

CWA Human Rights Manual



A comprehensive guide for use by the
Communications Workers of America
Civil Rights and Equity and Women's Committees

Human Rights Department
Communications Workers of America
501 Third Street, NW
Washington, DC 20001
<http://www.cwa-union.org>
August 2010

CWA Human Rights Manual

How to Use This Manual

The purpose of this manual is to help CWA Locals set up Civil Rights and Equity and Women's Committees and to initiate effective programs and projects.

This manual is intended as a resource. Committee members should feel free to use the material for newsletters, articles, posters, flyers, or informational handouts.

For more information or training on the CWA Civil Rights and Equity and Women's programs, you may contact your District Civil Rights and Equity or Women's Coordinator, or the Human Rights office in Washington, DC, at 202-434-1159 or visit our website at:

www.cwa-union.org/workers/civil_rights.

Produced by:
Human Rights Department
Communications Workers of America
501 Third Street, NW
Washington, DC 20001

August 2010

Table Of Contents

Chapter 1

Understanding and Respecting People Who Are Not the Same As Me
Generational Values & Characteristics

Chapter 2

Understanding Human Rights
What are Civil Rights?
Women's Rights and Issues

Chapter 3

CWA Civil Rights and Equity and Women's Programs
History of CWA Civil Rights and Equity Program
History of CWA Women's Program

Chapter 4

The National Civil Rights and Equity and Women's Committees
Mission of the National Committee on Civil Rights and Equity
Mission of the National Women's Committee

Chapter 5

Why a Local Civil Rights and Equity and Women's Committee?
How to Establish a Local Civil Rights and Equity or Women's Committee
Duties and Responsibilities of Local Civil Rights and Equity and Women's Committee's

Chapter 6

Civil Rights and Equity and Women's Issues in the Workplace and our Society

Institutional Racism/Sexism
Personal Racism/Sexism
Discrimination Against Gays and Lesbians
Discrimination Against Transgendered
Discrimination Against Immigrants in the Workplace
Discrimination Against the Disabled
Sexual Harassment
Language Discrimination
Age Discrimination

Religious Discrimination
AIDS Discrimination

Chapter 7

Legislative Summary

Age Discrimination in Employment Act
Americans with Disabilities Act
Civil Rights Act of 1964 (Title VII)
Civil Rights Act of 1991
Pregnancy Discrimination Act
Sexual Harassment (Title VII)
The 19th Amendment—Women’s Right to Vote
Family Medical Leave Act
Lilly Ledbetter Fair Pay Act
Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act

Chapter 8

Resources for Activists

Civil Rights and Women’s Activities Web-Site
AFL-CIO Constituency Groups
Civil Rights and Equity and Women’s Committee Activist Network
Sexual Harassment Poster Handout
CWA Policy On Mutual Respect

UNDERSTANDING AND RESPECTING PEOPLE WHO ARE NOT THE SAME AS ME

We are all products of our life experiences. Our gender, religion, race, and culture, among other factors, help to define ourselves and our values. Although we may differ from our co-workers, through understanding we can foster a spirit of cooperation.

Our workplaces are characterized by this diversity. The diverse composition of today’s workforce and the cultural clashes it can produce require us to pay attention to our differences; not only so that we can work together successfully, but so that we learn to value and take advantage of our differences.

We must attempt to better understand our differences and work through our prejudices so that we can celebrate and respect our diversity. Different does not mean better or worse, inferior or superior.

We must remember that we share two things in common—our union and our struggle for justice on the job. That is what unites us.

GENERATIONAL VALUES & CHARACTERISTICS

How old were you when you first used a computer? The answer will likely depend on your age and generation. Today’s workforce is made up of workers spanning five different generations. Each generation differs slightly in how it views work, the work place, unions, authority, and priorities in life. We are all a product of our times and different generations grow up and mature with different experiences and historical events that contribute to who we are and what we value. When we understand that there are differences (many positive), we can better work together and engage younger members in the union.

- Generation Z: Born 1995 to the present [few in today’s workforce]
- Generation Y: Born 1981-1994
- Generation X: Born 1966-1980
- Baby Boomers: Born 1946-1965
- Traditionalists: Born 1927-1945 [95% retired as of 2009]

Values Differences/Characterizations

Generation Y: 1981-1994

- Sometimes labeled the Millenials, the Nexters, the Digital Generation, N-Gens, the Nothing-Is Sacred Generation, Cyberkids, or the Searching-for-an-Identity Generation

- Comfortable with technology
- Value teamwork, training and collective action
- Independent multi-taskers
- Seek flexibility and feedback
- Demanding and entrepreneurial
- Embrace diversity

Generation X: 1966-1980

- Sometimes labeled the Baby Bust Generation [opposite Baby Boom because of its small size]
- Aspire to achieve a work-family balance
- Independent, autonomous and self-reliant
- More loyal to family and friends than to employers
- Appreciate continuous learning and skill development
- Require flexibility and fun at work
- Question authority figures
- Like teamwork

Baby Boomers: 1946-1965

- Large: 17 million more people than the previous generation
- Started the workaholic trend
- Competitive
- Loyal toward employers
- Avoid conflict
- Seek job security and a sense of entitlement
- Technically challenged
- Want personal gratification

Traditionalists: 1927-1945

- Also known as the Silent Generation
- Conservative, private and restrained
- Prefer to make decisions based on what worked in the past
- Loyal and respect authority
- Uncomfortable with conflict

Perceptions and Misperceptions of Attitudes Towards Work

The perceived decline in work ethic is one of the primary sources of generational conflicts in the workplace. Boomers complain that younger workers do not work as hard as older workers do, yet studies dispute this stereotype. Also, there are other factors that affect work ethic, such as education level, income level, marital status, and whether a person works full-time or part-time.

Another area of dispute among generations is that of loyalty toward employers. Younger generations view job-hopping as a valid career advancement method—a view probably shaped by watching parents lose their jobs during the 1970s and '80s. What is hard to distinguish is whether younger people change jobs because it makes sense for advancement or whether they are seeking employers who more closely match their values.

Workplace Communications

Effective communication is essential in dealing with generational conflict in the union context. Clarity, open and honest “over communication” is recommended; in the age of email and text messaging, face-to-face contact is still essential even if the same information might be repeated. Avoiding assumptions is critical, especially when union sisters and brothers ask questions; most people are not trying to be disrespectful, so it is important to ask one’s motive if unsure of the source of confusion or questioning.

