

Human Resources
Office of Equal Opportunity & Compliance



New Employee Orientation

Presented by
Florida State University
Human Resources Office of Equal Opportunity & Compliance
Florida State University
(850) 645-6519



Overview of Topics

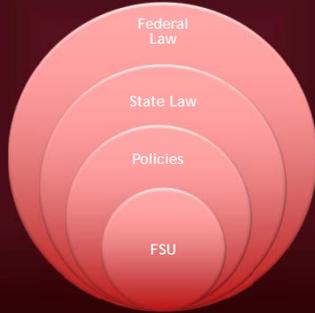
- Equal Employment Opportunity (EEO)/Non-Discrimination
- Affirmative Action
- The Americans with Disabilities Act (ADA)



Equal Employment Opportunity
(EEO)/Non-Discrimination



Non-Discrimination Laws & FSU Policy





FSU's Policies

- EEO Statement
- Non-Discrimination Policy
- ADA Policy
- Sexual Harassment Policy





Non-Discrimination

Employment/education decisions may not be based on a protected group status.

Cannot:

- limit employment opportunities
- take negative employment action
- create a hostile environment



Protected Groups at FSU

FSU prohibits discrimination based on:
race, creed, color, sex, religion, national origin, age, disability, veterans' status, marital status, sexual orientation, gender identity, gender expression, and other legally protected groups.



Disparate Treatment Discrimination

Adverse employment action:

- Motivated by protected group membership.



Case Study

Samira is considering promoting one of her staff members to a supervisor position. She is choosing between two good employees: Brandon, who is African-American, and Anel, who is Latina. She decides to promote Anel because most of the office staff is Latino and Samira believes they will be more responsive to a Latina supervisor.

Did Samira violate the University's Non-Discrimination Policy?



Case Study

Don, a supervisor, insists that all employees of Middle Eastern descent sign a loyalty and confidentiality oath to the University every year to prove that they aren't terrorists. No other employees have to sign this oath.

Is Don violating the University's Non-Discrimination Policy?



Disparate Treatment Continued

Hostile work environment:

- Harassing conduct
 - based on protected group status
 - so severe *or* pervasive that it objectively creates an offensive work environment
- Can be created by anyone in the workplace, not just supervisors.



Case Study

Keiko, a Japanese-American, works as a department assistant. Since she began work, a group of co-workers have been making fun of her by slanting their eyes when they see her, calling her ninja, "Cuckoo," and complaining that she smells like raw fish. They have done this repeatedly during her first two months on the job. Keiko has asked them to stop, but they refused.

Is Keiko being discriminated against?



Case Study

Randy and Murat dislike Cindy because she recently got a merit bonus and they didn't. Since then they have been rude to her. They roll their eyes at her and ignore her work-related emails for as long as possible. Randy keeps pointing out minor mistakes in her work to their boss and one day Murat called her a bitch during lunch.

Is Cindy being discriminated against in violation of the University's Non-Discrimination Policy?



Disparate Impact Discrimination

- Neutral employment policy/practice consistently applied to all employees,
- Has disproportionately harsher effect on members of a protected group, *and*
- Policy/practice is not job-related and consistent with business necessity.



Case Study

A meat packing plant requires that everyone applying for a packing job pass a strength test. The test eliminates over 60% of all female applicants, while eliminating less than 3% of male applicants.

Is there a potential discrimination problem here?



Religious Accommodations

- Adjustments that allow an employee to practice his or her religion.
- May be denied if causes an undue hardship.



Religious Accommodations Examples

- A Catholic employee requests to use annual leave to attend church services on Good Friday.
- A Jewish or Sikh employee requests an exception from the normal dress code to allow him to wear a religious head covering at work.
- An atheist employee asks to be excused from a religious invocation offered at the beginning of a graduation ceremony.
- An employee who adheres to Native American spiritual beliefs requests leave to attend a ritual ceremony.
- A Muslim employee requests to schedule and use break time throughout the day for prayer.



