

Fair Employment Law Review

Anna Caputo – Equal Opportunity Program Manager

First and Foremost

- All employees have the right to work in an environment that is free from discrimination.
 - Each employee should conduct him/herself in a professional manner and demonstrate respect for colleagues, patients and visitors at all times.
 - Supervisors and Managers must also:
 - Monitor the workplace for discriminatory conduct and communication.
 - Take all reports of discrimination seriously.
 - Document and forward all allegations of fair employment law violations to the EOPM for direction and/or investigation.
-

UMC's Equal Opportunity/Affirmative Action Plan - What does it say?

- That our mission is to: create a workplace that reflects our community; recognize and respect the value of our unique personal characteristics and experiences; and support our diverse workforce in its goal of exemplifying Compassion, Accountability, Integrity and Respect.
 - That UMC will not discriminate on the basis of race, color, religion, sex, age, national origin, disability, sexual orientation, gender identity or expression, or genetic information in employment.
 - That UMC will not tolerate sexual harassment of a UMC employee by another employee, vendor, contracted service provider, or official of the hospital.
-

Fair Employment Laws (Protected Categories)

- **Title VII of the Civil Rights Act of 1964**, as amended: race, color, sex (includes gender identity/sexual orientation), religion, and national origin.
 - **The Pregnancy Discrimination Act of 1978**: pregnancy, childbirth, and related medical conditions.
 - **The Equal Pay Act of 1963 (EPA)**: men and women doing the same work.
 - **The Age Discrimination in Employment Act (ADEA) of 1967**: individuals age 40 and above.
 - **Title I of the Americans with Disabilities Act (ADA) of 1990, as amended.**
 - **The Genetic Information Nondiscrimination Act of 2008 (GINA)**
 - **Nevada Revised Statutes (NRS 613.330)**: race, color, sex, religion, national origin, age, disability, sexual orientation and gender identity or expression.
-

Harassment and Sexual Harassment

- **Harassment**
 - Impermissible conduct may include, but is not limited to: offensive jokes; slurs; epithets or name calling; physical assaults or threats; intimidation; ridicule or mockery; insults or put-downs; offensive objects or pictures; or interference with work performance.
 - The law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, but harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

- **Sexual Harassment**

- Hostile Work Environment – practices ranging from unwelcome sexual advances, direct requests for sexual favors, and other verbal or physical harassment of a sexual nature, to workplace conditions that unreasonably interfere with an individual's job performance or create an intimidating or offensive working environment (for persons of either gender).
 - Quid Pro Quo – submission to, or rejection of unwelcome sexual conduct is used as the basis for an employment decision.
-

Discriminatory Employment Decisions if Based on a Protected Category

Recruitment	Hiring	Firing	Compensation
Transfer	Promotion	Layoff	Work Assignment
Recall	Other Terms and Conditions of Employment		

Also prohibited:

- Retaliation for filing a charge of discrimination, participating in an investigation, opposing discriminatory practices, or requesting an accommodation.
 - Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals due to race, age, etc.
-

Accommodations

- **Disability:** an individual with a qualifying physical or mental impairment can request an accommodation to be able to perform the essential functions of his or her position. Each accommodation is determined on a case-by-case assessment; for example, an employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels, or an employee with cancer may need leave to have radiation or chemotherapy treatments. The test is whether the accommodation would be an undue hardship on UMC.
 - **Pregnancy:** an accommodation request from a woman affected by pregnancy, childbirth or related medical conditions should be considered in the same manner as other employees similarly abled or disabled from working.
 - **Religion:** an employer must accommodate the religious belief or practice of an employee unless doing so would pose an undue hardship (minimal burden). Examples of some common religious accommodations include flexible scheduling, voluntary shift substitutions or swaps, job reassignments, and modifications to workplace policies or practices, or allowing the use of particular head coverings or other religious dress.
-

Complaint Reporting Process

- Report the alleged misconduct to the immediate management team as soon as possible.
- Management should report the complaint to the EOPM for appropriate action.
- Contact the EOPM directly.
- File a charge with an outside agency: EEOC – (702)388-5099 or NERC – (702)486-7161
- Must be reported within 300 days from the last date of the alleged unlawful conduct.
- See also UMC's Equal Opportunity/Affirmative Action Plan policy booklet on the EOPM intranet page for more information, or contact the EOPM directly at (702)207-8264.