

MODULE 5

Protection From Discrimination

Module Overview

Time: 90 minutes plus Introductions

- Objectives:**
- to name what types of discrimination in the work place are against the law
 - to review who is protected against discrimination under the Massachusetts Fair Employment Practices Act (and related Federal laws)
 - to examine the concept of “employee-at-will”
 - to review agencies which are responsible for enforcing the law
 - to practice applying laws to common workplace situations
 - to understand and evaluate different responses to discrimination: complaints, law suits, concerted activity, keeping your mouth shut

- Preparation:**
- read Schwartz, *Your Rights on the Job*, Chapters 7,8,9,10, and 11
 - prepare flipcharts
 - read and copy handouts: *Participant’s Outline; The Massachusetts Fair Employment Practices Act in a Nutshell; Disability Protection Laws in a Nutshell; Is this Discrimination?*

Materials: flipchart, markers, tape

Module Outline

Welcome and Introductions

Time: 10 minutes

Flipcharts: *Objectives and Agenda*

Module Detail

Welcome and Introductions

Welcome participants, introduce yourself and review workshop objectives and agenda. It is helpful to put the Objectives and Agenda on flipcharts to post. Ask participants to introduce themselves, giving their name and union or organizational affiliation, if any.

What Types of Discrimination in the Workplace are Illegal?

Time: 15 minutes

Flipchart: *Examples of Workplace Discrimination* (title only)

Activity 1: What Types of Discrimination in the Workplace are Illegal?

Ask the group to name some things which happen in the workplace which they think are examples of discrimination and are, or should be, against the law. Put their responses on flipchart *Examples of Workplace Discrimination*. Point out that not everything that seems “wrong” or “unfair” is, in fact, illegal. The next activity will look at what the law says about what is or is not illegal and then we’ll come back to this list.

What Does it Mean to be an Employee-at-will?

Explain to participants the concept of “employee-at-will” as follows:

“Without a union contract you are an **employee-at-will**.

This means your employer can fire you at any time for any reason **unless it is discriminatory under the law or unless you are protected by a union contract**. Some examples include: OK to fire because employer is in a bad mood, even though worker hasn’t done anything wrong. OK to fire because worker asks for sick day. OK to fire after 18 years of work because worker doesn’t want to take the night shift, or even because worker comes in wearing green and employer doesn’t like green.”

What Does the Law Offer?

Time: 10 minutes

Flipcharts: *Massachusetts Fair Employment Practices Act; Other Anti-discrimination Laws*

Handout: *The Massachusetts Fair Employment Practices Act(Chapter 151B) in a Nutshell; Disability Protection Laws in a Nutshell*

Activity 2: What does the law offer: The Massachusetts Fair Employment Practices Act (FEPA)

Ask participants to listen to the following mini-rap on the Massachusetts Fair Employment Practices Act (FEPA):

Mini-rap:

“There are different laws that together offer broad protection against discrimination. For Massachusetts workers the most important is the **Massachusetts Fair Employment Practices Act (FEPA)** (*Refer participants to handout: The Massachusetts Fair Employment Practices Act(Chapter 151B) in a Nutshell*”) The federal version of this is Title VII of the Civil Rights Act of 1964.

The law bars discrimination in employment based on based on **race, color, sex, religion, national origin, age over 40, handicap or sexual orientation**. *Refer to flipchart: Massachusetts Fair Employment Practices Act*

The law prohibits discrimination in **hiring, promotion, discharge, pay, fringe benefits and other aspects of employment. It also forbids sexual harassment on the job.** *Refer back to flipchart.*

Complaints are filed with the Massachusetts Commission Against Discrimination (MCAD). Other laws which bar discrimination in the workplace include: The Equal Pay Act; Executive Order 11246, for federal workers; the Age Discrimination in Employment Act; The Americans with Disabilities Act; The Massachusetts Equal Rights Act and regulations developed by the EEOC (Equal Employment Opportunity Commission) and the MCAD (Massachusetts Commission Against Discrimination).” Refer to flipchart: *Other Anti-discrimination Laws*

Ask what questions they have about the law?”

