

Personnel

Riley Fletcher **Basic Municipal Law** **Seminar**

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EMPLOYMENT AT-WILL

- Exceptions:
 - Contract (express and implied)
 - Collective bargaining, civil service, meet & confer
 - Federal Law
 - State Law

Federal Discrimination Laws

- Title VII
- Age Discrimination in Employment Act (ADEA)
- Americans with Disabilities Act (ADA)
- Equal Pay Act
- Section 1981 of Civil Rights Act
- Immigration Reform and Control Act (IRCA)
- Others- FMLA, USERRA, FLSA

Employment Actions and Employment Discrimination

- Hiring
- Firing
- Promotion
- Demotion
- Payment
- Adverse Employment Action
- Change in Job Duties or Title
- Anything that you do regarding employees . . .

Title VII

- Protected Classes
 - Race/Color
 - National Origin
 - Sex
 - Religion

Gender Discrimination

- Includes:
 - Sexual stereotyping (does not include sexual orientation)
 - Pregnancy Discrimination- pregnancy, childbirth or related medical condition
 - Sexual Harassment
 - Includes same-sex sexual harassment

ADEA

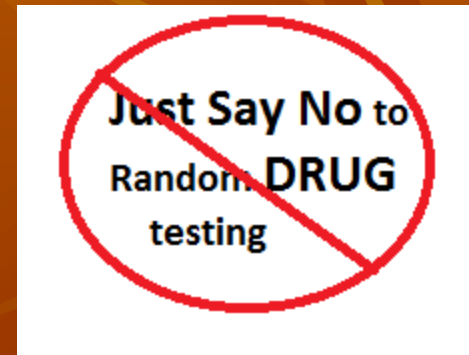
- Applies to employers with 20 or more employees
- Protects individuals age 40 and above
- Mandatory retirement prohibited
 - Exceptions: (1) employee over 60 that has held a bona fide executive or high policy maker position for 2 years before retirement and is entitled to receive non-forfeitable annual retirement not less than \$44,000; (2) compulsory retirement for law enforcement and fire fighters
- Defenses:
 - BFOQ
 - Reasonable factor other than age

ADA

- Applies to employer with 15 or more employees
- Prohibits:
 - Disability discrimination (including perceived disability)
 - Pre-employment inquiries (including medical examinations prior to making job offer)
- Only protects a qualified individual with a disability (i.e. can perform essential functions of the job with or without a reasonable accommodation)

Drug Testing

- Constitutional Limitations
- Suspicion Drug Testing
 - Policy
 - Accidents
 - Reasonable Suspicion
- Random Drug Testing
 - CDLs
 - Safety Sensitive



Other Things to Remember

- Review the personnel manual
- Ensure that similarly situated employees are treated the same
- Employment laws for public entities are sometimes different than for private entities

Resources

- Texas Municipal League Web site
http://www.tml.org/legal_topics/legal_personnel.asp
Employment Manual
- Texas Workforce Commission www.twc.state.tx.us
- Texas Municipal League Intergovernmental Risk Pool “Call Before You Fire” 1-800-537-6655
- Texas Municipal Human Resources Association
www.tmhra.org
- Department of Labor www.dol.gov



QUESTIONS?