Requesting Religious Accommodations

- Must make need known to supervisor
- Interactive Process
- Contact EOC with questions



Where to Make a Discrimination Complaint

- Immediate Supervisor
- Next Level Supervisor
- EOC in Human Resources
- Ethicspoint Anonymous Reporting Hotline



Non-Retaliation

Retaliation is prohibited against individuals who:

- Make a discrimination complaint
- Help someone report
- Participate in an investigation
- Otherwise oppose discrimination
- Make a reasonable accommodation request



Who Investigates Complaints?



- Investigates discrimination complaints *against* employees, contractors, and visitors.
- Formal and informal options.



Mandatory Reporting Obligation

Supervisors must report the following to the EOC:

- Discrimination affecting a subordinate
- Disability Accommodation Requests

Failure to report may result in disciplinary action.



Mandatory Reporting Obligation

“Supervisors” include:

- Residence Hall Coordinators
- Graduate Assistants
- Teaching Assistants
- Academic Advisors
- Athletic Coaches
- Others



Recognizing Offensive Behavior

- Mocking clothes, food, or physical appearance of people from different cultures, religious beliefs, sexual orientation, or gender expressions
- Humor based on stereotyping/denigrating members of protected groups
- Not respecting different beliefs
- Making fun of accents or names



Affirmative Action



Commitment to Affirmative Action

Florida State University is committed to the practice of equal opportunity and affirmative action in all aspects of employment for minorities, women, protected veterans, and individuals with disabilities.



EEO Clause

- An Equal Opportunity/Access/Affirmative Action/Pro Disabled & Veteran Employer.
- Equal Employment Opportunity/Affirmative Action information is available on the University's EOC webpage (<http://compliance.hr.fsu.edu/>)



Americans with Disabilities Act



Americans with Disabilities Act

The ADA, as amended by the ADAAA:

- Prohibits discrimination against qualified individuals on the basis of disability in all aspects of employment. Such as:
 - Application for employment
 - Hiring, firing, layoff
 - Job assignments, promotions, demotions.
- Requires “reasonable accommodations” for applicants and employees with a disability.
- Protects confidentiality of medical information.



FSU’s ADA Policy

OP-C-7-11 AMERICANS WITH DISABILITIES ACT

The Florida State University (University) is committed to a policy ensuring that individuals with disabilities are not discriminated against and that they have equal opportunity and equal access to all the rights and privileges enjoyed by those who are not disabled. The Florida State University will comply with all applicable federal and state laws, regulations, ordinances, orders, and rules and will provide, upon request, reasonable accommodations to individuals with disabilities. This policy and procedure does not intend to expand what is required by law, but to provide procedures for implementation of reasonable accommodation requests.



University Authority

- Office of Equal Opportunity and Compliance (EOC)
 - ADA Coordinator: (850) 645-6519
- Student Disability Resource Center (SDRC)
 - SDRC's main line: (850) 644-9566



Basic ADA Requirements

The ADA requires an employer to reasonably accommodate qualified individuals with disabilities, as long as making such an accommodation does not create an undue hardship or cause a direct threat to the health or safety of the requesting individual or others.



Qualified Individual

A “qualified individual with a disability” is:

- a person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and
- can perform the “essential functions” of the position with or without reasonable accommodation.



Disability

The ADA defines a “**disability**” as:

1. A physical or mental impairment that substantially limits one or more major life activities, or
2. The individual has a record of such impairment, or
3. The individual is regarded as having such an impairment.



Physical & Mental Impairments

***Physical/Mental Impairment** that Substantially Limits a Major Life Activity*

Physical or mental impairments include:

- Neurological
- Respiratory
- Cardiovascular
- Reproductive
- Digestive
- Skin

Any mental or psychological disorder

- Intellectual impairment
- Organic brain syndrome
- Emotional/mental illness
- Learning disabilities



What is Not a Disability?

