

HR Compliance Library, ¶42,511, Workplace diversity vs. EEO

How can a cultural diversity policy that encourages employees and managers to recognize the differences in various ethnic, age and gender groups coexist with the equal employment opportunity laws that mandate treatment of employees cannot be based on differences in those very same categories? The key is to focus on individuals. While the law allows employers to recognize differences and attributes *among individuals*, it does not allow them to assume that those certain differences and attributes can only be found among a certain group of individuals (⁵).

Developing synergies in the workforce. Indeed, a diversity program can be seen as a way to go beyond EEO into a deeper commitment to draw from the entire workforce to get the most qualified applicants and to develop them into an optimally functioning unit. But doing that means understanding the needs and values of each group and using that information to create a workplace that helps to develop and motivate each individual to strive toward the company's goals.

An effective diversity program is one that ensures the recognition of differences moves individuals in the workforce closer together, not farther apart. Education plays an integral part in the successful implementation of diversity in the workplace. Education discourages stereotyping and can foster respect for customs of other cultures. Respecting and adopting cultural attitudes and traditions can even make the existing workplace better, as evidenced by American companies' emulation of Japanese management techniques.

Difference of emphasis. The difference between diversity programs and programs prohibiting discrimination can be characterized as one of emphasis. Programs prohibiting discrimination in the workplace, as a general rule focus on don'ts—do not ask certain questions; do not use certain criteria; do not draw certain distinctions based on nonwork categories, etc. While diversity programs provide suggestions and ideas of things to do in the workplace—employee holiday programs and festivals; employee groups and participation programs, mentoring etc.

Employee affinity groups. Programs that support various employee groups with resources, e.g., the use of company facilities and equipment or funding for group activities, have become increasingly popular. Such employee groups are loosely organized based on a common social identity, as for example:

- People with disabilities
- African-Americans
- Gays and lesbians
- Women
- Hispanics
- Asian-Americans
- Veterans

Some employers include religiously affiliated groups such as Jewish or Muslim employee groups. However, one court has held that an employer's decision to decline affinity group status to groups that promote/advocate religious positions did not constitute unlawful religious discrimination even though the employer granted affinity group status to others based on the other categories protected by Title VII (¹⁰). According to the court, there was no discrimination because all groups with religious positions were treated equally — they were all excluded.

Footnotes

5 Kessler, Lawrence, *Managing Diversity in an Equal Opportunity Workplace*, National Foundation for the Study of Employment Policy, 1990, p. 60.

10 *Moranski v. General Motors Corp* (7thCir 2005) 87 EPD ¶42,192.