



SUPPLEMENTAL MATERIALS
FOR 2018 BLOOM TALK:
“LEARNING TO SWIM IN
A SEA OF COMPLIANCE LAWS”

Learning to Swim in a Sea of Compliance Laws



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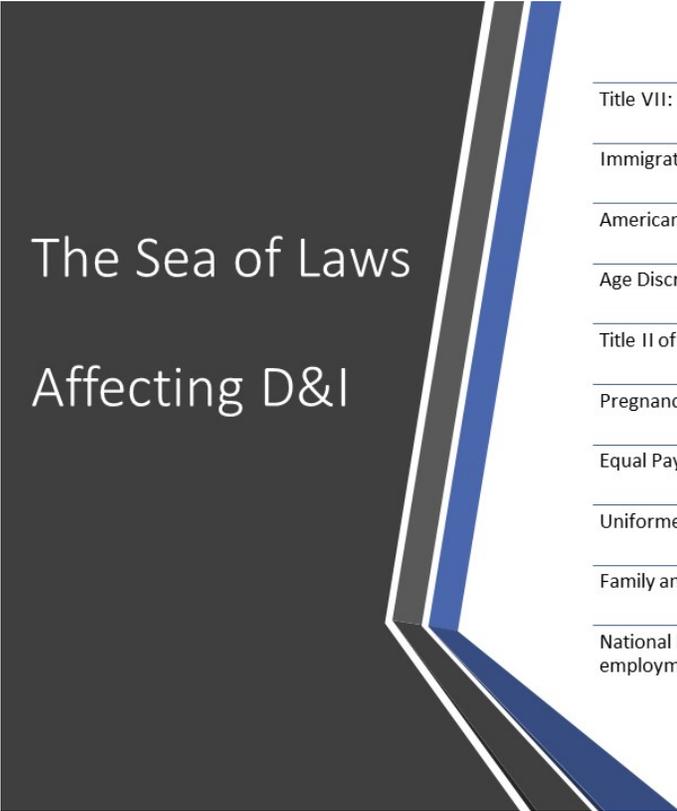
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The Sea of Laws Affecting D&I

Title VII: race, color, religion, sex, national origin

Immigration Reform and Control Act: citizenship or immigration status

Americans with Disabilities Act: disability

Age Discrimination in Employment Act: age 40 and older

Title II of Genetic Information Nondiscrimination Act: genetic information

Pregnancy Discrimination Act: pregnancy

Equal Pay Act: sex

Uniformed Services Employment and Reemployment Rights Act: military service

Family and Medical Leave Act: leave for health or to care for family

National Labor Relations Act: right to organize and negotiate terms and conditions of employment

List of Laws with Web Links to Summaries

Title VII:

Harassment: <https://www.eeoc.gov/laws/types/harassment.cfm>

National Origin: <https://www.eeoc.gov/laws/types/nationalorigin.cfm>

Race/Color: <https://www.eeoc.gov/eeoc/publications/fs-race.cfm>

Religion: <https://www.eeoc.gov/eeoc/publications/fs-religion.cfm>

Sex: <https://www.eeoc.gov/laws/types/sex.cfm>

Sexual Harassment: <https://www.eeoc.gov/eeoc/publications/fs-sex.cfm>

Retaliation: <https://www.eeoc.gov/laws/types/facts-retal.cfm>

Immigration Reform and Control Act:

Citizenship: <https://www.eeoc.gov/laws/types/nationalorigin.cfm>

List of Laws with Web Links to Summaries (cont.)

Americans with Disabilities Act:

Disability: <https://www.eeoc.gov/eeoc/publications/fs-ada.cfm>

Age Discrimination in Employment Act:

Age: <https://www.eeoc.gov/eeoc/publications/age.cfm>

Title II of Genetic Information Nondiscrimination Act:

Genetic Information: <https://www.eeoc.gov/eeoc/publications/fs-gina.cfm>

Pregnancy Discrimination Act:

Pregnancy: <https://www.eeoc.gov/eeoc/publications/fs-preg.cfm>

Equal Pay Act:

Sex: <https://www.eeoc.gov/eeoc/publications/fs-epa.cfm>

Uniform Services Employment and Reemployment Rights Act:

Military Service: https://www.dol.gov/vets/programs/userra/userra_fs.htm

Family and Medical Leave Act:

Leave: <https://www.dol.gov/whd/regs/compliance/whdfs28.pdf>

National Labor Relations Act:

Organize and Negotiate: <https://www.nlrb.gov/rights-we-protect>

Changing
Focus—

Going
Beyond
Compliance

The Financial Impact

Companies with strong diversity and inclusion focus were 33% more likely to have financial returns above comparable companies
(2017 updated McKinsey & Company study)