Impairments **excluded** from the ADA, include:

- Physical characteristic (hair color, left handedness)
- Height, weight, muscle tone
- Personality characteristics (temper, poor judgment)
- Temporary non-chronic conditions (flu, broken limb)
- Gambling, pyromania
- Sexual conditions (gender identity, bisexuality)
- *Illegal use of drugs*
- *Advanced age*
- *Obesity*
- *Stress*



Duration of Time

- Long term and chronic conditions.
- Episodic and/or remission impairments.
- No specific duration required.
- Non-chronic impairments of short duration with little residual affects usually do not qualify.



Substantially Limits

Major Life Activities

- Walking, speaking, hearing, standing, seeing, breathing, performing manual tasks, learning, caring for oneself, sleeping, concentrating, thinking, eating, working, etc.
- Major bodily functions
 - Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.



Record of Impairment

The individual has a record of such impairment if:

- He or she does not currently have a substantially limiting impairment but had one in the past. Some type of documentation of the impairment must exist.
- He or she was misdiagnosed or misclassified with a disability.



Regarded as Disabled

- Person regarded by an employer as having an impairment that is not transitory (lasting less than 6 months) or minor.
- Not entitled to a reasonable accommodation, but may file a claim of disability discrimination.



Who is Not Protected Under the ADA?

- Individuals with temporary medical conditions.
- Individuals currently engaging in the illegal use of drugs.
- An alcoholic whose current use of alcohol interferes with job performance.
- Any employee creating a direct threat to the safety of themselves or others (regardless of whether or not they have a disability).



Undue Hardship

The ADA requires an employer to reasonably accommodate qualified individuals with disabilities, unless making such an accommodation creates an undue hardship.



Reasonable Accommodations Examples

- Job restructuring
- Modified work schedule
- Alteration of the work environment
- Adjustments or modifications to employment tests and training materials
- Providing qualified readers or interpreters
- Making existing facilities accessible to and usable by individuals with disabilities
- Transfer of the disabled individual to a vacant position, if appropriate



ADA Key Points

- An applicant or employee must be a qualified individual with a disability.
- Employers must make a reasonable accommodation.
- The requested accommodation cannot impose undue hardship on the business.



Disability Etiquette

Service Animals	Interpreters	Offering Assistance	Community Accessible	Be Patient
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Disability Etiquette

Negative phrases

- Handicapped, lame, crippled or deformed
- CP victim
- Confined or restricted to a wheelchair
- Dumb and mute
- Retarded, crazy or nuts

Affirmative phrases

- Person with a disability
- Person with cerebral palsy
- Person who uses a wheelchair
- Unable to speak, uses synthetic speech
- Person with a psychiatric disability



Case Study

Marsha, a receptionist, was diagnosed with multiple sclerosis. Her physician advised her employer and provided documentation to support the negative impact of heat to her condition. Marsha requested a covered shaded parking space as a reasonable accommodation. Her employer denied her request because the company's policy is that covered parking is reserved for the executive team.

Did Marsha's employer violate the ADA?



Case Study

Harry is a full time stenographer for the Jefferson County Clerk of Courts. Last night, while at home, Harry fell and broke his arm. Harry has requested a temporary accommodation from his employer until his arm heals (6-8 weeks). The Clerk of Court denied his request.

Did Harry's employer violate the ADA?



Roles & Responsibilities

As an **employee**:

- Monitor your behavior/be respectful.
- Know and comply with University policies & procedures.
- Support the University's commitment to foster a diverse and inclusive work environment.
- Promptly report concerns to appropriate individuals/departments.
- Get training.



Roles & Responsibilities

As a **supervisor**:

- Consistently apply policies & procedures.
- Take complaints & accommodation request seriously and respond promptly.
- Maintain privacy (need to know basis).
- Educate yourself and employees.
- Proactively monitor the work environment.
- Document.
- Get help from the EOC.



Thank you for your Participation

If you have any questions, please call or email the
EOC at:
(850) 645-6519
or
EOC@fsu.edu.
