

# **AVOIDING DISCRIMINATION CLAIMS**

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## ***Simple Steps to Avoid Discrimination Lawsuits***

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## Step One

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**Treat all Individuals Alike and Be Consistent**

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## Consistency In . . .

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- Hiring/Recruitment
  - Job Assignments
  - Promotions
  - Transfers
  - Compensation
  - Leave
  - Equipment
  - Documentation
  - Evaluation
  - Discipline/Termination
  - Attention
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4

## **Step Two**

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**Understand the Two Forms of  
Employment Discrimination**

5

## **The Forms of Discrimination**

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**Disparate  
Impact  
&  
Disparate  
Treatment**

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6

## **Disparate Impact**

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- Neutral Policy**
- Adverse Impact on Protected Class**
  - **Statistics to Prove Impact**
  - **No Intent Necessary**
- To Defend, Must Show:**
  - **Policy is Job Related**
  - **Consistent with Business Necessity**

7

## **Disparate Treatment**

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- Direct Evidence - The Smoking Gun**
- Circumstantial Evidence**

8

## **Step Three**

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### **Know Who is Protected From Discrimination**

9

### **Federal And State Anti-discrimination Laws**

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- Pregnancy Discrimination Act**
- Title VII**
- Americans With Disabilities Act (ADA)**
- Age Discrimination in Employment Act (ADEA)**
- Equal Pay Act (EPA)**
- The Florida Civil Rights Act (FCRA)**
- Genetic Information Non-Discrimination Act (GINA)**

10

## **“Protected” Status**

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- Age**
- Race**
- National Origin**
- Sex**
- Disability (mental or physical)**
- Genetic Make-Up**
- Religion**
- Marital Status**

11

## **Step Four**

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**Recognize What Behavior is  
Unlawful or Risky**

12

## **Unlawful/Risky Behavior**

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- Stereotyping**
- Joking About Retirement/Age**
- Using Nicknames**
- Asking About Retirement Interest**
- Complaining About Inconvenience/Problems Caused by a Disability**
- Using a Slang Term**
- Asking Questions About National Origin**
- Asking Questions About Child Care Issues**
- Asking About Marital Status**
- Telling a "Dirty" Joke**

13

## **Unlawful/Risky Behavior cont'd.**

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- Remarking on Appearance**
- Favoritism**
- Asking Medical Questions**
- Following Policy Sometimes But Not Always**
- Joking About National Origin**
- Talking About Religious Beliefs**
- Asking About Pregnancy/Childbirth**
- Paying Too Much Attention to an Employee of the Opposite Sex**
- Bullying**
- Asking About Age**

14

## **Step Five**

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**Be Mindful That as a Manager or Supervisor YOU Set The Tone**

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## **Step Six**

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**Recognize Warning Signs and be Proactive**

16



## **Step Seven**

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**Plan Personnel Decisions Well**

17

## **Step Eight**

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**Be Mindful That Proper  
Documentation is Critical in *Every*  
Discrimination Case**

18

## **Step Nine**

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**Know County Policies and Follow Them**

19

## **Step Ten**

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**Respect the Risk of Retaliation**

20

# Questions



21