CWA Next Generation Committee

CWA recently formed a Next Generation Committee that is composed of multi-generational members and addresses issues of work mobility, social networking, training, mentoring, and effective ways to engage younger CWA members in union activities.

UNDERSTANDING HUMAN RIGHTS

Universal Declaration of Human Rights

Adopted by the United Nations General Assembly in 1948, the Universal Declaration of Human Rights (UDHR) is widely recognized as the gold standard among progressive activists. It consists of a resolution containing 30 different articles that outline what the UN coined “the foundation of freedom, justice, and peace in the world.” See <http://www.un.org/en/documents/udhr/> for a complete listing. Of particular interest to trade unionists is Article 23:

- 1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- 2) Everyone, without any discrimination, has the right to equal pay for equal work.
- 3) Everyone who works has the right to just and favourable remuneration [wages] ensuring for himself and his family, an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- 4) Everyone has the right to form and to join trade unions for the protection of his interests.

What is the Difference between Human Rights and Civil Rights?

Not much. Many people think of civil rights as rights that are obtained by law, whereas human rights are inherent across the entire world and apply to all humans, regardless of where they live. Civil rights include the rights to free speech, to own property, to make and enforce contracts, to receive due process, and to worship one’s religion. It may be easiest to think of human rights as something inherent in every person while civil rights are the victories obtained through legislative or policy pathways.

Movements to Protect Human Rights

It’s nearly impossible to list the many social movements to protect human rights, but if we were to name the countries where there is a current and heightened interest in stopping atrocities against select groups, the shortlist would include places such as: Burma/Myanmar, Darfur/Sudan, Syria, Chechnya, Palestine, Iraq, Tibet/China and Afghanistan. If we looked at human rights through the lens of Article 23 of the UDHR, then the treatment of trade union leaders in Colombia would top the list of abuses; in 2009, over 34 leaders had been assassinated. And, in the words of Jose Diogene Orjuela

Garcia, Organizing Director of the Colombian CUT union federation, “We want to have a country where union rights and human rights are respected. If you add up all the acts of violence [against union members] there have been more than 10,000 in the past 20 years.”

Notable Human Rights Leaders

- Eleanor Roosevelt
- Martin Luther King
- Mahatma Gandhi
- Jimmy Carter
- Nelson Mandela
- His Holiness the Dalai Lama
- Elizabeth Cady Stanton
- Gloria Steinem
- Sojourner Truth
- Lech Walesa
- Harvey Milk
- Samuel Gompers

CWA’s Mission to Protect Human Rights

CWA’s Human Rights Program encompasses both the civil rights and women’s programs. By joining forces, we are better equipped to provide leadership and support to the many CWA activists who work for the rights of underrepresented groups.

WHAT ARE CIVIL RIGHTS?

Our civil rights are those rights described in the United States Constitution.

Even though the Constitution guarantees each of us specific civil rights, these rights can be denied us in our everyday life. If an individual's (or group's) civil rights-as guaranteed in the Constitution-are violated, he/she may take his/her complaint to the Supreme Court.

Congressional legislation as well as Executive Orders have strengthened and supplemented our civil rights protections. But here again, the Supreme Court has the final word and can decide that specific civil rights legislation or Executive Orders are unconstitutional and therefore invalid.

The Civil Rights Act of 1964 (which includes Title VII) and the 1965 Voting Rights Act are examples of civil rights legislation that strengthened our rights but were challenged in the Supreme Court. The Supreme Court found both pieces of legislation to be constitutional and within the powers of Congress.

An example of an Executive Order that strengthened Civil Rights is Presidents Truman's 1948 Executive Order banning segregation in the armed forces.

In addition, our civil rights can be expanded through amendments to the Constitution. In 1971, for example, the 26th Amendment was ratified, thereby granting the vote to all citizens 18 years or older. The Equal Rights Amendment, which would have become the 27th Amendment, failed when only 35 of the necessary 38 states ratified it. The proposed amendment would have guaranteed equal rights for all citizens regardless of sex.

WOMEN'S RIGHTS AND ISSUES

History of Struggle

Women have been advocating for human rights for centuries. For example, in the U.S., the Suffrage Movement of the 19th and early 20th centuries resulted in the right of women to vote in 1920. Women continued to fight for their rights – for reproductive health care, for equal pay in employment, for property protections, and for access into areas of employment, to name a few. World War II was a significant turning point, as the war economy pulled the country out of the Great Depression and encouraged more women to work in industrial settings while men were deployed. While women always worked – particularly poor and minority women – the sheer increase in numbers of women wage earners influenced the labor movement's fight for women's rights. Alternatively, when parts of the labor movement condoned sexism or ignored the issues affecting working women, a burgeoning feminist movement of the 1960s and '70s filled the gap. Major rights were won during this period that centered on reproductive freedom, pay equity, harassment and discrimination protections.

Highlights: Women Operators and Flight Attendants

While there are many issues that affect both men and women alike or that may affect white women and women of color to varying degrees, women in the industries CWA now represents have a long history of struggle for inclusion and equity.

Telephone Operators and the Telephone Operators' Union

Prior to the 1880s, white men held the role of telephone clerk. After that time, men moved into technical roles while women were recruited to perform operator functions (boys were deemed temperamentally unsuited to the work but a few remained for night shifts). The work was monotonous, low-paying, and increasingly routinized. The Telephone Operators' Union, led by Julia O'Connor from 1919-38, held notable strikes in New England in 1919 and 1923. Union women were stretching the boundaries of what it meant to be an independent wage earner. They demanded improvements on the job such as a shorter work day, paid breaks, and overtime. In 1919, AT&T introduced company unionism in the Bell System. That, along with factional disputes and the 1923 strike caused the union to collapse. Later, a new union – CWA – was formed in 1947 and the operators often led women-dominated locals until the 1980s and were critical to many successful strikes.

Flight Attendants

Women entered the profession in the 1930s, first as registered nurses and shortly afterward were labeled “sky girls”. Until the 1960s, women were forced to resign or were fired if they got married, were overweight, became pregnant, wore eyeglasses or entered their 30s. These discriminatory practices were fought by unions, but were difficult to remove until Congress passed the Civil Rights Act of 1964 and Title VII made it illegal to discriminate on the basis of gender. It took until 1971, though, for the courts to finally reject sex as a “bona fide occupation qualification” for flight attendants.

