

Employers swarm seminar

Prof says hiring laws can be can of worms

By CRAIG PIECHURA

If Al Capone were alive today and applying for a job as a florist, it may be illegal for an employer to ask him if he had ever been arrested.

A court could decide Scarface's tax evasion conviction has no bearing on his performance with petunias.

Likewise, a personnel director is treading on thin legal ice if he asks a woman if she's pregnant or plans to have children.

Employers who don't want to run afoul of the law when they're interviewing job applicants are signing up for a seminar that runs from Tuesday through Thursday this week at the Lawrence Institute of Technology (LIT) in Southfield.

Professor Lou DeGennaro, an attorney specializing in job discrimination cases and a member of the LIT school of business and industrial management, says 60 companies have already plunked down the \$10 filing fee for the conference. The way DeGennaro sees it, \$10 is a lot cheaper than footing a bill for two years of litigation.

"Today's businessman cannot allow himself the cost of litigating discrimination cases," DeGennaro said. "Filing a grievance with the commission, including courts and appeals, can cost between \$30,000 to \$50,000. Now a large company can afford that but a small company cannot. Even if that figure is reduced by settling out of court, the settlement still could bankrupt many businesses."

"THE PROBLEM in settling is you're often setting the groundwork for future grievances. In business today, an employer has to know the law."

If a woman applies for a job and the person interviewing her happens to ask her if she plans to get married or raise a family, that woman would have a basis for filing a discrimination suit even if she gets the job, according to DeGennaro. She could claim that the company is using that information as a basis for not promoting her or underpaying her.

A company is obliged by state and federal law to prove the question they're asking is job-related. Therefore if the job was for a men's locker room attendant, her sex would be relevant.

"All questions have to relate to the job an applicant is seeking," DeGennaro said. "You can probably ask an applicant anything you want but any time you ask a question about a person's race, sex, religion, national origin — and in Michigan their marital status, height and weight — is laying the basis for a discrimination charge. By asking those kinds of questions you're providing the government with evidence that can be used against you. You're providing them with ammunition."

It doesn't even take an employee to file a grievance to take a company to court defending its



PROFESSOR LOU DeGENNARO

Beware of questions

hiring practices. Civil action may be taken by the Michigan Civil Rights Commission or the federal agency, the Equal Employment Opportunity Commission (EEOC).

Big companies like Sears aren't the only ones being watched by federal and state agencies. Diane

Handley, a legal research assistant in DeGennaro's law office, said that the federal government recently opened a district office specifically designed to monitor and investigate small businesses to determine if they are guilty of discriminatory practices.

SMALL FIRMS must fill out a federal form citing how many of its employees are white and how many are minorities in each job classification.

The federal government defines minorities as black, Hispanic, Asian (or Pacific Islander) and American Indian or Alaskan native.

Depending on whether the company does business with the state or federal government, or is a subcontractor for a company that has a government contract, different steps may be taken if the work force is found to be overwhelmingly white and there are qualified minorities in the job market.

"Affirmative action is required at the federal level while affirmative action is suggested at the state level," DeGennaro said.

Furthermore, DeGennaro said, questionable hiring practices could be something so innocent as placing a "Help Wanted — Inquire Within" sign in a barbershop window if that business is in an all-white community and the sign is the only job notice posted.

Job openings posted internally or filled by word-of-mouth may perpetuate discrimination, DeGennaro said, if the existing work force is white.

Many people misunderstand affirmative action laws, says the professor. First of all, not all companies are affected by it. A firm must be a contractor or subcontractor on a government job to be required to have an affirmative action plan. However, any company can be sued for discriminating against minorities in hiring and promotion.

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