. So, a better plan is to take proactive steps to prevent claims from being filed in the first place, including:

1. Train supervisors about discrimination, harassment, wage and hour, FMLA, and other employment laws. Make sure they understand the employer's obligations and are prepared to handle any complaints efficiently and appropriately.
2. Train all other employees about their obligations under discrimination and harassment laws. Focus on what workplace behavior is acceptable and how to make complaints internally.
3. Review every termination decision to ensure proper procedures were followed. Pay special attention to whether the terminated employee is being treated consistently with other similarly-situated employees.
4. Don't retaliate. Retaliation claims accounted for almost a third of the EEOC discrimination claims filed, and employees often succeed with these claims even if they lose the underlying discrimination complaint.
5. Document, document, document. Every employment decision should be documented so there is no question as to why an action was taken or how the employee was treated.