The Association of Flight Attendants (AFA-CWA) worked to change the image of flight attendants from glamour girls to trained professionals.

Issues Facing Working Women Today . . .

Today, many of the biggest workplace challenges facing women revolve around gender. Why do females still earn less than males holding the same job? Will the glass ceiling ever be shattered? Is a balance between family and career attainable? What will it take to establish a work environment where gender is not an issue? Other issues include:

- Fixing the Nation's Health Care System
- Empowering Women to Prevent HIV/AIDS
- Fighting Cancer
- Ending Domestic Violence

- Fighting for Pay Equity
- Work/Life Balance
- Sexual Harassment in the Workplace
- Quality Affordable Child Care

Time Line of Key Events in the American Women’s Rights Movement

- 1848 First women’s rights convention in Seneca Falls, N.Y.
- 1869 Susan B. Anthony and Elizabeth Cady Stanton form the National Women Suffrage Association, and Lucy Stone and Henry Blackwell form the American Women Suffrage Association.
- 1896 The National Association of Colored Women is formed.
- 1903 The National Women’s Trade Union League is formed to improve wages and working conditions.
- 1920 The 19th Amendment gives women the right to vote.
- 1955 The first lesbian organization in the United States, the Daughters of Bilitis, is founded.
- 1963 Betty Friedan publishes The Feminine Mystique. Congress passes the Equal Pay Act.
- 1964 Title VII of the Civil Rights Act bars discrimination in employment on the basis of race and sex and establishes the Equal Employment Opportunity Commission.
- 1966 The National Organization for Women is founded.
- 1972 Title IX bans sex discrimination in schools.
- 1973 In Roe v. Wade, the Supreme Court overrides state anti-abortion laws.
- 1978 The Pregnancy Discrimination Act bans employment discrimination against pregnant women.
- 1981 Sandra Day O’Connor becomes first women appointed to Supreme Court.
- 1986 The Supreme Court holds that sexual harassment is illegal job discrimination.

- 1987 Congress proclaims March National Women's Month.
- 1993 President Clinton signs the Family and Medical Leave Act
- 1996 The Supreme Court rules that the all-male Virginia Military Institute must admit women.
- 2007 Nancy Pelosi becomes the first woman Speaker of the House.
- 2007 Drew Gilpin Faust becomes the first woman president of Harvard University.
- 2009 President Obama signs the Lilly Ledbetter Fair Pay Act.
- 2009 Sonia Sotomayor sworn in as the first Hispanic Supreme Court Justice and only the third woman in the history of the court.
- 2010 U.S. Solicitor General Elena Kagan is sworn in as the 112th Supreme Court Justice of the United States. She is the fourth woman to serve on the Court.

CWA CIVIL RIGHTS AND EQUITY AND WOMEN'S PROGRAM

The CWA Civil Rights and Equity and Women's Program is developed, supported, and implemented by thousands of grassroots CWA activists.

The CWA Human Rights Director and a staff in the Washington, DC office lead the various campaigns, training sessions, and activities. Each district has a Civil Rights and Women's Coordinator who:

- Provides information and
- Pulls local activists together on regional issues and campaigns.

Local Civil Rights and Equity and Women's Committees, as well as local activists, participate every year in campaigns, education programs, and gatherings that advance justice for all workers.

Major Program Goals

1. Work to fully integrate civil rights and women's issues with core work of the union.
2. Increase grassroots activity on civil rights and women's issues.
3. Increase community visibility of CWA Civil Rights and Equity and Women's Program.
4. Aggressively seek CWA representation in grassroots civil rights and women's organizations that share our common goals.

Roles and Responsibilities

I. CWA Human Rights Staff (Headquarters)

- Work with CWA local activists and community groups to advance and protect the rights of all workers and to ensure that all members have a voice in our union.
- The Human Rights Office also serves as a resource and information center for the union on both internal and external civil rights and equity and women's rights issues. An important component of this is to collect and share successful grassroots strategies and campaigns.
- In addition, the office strives to integrate civil rights and women's issues with ongoing union campaigns and struggles, as appropriate.
- The Human Rights Office also sponsors education and training opportunities for activists.

II. District Civil Rights and Equity and Women's Coordinators

- Work with the Human Rights Director and the National Civil Rights and Equity and Women's Committee in coordinating the Civil Rights and Women's program in the Districts.
- Work with District Vice Presidents to recommend National Civil Rights and Equity and Women's Committee Representatives.
- Work directly with the National Civil Rights and Equity and Women's Committee Representatives in Coordinating Civil Rights and Equity and Women's function in the District.
- Is a resource person for each District.

III. National Civil Rights and Equity and Women's Committees

(One Representative from Each District)

- Recommended by the District Vice President and District Civil Rights and Equity and Women's Coordinators and appointed by the President for a term of three years.
- Meet at least twice a year—one meeting to be held in conjunction with the Convention.
- These Committees make a report to the Convention.
- Help organize District and National Civil Rights and Equity and Women's conferences.
- Report at District Meetings.
- Help carry out the National Civil Rights and Equity and Women's Program.

IV. State Civil Rights and Equity and Women's Representatives

(Two Locals from each state one for Civil Rights and Equity and one for Woman's Issues)

- Work with the District Civil Rights and Equity and Women's Coordinator and with the National Civil Rights and Equity and Women's Committees Representative from the District.
- Report at state meetings when requested by District Vice President.
- Encourage all Locals to form a Civil Rights and Equity and Women's Committee and establish training programs addressing equity issues. District Civil Rights and Equity and Women's Coordinators and Representatives should assist as needed.

V. Local Civil Rights and Equity and Women's Committees

- Establish a Civil Rights and Equity and Women's Committee in each local.
- Train the committees, utilizing the CWA Human Rights Resource Manual.
- Work closely with State and National Civil Rights and Equity and Women's Committee Representatives.
- Plan work that supports the three sides of the CWA Triangle.
- Carry out the CWA Civil Rights and Equity and Women's Rights Programs within their local.

