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NJECA Continuing Education Program (One Hour CEU – LAW 9-0085)

NJ Law Against Discrimination

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NJ Law Against Discrimination

I. NJ Law vs. Federal Law

A. Federal Laws:

1. Civil Rights Act of 1964
 - a. Bars discrimination on basis of race, creed, color, national origin, religion or sex.
 - b. Pregnancy leave amendments require pregnancy be treated like any other disability.
 - c. Sexual harassment deemed "sex discrimination".
2. Age Discrimination in Employment Act
 - a. Protects workers 40 and over.
3. Americans with Disabilities Act
 - a. Protects workers and applicants for employment who are disabled but able to perform job duties with or without an accommodation.
4. National Labor Relations Act.
 - a. Protects workers who engage in union activities, union organizing, or other "concerted activities" for mutual aid or protection.
 - b. Protects workers whether there is a union or not.
5. Occupational Safety and Health Act
 - a. Protects workers who report safety violation or cooperate with OSHA.
 - b. Protects workers who seek to obtain their medical records regarding workplace injuries or exposures to hazards.

B. New Jersey Law Against Discrimination

1. Provides coverage and protections broader than federal laws.
2. Bars discrimination based of race, creed, color, national origin, religion, sex, sexual orientation, sexual preference, marital status, age, ethnicity, genetic characteristics or traits, handicap, perception of handicap.
3. Age protections have no age limit (covers anyone regardless of age, if age is a motivating factor; ex. Someone is fired for being too young.)
4. Sexual harassment is considered sex discrimination.
5. Can be enforced by filing a charge with the New Jersey Division on Civil Rights.
6. Law also provides for a private right of action in State court
 - a. Successful plaintiff can recover actual damages (lost wages and benefits), emotional distress damages, and punitive damages.

b. Successful plaintiff also entitled to recover reasonable attorneys' fees and costs of litigation, subject to a "fee enhancement" depending on difficulty of case as determined by the court.

C. Sexual Harassment in the Workplace

1. What is sexual harassment?
2. Quid pro quo vs. hostile work environment
3. Employer obligations to avoid workplace harassment
4. Need for written policies and employee training
5. Employer obligation to investigate alleged harassment
6. Non-retaliation against those raising issues
7. Imposition of appropriate discipline
8. Ways of avoiding potential liability

D. Employer obligations in avoiding workplace discrimination

1. Hiring practices
2. Employee evaluation, promotion, wage scales
3. Discipline, avoiding discriminatory application of rules
4. Documentation and record keeping