Note to facilitator:

Avoid detailed discussion about specific violations of the law. Call their attention to handout: Disability Protection Laws in a Nutshell for additional information.

Direct group back to flipchart from Activity 1: *Examples of Workplace Discrimination*, and with the group write “illegal” and “legal” next to each example. Point out that what is not “illegal” can only be addressed through collective action - a union or other forms of working with other workers. Note that many unionized workers have language in their contracts addressing these issues.

What Are Remedies for Discrimination?

Time: 10 minutes

Flipchart: *What Should Happen to the Employer?*

Handout: *The Massachusetts Fair Employment Practices Act(Chapter 151B) in a Nutshell*

Activity 3: What Does the Law Say About Remedies for Discrimination?

Ask participants what they think an employer should have to do if he violates the law? What if the employer unfairly denies someone a promotion, fires them, pays them less than others, or treat them differently based on their race, sex, age, sexual orientation, religion, handicap or nationality? Put responses on flipchart: *What Should Happen to the Employer?(title only).*

Review handout entitled *The Massachusetts Fair Employment Practices Act(Chapter 151B) in a Nutshell*. Focus on remedies provided by law and compare to list of remedies on the flipchart which the group generated.

Identifying and Responding to Discrimination**Time:** 10 minutes**Flipchart:** *Responding to Discrimination***Handout:** *Appendix III: A Partial List of Advocacy Organizations***Evaluating Cases of Discrimination****Time:** 40 minutes**Handouts:** *Is This Discrimination?; Drawings numbers 5 and 6*

Sum-up by pointing out that if an employer is found guilty of discrimination they may be ordered to hire, promote or restore your job, pay back pay, stop discrimination and pay damages or attorney's fees. But it takes time. The MCAD can take a year, or even longer, to resolve a case. Collective action can be quicker and more effective. If you have a union your contract may provide a faster grievance process and additional remedies.

Activity 4: Identifying and Responding to Discrimination

Ask participants to listen to the following mini-rap on Identifying and Responding to Discrimination:

Mini-rap:

“There are three ways of responding to discrimination on the job: Refer to flipchart: *Responding to Discrimination*

1. No response
2. Individual response: talking to your supervisor, going to the MCAD, suing in court.
3. Group response: go to your union, if there is one; go to an advocacy group (*see list from handout*); talk and act with other workers (e.g. go as a group to talk to your employer or organize a union)

Invite participants to discuss the pros and cons of each response? For example: for “no response,” if the discrimination is minor and you are concerned about keeping your job and building a work record you might choose to say nothing. But if you do nothing the discrimination may continue and others may be affected. Sometimes more than one response is needed, e.g. going to the union and complaining to the MCAD.”

Activity 5: Evaluating Cases of Discrimination

Divide participants into small groups and ask them to review the cases in the hand out and decide: (1) if the law has been violated and (2) what they would do if this happened to them. Suggest that group members take turns reading each scenario to the group. Groups should try to reach consensus on their answers. Drawings numbers 5 and 6 may used instead of written case studies.

Have groups report back their answers, one question at a time. Discuss each scenario before going on to the report from the next group.

Summary and Remedies**Time:** 5 minutes**Summary and Remedies**

“Most employees in Massachusetts are protected from job discrimination on the basis of sex, race, national origin, religion, age over 40, disability and sexual orientation. It’s important to know our rights on the job and to act to protect those rights. It is illegal for an employer to fire an employee for exercising her or his rights. But above all, we have more protection as a group than we do as individuals. If you have a union your contract may provide a faster grievance process and additional remedies.

Immigrant workers, whether documented or undocumented, are covered by anti-discrimination laws. It is not always safe, however, for undocumented workers to go to state and federal agencies with complaints, as those agencies might notify the Immigration and Naturalization Service (INS). Undocumented workers should check first with an advocacy organization (see handout: *Partial List of Advocacy Organizations*). The handout *Safe and Unsafe Agencies for Immigrant Workers* can be used as a guideline.

Remedies that attempt to “make you whole,” include: getting your job back or a promotion to which you are entitled; back pay or benefits; a clean record, etc.”