HISTORY OF CWA'S CIVIL RIGHTS AND EQUITY PROGRAM

1972	CWA established the Office of Ethnic Affairs.
1973	"Policy on Discrimination Statement" adopted by CWA Executive Board.
1973	Board establishes the "Blacks and Other Minorities Structure Committee," and the "Female Structure Committee," to make recommendations to the President and Executive Board on ways to better involve women and minorities in our Union.
1974	Executive Board acted on recommendations of the two committees and directed the President to develop a program to involve more minorities and women in the Union.
1974	All staff are directed to help Locals establish Committee on Equity.
1976	First meeting of the National Committee on Equity.
1977	CWA one-year internship program authorized.
1978	CWA one-year internship program began.
1982	First CWA National Minority Conference.
1983	First CWA Minorities Leadership Institute (three-week intensive training program).
1985	Second CWA National Minority Conference.
1986	The Executive Board urges all Districts to plan annual District Minority Conferences.
1989	Ethnic Affairs office changed to Civil Rights and Fair Practices office.
1989	Executive Board adopts National Committee on Equity (COE) recommendations to include Discrimination Policy in Constitution.
1991	Convention adopts Constitutional Amendment requiring National COE and National Women's Committee to report to Convention on activities and make recommendations.
1992	National COE and National Women's Committee report to Convention for first time.
2000	National Committee on Equity changes its Mission Statement and establishes District Coordinators. Civil Rights department launches a new web-page and establishes the Civil Rights activist network.
2002	Executive Board amends the "Policy on Discrimination statement to add statement number two "Freedom from discrimination within our Union is a right and privilege of all CWA members. Any abridgement of this right and privilege shall be subject to a complaint under the CWA Internal Appeals Procedures."
2005	Convention adopts Constitutional Amendment requiring that the Committee on Equity and the Women's Activities Committee become regular standing committees in CWA Local Unions.

2007	<p>Convention adopts Constitutional Amendment to add four At-Large Diversity Board seats to the existing board.</p> <p>Minority Leadership program changes its program agenda to two weeks in the classroom and a one week internship back in their District.</p>
2008	<p>Elections held for diversity at-large seats.</p> <p>Executive Board Diversity Committee Established.</p>
2010	<p>Convention adopts Constitutional Amendment to change the name from the CWA National Committee on Equity to the CWA National Civil Rights and Equity Committee.</p>

HISTORY OF CWA WOMEN'S PROGRAM

1973	CWA Executive Board adopts its "Policy on Discrimination Statement."
1973	The Female Structure and Review Committee was formed - made up of staff and one member from each District-the committee met in DC November 15-16, 1973, to "review the structure of CWA as it pertains to female representation and participation. The Committee made recommendations to the Executive Board that included: (1) making appointments of women to future staff positions until equity is achieved and in line with the percentage of females within our membership, and (2) appoint women to jobs and functions at all levels of the Union from which they have been excluded, including bargaining and Convention committees.
1974	The Concerned Women's Advancement Committee (CWAC) was formed out of the Female Structure and Review Committee, with a representative from each of the Districts. The Committee worked with a member of the Executive Board with a goal to advance women to higher levels in our union.
1975	<p>In April 1975, CWA hired its first staff, Lela Foreman, to address women's issues. In December of 1975, recommendations of CWAC to the Executive Board were adopted:</p> <ul style="list-style-type: none"> ▪ A "Job Value Study" was commissioned by an outside firm. This study evaluated jobs at the major employer of that time, the Bell System, and sought to upgrade jobs traditionally performed by women. ▪ Establish a uniform policy of sending all CWA Staff Representative job applications to headquarters. In addition, an article was put in the CWA News – "What it Takes to be a CWA Representative." The application form for staff jobs was put in the Uniform Operating Procedures manual. The committee also tracked how many local officer positions were being filled by women.
1978	<p>First CWA National Women's Conference was held from September 28 – October 1, 1978, in Minneapolis, Minnesota, it was the largest women's conference held by any AFL-CIO union with 525 women in attendance. The purpose of the conference was to:</p> <ul style="list-style-type: none"> ▪ Recognize CWA Women and demonstrate their importance to the Union. ▪ Make a statement of the Union's interest in its women members. ▪ Build individual skills that will lead to increased women's participation in the Union. ▪ Develop a greater interest and motivation on the part of women, as well as increase their organizational skills. ▪ Lay the foundation for District and Local Women's activities that will reinforce the conference experience and lead to programs to involve more women in Union activities of all kinds and at all levels.

1980	The CWAC recommends that Locals and Districts establish Women’s Committees to fulfill the intent of the conference: “the need for awakening of women within our Union.” To help carry out the educational awakening, Locals and Districts should continue to have seminars, and District Conferences that address the concerns and needs of women.
1983	The Concerned Women’s Advancement Committee recommended to the Executive Board: <ul style="list-style-type: none"> ▪ To change the name of the committee to the CWA National Women’s Committee. ▪ Members of the committee should make reports at their respective District Meetings.
1986	Recommendation to the Convention that “Family Issues” be made a bargaining priority.
1991	Convention adopts Constitutional Amendment requiring National Committee on Equity and National Women’s Committee to report to Convention on activities and make recommendations.
1992	National Committee on Civil Rights and Equity and National Women’s Committee report to Convention for the first time.
2005	Convention adopts Constitutional Amendment requiring that the Committee on Equity and the Women’s Activities Committee become regular standing committee’s in CWA Local Unions.
2007	Convention adopts Constitutional Amendment to add four At-Large Diversity Board seats to the existing board.
2008	Elections held for Executive Board diversity at-large seats. Executive Board Diversity Committee established.
2010	Convention adopts Constitutional Amendment to change the name from the CWA Women’s Activities Committee to the CWA National Women’s Committee.

CHAPTER 4

THE NATIONAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEES

The National Civil Rights and Equity and Women's Committees meet annually to discuss civil, human, and women's rights issues and concerns, to make recommendations to the CWA Executive Board, and to propose reports to the Convention. The Committees are composed of one representative from each District. Committee members are recommended by the District Vice President and appointed by the President, and serve a three-year-term.

MISSION OF THE NATIONAL COMMITTEE ON CIVIL RIGHTS AND EQUITY

The mission of the National Committee on Civil Rights and Equity is to develop and promote the CWA Civil Rights and Equity Program. Our vision is to build a union where members of all cultures, religions, sexual orientations, genders, disabilities, ages, and nationalities feel welcomed, respected, and heard; and where the leadership reflects the diversity of our membership.

The National Committee will:

1. Provide guidance and information to the districts and locals on the CWA Civil Rights and Equity Program.
2. Keep the National Executive Board informed about civil and human rights issues that affect our members and communities and, when necessary, offer a course of action.
3. Research, report, and make recommendations to give direction to the Convention delegates on current civil and human rights issues.
4. Work along all sides of the CWA Triangle.

