

EEO Advocacy

Description: This session is for those who represent parties in EEOC proceedings, typically tailored for either agency or employee representatives. The session culminates with a mock hearing, where the course participants play witnesses and advocates. The topics covered include the EEO laws (i.e., Title VII, the ADEA, the Rehabilitation Act, the Civil Rights Act of 1991, the Equal Pay Act); the theories of discrimination; the 1614 regulations, MD-110 and other EEOC Guidance; the Civil Service Reform Act; resolving and settling claims; advising managers at mediations; pre hearing conferences; taking discovery (e.g., conducting and defending depositions, writing and responding to interrogatories, etc.); analyzing evidence; selecting, preparing, presenting and cross examining witnesses; moving documents into evidence; making opening and closing statements; making objections or offers; motion practice (e.g., motions for summary disposition); appeal; post hearing issues; and other matters.

Length: 4 days.

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- A. Introduction And Overview To Representing The Agency Before The EEOC
- B. Statutory And Regulatory Base Of The Appeals System
 - 1. Civil Service Reform Act
 - 2. EEOC Regulations
 - 3. Other Relevant Statutes And Regulations

4. The Agencies, Processes And Their Relationships

- a. MSPB
- b. EEOC
- c. OPM
- d. OSC
- e. Grievance-Arbitration
- f. FLSA
- g. Other

C. EEOC: A Closer Look

- 1. Introduction
- 2. An Overview Of The Process
- 3. Highlights Of The 1614 Regulations

Subpart A - Agency Program To Promote Equal Opportunity.

- a. Pre-Complaint Processing (Section 1614.105).
- b. Individual Complaints (Section 1614.106).
- c. Dismissal Of Complaints (Section 1614.107).
- d. Investigation Of Complaints (Section 1614.108).

- e. Hearings (Section 1614.109).
- f. Final Action By Agencies (Section 1614.110).

Subpart B - Provisions Applicable To Particular Complaints.

- a. Age Discrimination In Employment Act (Section 1614.201).
- b. Equal Pay Act (Section 1614.202)
- c. Rehabilitation Act (Section 1614.203).
- d. Class Complaints (Section 1614.204).

Subpart C - Related Processes.

- a. Relationship To Negotiated Grievance Procedure (Section 1614.301).
- b. Mixed Case Complaints And Related Sections (Sections 1614.302-310).

4. A Closer Look At The ADR Requirement

D. EEOC: The Common Types Of Claims / Laws And Theories

1. The Laws

- a. Title VII Of The Civil Rights Act Of 1964, As Amended
- b. Rehabilitation Act Of 1973, as Amended In 1992

c. Age Discrimination In Employment Act Of 1967,
as Amended In 1978

2. The Theories

a. Disparate Treatment Theory

b. Mixed Motive Cases / The Abandonment Of
McDonnell-Douglas

c. Disparate Impact

d. Accommodation Theory/Religious
Discrimination

e. Retaliation Theory

E. Discovery

1. Introduction

2. Types Of Discovery

Requests For Production Of Documents

Interrogatories

Depositions

3. Objections And Responses To Discovery

4. Motions To Compel

F. - Prehearing Conferences

1. Introduction
2. Matters Discussed

Settlement

Summary Of Positions

Witnesses

Exhibits

Other Matters

G. Settlement

1. Introduction
2. Pros And Cons
 - a. The Settlement Advantages
 - b. The Settlement Disadvantages (Or Cases That Perhaps Should Not Settle)
3. Legal Principles
4. Options When You Feel Pressured To Settle
5. Techniques
6. Specific Settlement Provisions
7. Enforcing Or Setting Aside The Agreement

H. Motion Practice

1. Summary Disposition Motions
2. Other

I. Evidence

1. Introduction
2. Forms Or Types Of Evidence
3. Rules Of Evidence

Relevant Evidence

Hearsay Evidence

Impeachment Evidence

Rules Concerning The Use Of Writings And Prior
Statements

Hearing Control Rules

Opinion And Expert Testimony Evidence

Expert Testimony Evidence

Authentication Evidence

Official Notice

Presumptions

Conclusory Evidence

Deference

4. The Evidence Received In A Case

J. Witnesses

1. Selection, Preparation And Examination

a. Witness Selection

b. Witness Preparation

c. Witness Examination

i. Direct Examination

ii. Cross-Examination

2. Credibility

3. Objections

4. Motions To Strike

5. Offers Of Proof

6. Special Considerations

a. Expert Testimony

b. Opinion Testimony

c. Privileged Communications

K. The Hearing

I. Introduction

2. Opening Statements

3. The Testimony

4. Closing Statement

L. Post-Hearing

M. Mock Hearing