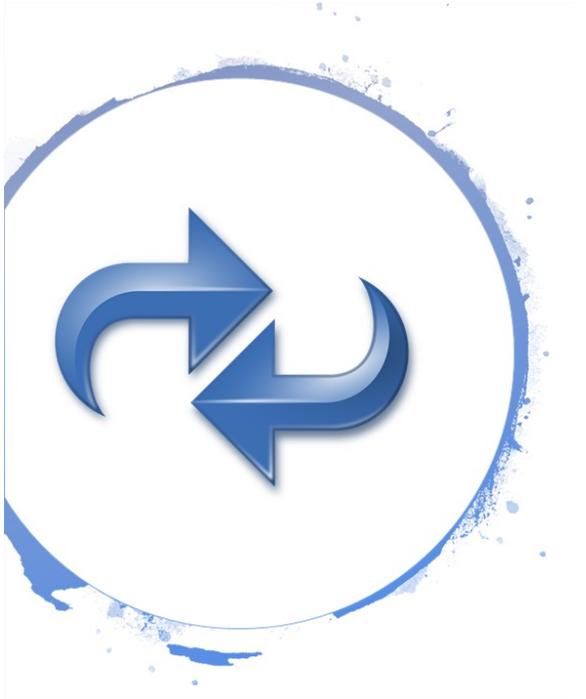
Summary of Monetary Impact of D&I

Multiple studies in the past ten years have shown dramatic positive financial benefits to organizations that prioritize diversity and inclusion. The 2017 updated McKinsey & Company study, for example, showed companies with strong diversity and inclusion were 33% more likely to have financial returns above comparable companies. Simply put, done right, diversity and inclusion efforts pay off through

- Increased employee engagement: A study by Deloitte revealed the tight connection between increased inclusion and improved employee engagement, and employee engagement significantly impacts several work areas:
 - Increased engagement = Improved attendance: The Deloitte study explained that “[i]f just 10% more employees feel included, the company will increase work attendance by almost one day per year per employee.” Another study showed that disengaged workers had 37% higher absenteeism.
 - Increased engagement = Improved workplace safety: Disengaged employees have 49% more accidents.
 - Increased engagement = Improved accuracy and quality: Disengaged employees produce 60% more errors and defects.
 - Increased engagement = Improved productivity: Companies with low employee engagement experience 18% lower productivity than their peers.

Summary of Monetary Impact of D&I (cont.)

- Increased engagement = Reduced employee turnover: Replacing a single entry-level employee costs a company the equivalent of 20% to 50% of the employee's salary. It can be up to 400% for high level or specialized employees.
- Better decision-making: A recent study showed that inclusive decision-making environments result in better business decisions 87% of the time.
- Expanded innovation and creativity: A study by Deloitte found more diverse and inclusive workplaces saw on average 83% improvement on their ability to innovate.
- Preparation for a changing workforce demographic: By 2025, 75% of those in the workforce will be millennials, post-millennials, or Generation Z, and those generations prioritize diversity and inclusion when evaluating where to work.
- Higher quality applicant pools: Kristyn Scott stated it directly when describing the findings of her study, "When you have an inclusive corporate culture, recruiting top talent becomes easier."



Changing Focus—Going Beyond
Compliance Legal Implications

Reverse Discrimination

Reverse Discrimination

The primary Supreme Court cases dealing with reverse discrimination are:

Ricci v. Destefano (2009) <https://caselaw.findlaw.com/us-supreme-court/557/557.html>

McDonald v. Santa Fe Trail Transp. Co. (1976) <https://caselaw.findlaw.com/us-supreme-court/427/273.html>

To read about the allegations in the 2018 lawsuit filed against Google for reverse discrimination:

<https://www.nbcnews.com/news/asian-america/ex-recruiter-accuses-google-hiring-discrimination-against-white-asian-men-n853601>

<https://drive.google.com/file/d/1quxbLQRF8H2VGWWhhpsjRKxUTXZSXlg7/view>

Some ideas for diversifying your workforce without running into reverse discrimination issues:

<https://www.forbes.com/sites/forbescoachescouncil/2017/08/29/want-diversity-15-recruiting-tactics-to-attract-a-wider-range-of-candidates/#5eae0fc72144>



Changing Focus—Going
Beyond Compliance
Legal Implications

Self Assessments

Self Assessments

For background and legal analysis of why there is reluctance to recognize a self-critical analysis privilege, this court opinion is fairly recent and quite thorough: *Lund v. City of Rockford* (2017)
<https://presnellonprivileges.files.wordpress.com/2017/12/lund-decision.pdf>

To read about the survey the employees at Nike created for themselves and its repercussions:

<https://www.nytimes.com/2018/04/28/business/nike-women.html>

<https://www.nytimes.com/2018/05/08/business/nike-harassment.html>

Changing Focus—
Going Beyond
Compliance



Affinity Groups/Employee Resource Groups

Affinity Groups/Employee Resource Groups

This blog provides a good summary of legal issues to consider when establishing and running affinity groups/employee resource groups:

<http://www.rockymountainemployersblog.com/blog/2015/11/4/the-affinity-group-dilemma>

To read the circuit court case that gives latitude for employers to exclude entire categories of employer-sponsored affinity groups: *Moranski v. General Motors Corp.* (2005)

<https://caselaw.findlaw.com/summary/opinion/us-7th-circuit/2005/12/30/134837.html>