MISSION OF THE NATIONAL WOMEN'S RIGHTS COMMITTEE

The Mission of the CWA National Women's Committee is to educate, inspire, and empower women while working all sides of the CWA triangle.

In Support of its Mission, the Committee:

1. Encourages Locals to establish an active committee.
2. Creates programs and strategies to assist Local committees in starting and maintaining programs which are active in their local and community.
3. Educates on health, economic, and social issues that affect women.
4. Encourages and supports women in fighting at the local, state, and national level for legislation designed to improve the status of working women and their families.
5. Promotes and encourages women to run for elected public office and support candidates.

6. Support efforts to recruit and train women organizers in CWA's effort to organize women.
7. Strives continuously to educate women on the labor movement while encouraging their involvement at all levels.

WHY A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE?

One of the cornerstones of unionism has been the struggle for just and equal treatment on the job and in society.

A local union's Civil Rights and Equity and Women's Committee can offer the expertise and skills needed to work union campaigns and programs on all three sides of the CWA Triangle (collective bargaining, organizing, and legislative/political).

An active Civil Rights and Equity and Women's Committee will also make it clear to management and to all union members that the union is committed to dealing with the needs and protecting the interests of the ***entire membership and our communities***. This message will increase the credibility and the strength of the Local.

HOW TO ESTABLISH A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE

A Local Civil Rights and Equity and Women's Committee should be established per the CWA Constitution with the support of the local leadership. The committee, as with other local committees, should function under the direction of the Local's Executive Board. The chairperson and all members of the committee should be appointed by the local executive board, or elected according to local bylaws, past practice, and constitutionally acceptable practices.

The Local Civil Rights and Equity and Women's Committee should have representatives for all the groups represented in the Local. Although this may not always be achievable, it should always be the goal.

The Civil Rights and Equity Committee is not just a committee for minorities, nor is the Women's Committee a female-only committee in a sense that only minorities and women can be members. The Civil Rights and Equity and Women's Committees are committees that work on campaigns on the three sides of the CWA Triangle and issues of fairness.

These issues may be directed at an African American male or female, a Hispanic female member, a white pregnant female, a gay white male member, an Asian member, a disabled or transgendered member, an old or younger worker, etc.

THREE STEPS TO ESTABLISHING A LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEE

Step 1 Approach the local leadership with a proposal identifying needs and opportunity within your local and your community.

You can start small: a good committee need not have lots of members, but rather ones that are committed to the principles.

Once your committee is established, you should meet regularly—at least as often as local union meetings are held.

Committees should have a mission statement or goals.

Step 2 Local Civil Rights and Equity and Women's Committees across CWA are involved in a wide range of activities working along every side of the CWA Triangle.

These programs help to educate members on Civil, Human and Women's issues. Examples of successful programs are:

- Voter Registration and Get Out the Vote Drives.
- Educating members on legislation that impacts working men and women.
- Organizing new workers.
- Community service projects such as women's and homeless shelters, breast cancer, AIDS awareness, and literacy programs.

Step 3 Once your committee is fully established, the committee should set short-term priorities and long-range goals.

When establishing priorities and selecting specific activities to begin its work, the committee should keep the following in mind when getting started:

- Communications should be established with other committees and stewards in the local.
- Rank-and-file members should be informed of the existence of both the Civil Rights and Equity and Women's Committee.
- A "success" is needed to establish the credibility of the committee, which could be the establishment of a new program.
- The Local Civil Rights and Equity and Women's Committee should always keep the Local President/Executive Board informed of it's activities.

DUTIES AND RESPONSIBILITIES OF LOCAL CIVIL RIGHTS AND EQUITY AND WOMEN'S COMMITTEES

The duties and responsibilities of the Local Civil Rights and Equity and Women's Committee are to:

- **Build** an effective committee which provides a valuable service to the Union and the membership, and works on the three sides of the CWA Triangle.
- **Work** cooperatively with the Local Union Executive Board, other Local committees, stewards, and community activists.
- **Educate** the membership on the role of the Civil Rights and Women's committees and current civil, human, and women's issues and inform the membership on laws and protections.
- **Strengthen** labor by working with communities, minority, and women's organizations and coalitions which aim to eliminate discrimination.

CIVIL RIGHTS AND WOMEN'S ISSUES IN THE WORKPLACE AND OUR SOCIETY

Local Civil Rights and Equity and Women's Committees can expect to encounter many issues. This section briefly describes some of the current issues that the Committee may need to address or investigate:

INSTITUTIONAL RACISM/SEXISM

Institutional racism/sexism involves the systematic application of policies, practices, and procedures that discriminate against minorities and women. Racist/sexist practices can be found in hiring, training opportunities, testing, promotions, job assignments, and awarding of overtime.

At its 1989 convention, the AFL-CIO adopted a resolution reaffirming its support for affirmative action programs and urging efforts to eradicate the vestiges of employment discrimination.

Civil Rights and Equity and Women's Committees should prioritize combating institutional racism. Employer and union policies, practices, and procedures, should be free of racism/sexism. Stewards and committee members should be on the alert for instances of racism/sexism in the workplace and in the union.

PERSONAL RACISM/SEXISM

Personal racism/sexism results any time a person is treated in a way that is based upon racial or gender stereotypes rather than personal characteristics. This type of behavior is most often exhibited by individuals who have been educated and socialized to believe that members of minority groups or women are inferior. Sometimes, they are threatened by or are uncomfortable with their differences and act in a degrading manner.

The Civil Rights and Equity and Women's Committees should continually educate and sensitize the union's members to understand that racial/gender and cultural differences must be respected and actually add to our society and the workplace. Instances of personal racism/sexism must be confronted when they arise both in the workplace and in the union.

DISCRIMINATION AGAINST GAYS AND LESBIANS (HOMOPHOBIA)

Discrimination against lesbian, gay, bisexual, and transgender individuals (“LGBT”), involves systematic policies, practices, and procedures which discriminate against persons who are within that group. Procedures and practices that discriminate against LGBT individuals are frequently permitted and encouraged in the workplace and in our society. Discriminatory practices aimed at homosexuals can be found in the areas of hiring, job assignments, training opportunities, promotions, and the awarding of overtime.

The AFL-CIO at its 1983 convention adopted resolutions protesting any personal actions taken against any worker on the basis of sexual orientation and supporting enactment of legislation at the federal, state, and local level that would guarantee the civil rights of all persons without regard to sexual orientation in employment, housing, credit, public accommodations, and public service. Although sexual orientation is not protected under the Civil Rights Act, there are more than 130 ordinances/laws/executive orders nationwide providing gays and lesbians with protections.

DISCRIMINATION AGAINST TRANSGENDER PERSONS

Definition

Transgender is an umbrella term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth; including but not limited to transsexuals, cross dressers, androgynous people, and gender non-conforming people. “Trans” is shorthand for “transgender.” Gender is more about one’s internal sense of masculinity or femininity rather than who we are attracted to sexually.

Freedom of Expression

Our society is harsh on gender-variant people. Some transgender people have lost their families, their jobs, their homes, and their support. Transgender children may suffer abuse at home, school, or in their communities. As a union, we fight against intolerance, hate, and discrimination. The right of individuals to freely express their gender identity is part of our struggle for justice for all workers.

Workplace Policy Considerations

Simply put, the same types of discrimination that might be exercised against women, people of color, or other groups also applies to transgender people.

The questions we might think about as trade unionists who promote inclusion of transgender people would probably start with a concrete example:

What is the right approach for workplace restrooms for transgender workers?

Many transgender people, particularly those who do not "pass" as one gender or the other, face considerable challenges in society at large in locating safe and accessible places to change and to use the bathroom. Non-transgender people may feel threatened by a gender non-conforming person in the restroom and may respond with hostility or even violence. It's the responsibility of the employer to ensure and communicate that the restrooms are safe. That said, the most acceptable solution is to provide gender-neutral restrooms.

Additional Resources

For more information on bathroom access solutions, see the Transgender Law Center's Peeing in Peace resource <http://www.transgenderlawcenter.org/publications.html#bathrooms>.

The Sylvia Rivera Law Project also has a film and companion piece: <http://www.srlp.org/index.php?sec=05A&page=toilettraining>.

Union Representation

The duty to represent all people and to promote fairness and equality at work is the responsibility of union members. When a small group of uncomfortable CWA members went to management to protest sharing a restroom with a transgender colleague, the union agreed with the existing policy for workers to use the bathroom for which the employee is dressed. Union leaders also met with concerned members, educated them on the issue and encouraged them to get to know the transgender worker. When one of the uncomfortable workers was assigned to sit next to the transgender co-worker, it took only one week for her to change her opinion and develop a friendship.

Terminology

Transgender: An umbrella term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth, including but not limited to transsexuals, cross-dressers, androgynous people, genderqueers, and gender non-conforming people. Transgender is a broad term and is good for non-transgender people to use. "Trans" is shorthand for "transgender."

Transgender Man: A term for a transgender individual who currently identifies as a man (see also "FTM").

Transgender Woman: A term for a transgender individual who currently identifies as a woman (see also "MTF").

Gender Identity: An individual's internal sense of being male or female. Since gender identity is internal, one's gender identity is not necessarily visible to others.

Gender Expression: How a person represents or expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice, or body characteristics.

Transsexual: A term for people whose gender identity is different from their sex at birth. Often transsexual people alter or wish to alter their bodies through hormones or surgery in order to make it match their gender identity.

Cross-dresser: A term for people who dress in clothing traditionally or stereotypically worn by the other sex, but who generally have no intent to live full-time as the other gender.

Transvestite: A term for a cross-dresser that is considered derogatory by many.

Queer: A term used to refer to lesbian, gay, bisexual, and, often also transgender people. Some use queer as an alternative to “gay” in an effort to be more inclusive, since the term does not convey a sense of gender. Depending on the user, the term has either a derogatory or an affirming connotation, as many have sought to reclaim the term that was once widely used in a negative way.

Bi-gendered: One who has a significant gender identity that encompasses both genders, male and female. Some may feel that one side or the other is stronger, but both sides are there.

Sex Reassignment Surgery: Surgical procedures that change one’s body to make it conform to a person’s gender identity. This may include “top surgery” (breast augmentation or removal) or “bottom surgery” (altering genitals). Contrary to popular belief, there is not one surgery; in fact there are many different surgeries. “Sex change surgery” is considered a derogatory term by many.

Sexual Orientation: A term describing a person’s attraction to members of the same sex or different sex. Usually defined as lesbian, gay, bisexual, or heterosexual.

Transition: The period during which a person begins to live as their new gender. Transitioning may include changing one’s name, taking hormones, having surgery, or changing legal documents (e.g. driver’s license, Social Security record, birth certificate) to reflect their new gender.

Drag Queen: generally used to accurately refer to men who dress as women (often celebrity women) for the purpose of entertaining others at bars, clubs, or other events. It is also used as slang, sometimes in a derogatory manner, to refer to all transgender women.

Drag King: used to refer to women who dress as men for the purpose of entertaining others at bars, clubs, or other events.

Definitions excerpted from the National Center for Transgender Equality www.nctequality.org

DISCRIMINATION AGAINST IMMIGRANTS IN THE WORKPLACE

History

Both world history and the history of the United States demonstrate that one group of immigrants or another has faced persecution due to their status as a newcomer. While it is sometimes difficult to tease out other forms of discrimination—such as racial/ethnic, religious, and gender bias--the immigrant often finds him/herself working jobs that are low-paying, dangerous, and difficult. From the import of Irish indentured servants in the 1850s to the influx of farm workers from Latin America over the last century, U.S. employers have tried to use immigrants’ language barriers and legal status to drive down wages. Rampant abuses are documented throughout time, but there is also a story to tell about amazing courage,

leadership, and organizing victories achieved by immigrant workers inside and outside of unionized workplaces.

Immigrants Organize Into Unions

Even though union density has been shrinking over the last three decades, immigrant workers have been joining unions in larger percentages than their native-born counterparts. (According to the AFL-CIO, the number of immigrant workers who are union members grew by 30 percent from 1996 to 2006. At the same time, the number of native-born union members decreased by some nine percent.) While many might think of farm workers and, in particular, the United Farm Workers Union and its leader of the 1970s, Cesar Chavez, there are many recent examples of immigrant-led organizing successes. From 1999-2009, over 200,000 home care workers—many of whom were immigrant women and people of color—organized into unions in California. In 2008, Latino and African American workers united to gain representation with UFCW at the Smithfield slaughterhouse in North Carolina. And, within CWA, African immigrants led a victorious campaign among rental car agencies in Denver; Latino cleaners organized at the Newark, New Jersey, airport, and immigrant researchers from around the globe formed a union at SUNY Stony Brook.

Issues Facing Immigrant Workers Today

Long hours, low pay, lack of healthcare coverage, and unpaid wages are common issues that affect immigrant workers today. Unscrupulous employers repeatedly break our weak labor laws and discriminate against immigrants in hiring and promotion practices. The Economic Policy Foundation, a business-funded think tank, estimated that companies annually steal \$19 billion in unpaid overtime, predominantly from immigrants. Additionally, some employers retaliate against their employees' immigration status by contacting law enforcement when workers at their company try to exercise their rights.

Conclusion

While there are numerous examples of discrimination against immigrants in the workplace and serious problems with the current immigration system, it is important to remember that immigrant rights and civil rights go hand-in-hand as we struggle for dignity and respect in our families, our communities, and our workplaces.

LANGUAGE DISCRIMINATION

Language discrimination involves the prohibition of any language other than English at any time in the workplace, or discrimination against those speak with what is or may be perceived as foreign accents. Legislation has been introduced in some states that would limit the use of any language but English. This "ENGLISH ONLY" effort is typically led by those hostile to immigrants and/or individuals whose primary spoken language of choice is not English. The AFL-CIO, at its

1989 convention, adopted a resolution opposing the “ENGLISH ONLY” efforts and legislative proposals.

Language rights in the workplace are governed by Title VII. The ban on national origin discrimination in these laws has been interpreted to restrict employers’ ability to discriminate based on a worker’s English language proficiency, accent, or desire to speak another language. The federal courts have held that not giving a person a job promotion because of his or her accent is unlawful except in cases where the accent significantly impairs the individual’s ability to perform the job.

The Civil Rights and Equity and Women’s Committees should educate members and the Local’s Legislative Committee about the real intent of the “ENGLISH ONLY” campaigns and address any attempt by employers to limit workers’ use of their native language during breaks or off hours.

DISCRIMINATION AGAINST THE DISABLED

The Americans With Disabilities Act of 1990, as amended, forbids employers from discriminating against otherwise qualified persons in hiring, firing, promotions, compensation, or other terms of employment because the person has a physical or mental disability.

The ADA requires employers and unions to “reasonably accommodate” otherwise qualified persons with disabilities as long as it does not cause “the employer undue hardship.” The AFL-CIO and its affiliates supported and worked for the passage of this important civil rights legislation.

The Civil Rights and Equity and Women’s Committees should make sure that employers and unions treat the disabled equitably and provide equal access to services, meetings and conferences.

SEXUAL HARASSMENT

Sexual harassment is any repeated or unwanted verbal or physical sexual advances, sexually explicit statements, or remarks made in the workplace that are offensive or objectionable to the worker or that cause the worker discomfort or humiliation or that interferes with the worker’s job performance.

Sexual harassment is a form of sexual discrimination and is unlawful under Title VII of the Civil Rights Act. In many instances, it is a supervisor who is the harasser. There are, however, situations where the harasser is a co-worker. Sexual harassment can take many forms, including:

- Offensive or suggestive comments.
- Touching, pinching, or patting.
- Sexually suggestive pictures or objects in the workplace.

- Staring or leering at a person's body.
- Suggestive gestures or looks (winks, licking lips, etc.).
- Propositions or explicit demands for sexual activity not mutually agreeable to both parties.
- Offers of promotions or increase benefits in exchange for sexual favors.

Remember, sexual harassment depends on how the person being harassed is affected, not on the harasser's intent.

The Civil Rights and Equity and Women's Committees should educate the members and management on the seriousness of sexual harassment. Instances of sexual harassment should be taken seriously and confronted when they arise. Management is responsible for providing a harassment-free work environment.

Most employers have a sexual harassment policy which the committee should review. The contract clause that should be cited in filing a sexual harassment grievance is the non-discrimination clause. In addition, the CWA Executive Board adopted a harassment policy that covers all CWA employees. A poster/handout on sexual harassment can be found in Chapter 8.

AGE DISCRIMINATION

Discrimination based on age against any person 40 years old or older is illegal. Employers cannot refuse to hire, discharge, or otherwise discriminate against any individual in that category with respect to compensation or terms and conditions of employment because of age.

The Civil Rights and Equity and Women's Committees should make workers in this category aware of their rights and should monitor employer policies to ensure that these workers are not discriminated against due to their age.

RELIGIOUS DISCRIMINATION

Federal law (Title VII of the Civil Rights Act of 1964) prohibits employers from discriminating against employees or applicants because of the person's religious belief or practice. The prohibition applies whether the person's belief or practice is that of a traditional, organized religion, sincerely held religious belief, ethical beliefs or moral beliefs.

The Civil Rights and Equity and Women's Committees should monitor employer practices that may discriminate against people of certain religious, ethical or moral beliefs in hiring, promotion, training opportunities, and job assignments.

HIV/AIDS DISCRIMINATION

HIV/AIDS is found in males and females of every age, race, and sexual orientation.

Ugly stereotypes, however, have encouraged prejudice and fear, both on the job and in our communities.

Workers with HIV/AIDS may face discriminatory attitudes and practices from both employers and co-workers. We must strive to protect access of members with HIV/AIDS to medical benefits, and their right to remain on the job as productive workers as long as they are physically able. The employment protections in the Americans with Disabilities Act (ADA) cover persons with HIV/AIDS.

In 1986, the CWA Convention adopted and “AIDS in the Workplace” resolution which outlines protections and guidelines. The AFL-CIO adopted a resolution in 1989 on HIV/AIDS stating it will fight HIV/AIDS discrimination and work for health protections for workers exposed to infectious diseases.

The Civil Rights and Equity and Women’s Committees should be alert to the discriminatory treatment of members with HIV/AIDS. The Civil Right and Women’s Committees, in cooperation with other appropriate local committees, should work to educate the members on this issue.

LEGISLATIVE SUMMARY

Civil Rights and Equity and Women's Committees should familiarize themselves with the following legislation that deals with equity issues.

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

The Age Discrimination in Employment Act of 1967 (ADEA), as amended, prohibits discrimination on the basis of age against any person 40 years old or older.

The ADEA does not provide legal protection to individuals under age 40, but it does prohibit discrimination among individuals within the protected age group (e.g., an employee who is age 50 can claim discrimination because of actions involving someone who is 40). The ADEA applies to both employees and to applicants for employment.

It is unlawful under the ADEA for an employer to refuse to hire, discharge, or otherwise discriminate against any individual with respect to compensation or terms or conditions of employment "because of age."

As with Title VII and the ADA, the ADEA applies to employers, employment agencies and labor organizations. The Supreme Court has held that the ADEA was intended primarily to prevent employment decisions influenced by "stereotypical" assumptions about people based on age (e.g., "older workers are less efficient"). Decisions that can be shown to be based on factors other than age (such as plant closings motivated by purely economic considerations) may not violate the ADEA. ADEA claims can be proven by showing that a decision affects older workers more harshly (a "disparate impact" claim). An ADEA claim can also be proven by showing that an individual was harmed by a decision that was specifically based on the individual's age. Such a decision would constitute intentional discrimination (a "disparate treatment" claim).

It is a violation of the ADEA to use age preferences or limitations in job advertisements or specifications. Age limitations are also generally unlawful in job apprenticeship programs. The law does not apply when age is a bona fide occupation qualification for a job. Nor does the law bar an employer from observing the terms of a bona fide seniority system or bona fide employment benefit plan, such as a retirement, pension or insurance plan. Decisions based on "reasonable factors other than age" do not violate the law.

ADEA applies to:

All public employers and private employers with 20 or more employees, employment agencies and labor unions with 25 or more members are covered under the ADEA.

In 1990, Congress passed the Older Workers Benefit Protection Act (OWBPA), which amended the ADEA to specifically protect older workers from employer actions denying or reducing employment benefits such as insurance or severance due to age. The OWBPA also protects employees when an employer asks for a waiver of claims in exchange for some benefit such as an early retirement incentive package. Any such waiver request must be in writing.

Remedies for Violations of ADEA

Monetary and equitable relief are available under the ADEA, including front pay and back pay, reinstatement and similar relief. Compensatory and punitive damages are not available, although it is possible to recover “liquidated” damages if an ADEA violation is proven to be “willful.” Under the statute, liquidated damages are calculated as double the amount of monetary damages. As with other civil rights statutes (e.g., ADA, Title VII), successful plaintiffs may also recover their reasonable attorneys fees and litigation costs.

Where to file a complaint:

The EEOC enforces the ADEA. A person may file a charge with the EEOC if the person believes s/he has been the victim of age discrimination. If the individual wants to remain anonymous, another person or organization may file the charge on the individual’s behalf and the EEOC will attempt to keep the individual’s name confidential. However, if you want to preserve the right to file a private suit, you must file a charge and the employer must be informed about who is making the charge. As with other civil rights actions enforced by the EEOC, charges must be filed within 180 days of the discriminatory action.

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) of 1990, as amended, prohibits discrimination against people with disabilities in employment and in public services, public and private transportation, public accommodations and telecommunications services.

A person with a disability is defined under ADA as someone who: 1) has a physical or mental impairment such as blindness, epilepsy, diabetes, or cerebral palsy, “that substantially limits one or more “major life activities; 2) has a record of such impairment; or, 3) is regarded as having such an impairment.

“Major life activities” can include such functions as walking, standing, breathing, lifting, seeing or hearing, as well as caring for oneself, thinking or concentrating. “Major life activities” also include the operation of a major bodily function such as digestive functions or normal cell growth. Working is also considered a major life activity.

“Substantially limited” generally means that an individual’s ability to perform the activity is significantly less than the average person’s. Generally, medical or other expert documentation is necessary to establish an individual’s “substantial” limitation.

An employer or covered entity cannot discriminate against an individual who has a record of a disability as defined by the ADA. The ADA also prohibits discrimination against an individual who is “regarded as” having a disability as defined by the ADA. In this category, the person may or may not have a mental or physical impairment that is not substantially limiting, but the employer perceives the real or assumed impairment to be substantially limiting. An employer or other covered entity cannot make judgments about an individual’s abilities or entitlements based on stereotypes or generalized data.

Also covered is anyone with a physiological disorder, disfigurement, or condition, emotional or mental illness, or learning disability, or a person who is HIV-positive.

In addition, employers may not require applicants take a medical exam until after an offer of employment has been made and before the employee begins work, and only if all new employees in the same type of job are required to take the same exam. Employers may not ask “disability-related” questions during the pre-offer process.

Once hired, employers are required to “reasonably accommodate” employees with disabilities, as long as it does not cause the employer “undue hardship.”

Employers are required to provide “reasonable accommodations” to otherwise qualified job applicants with disabilities to enable them to compete for a position on the same level as non-disabled candidates. This may mean, for example, allowing extra time to take a test, or providing a reader or interpreter to explain instructions or questions. Employers are also required to provide “reasonable accommodations” to employees to enable them to perform essential job duties or meet key job standards. An employer does not have to excuse an individual’s inability to perform essential functions of a job so long as effective reasonable accommodations have been provided.

A reasonable accommodation must be determined on a case-by-case basis. Reasonable accommodations can include making physical adjustments at the workplace, such as widening a door frame or installing a ramp to accommodate a wheelchair, or providing equipment to assist an employee in lifting or moving heavy objects. Reasonable accommodation can also include modifying a job to eliminate marginal duties (such as removing telephone answering responsibilities from an individual whose primary job is record-keeping) or changing work hours or shifts. Reasonable accommodation can also mean providing technical assistance, such as computer programs with special prompts or enhancements designed to assist individuals with learning or emotional disabilities. Leaves of absence can operate in certain circumstances as a reasonable accommodation, such as: in cases where an employee needs time to adjust to medications or undergo medical treatments.

Finally, reasonable accommodations may mean transferring an employee to a different, but equivalent, vacant position for which she or he is otherwise qualified. If no vacant position exists at the same level and status, an employer can offer a lower level position as an accommodation. The employer is obligated to provide reasonable accommodation in any new position to ensure that the employee can perform those essential job functions. Reassignment is generally an accommodation of “last resort.” An employer is never required to bump another employee from a job to create an opening for an employee with a disability. Similarly, an employer cannot provide an accommodation that would violate collective bargaining rights of other employees.

Employees with disabilities must be accorded equal access to all medical plans and other employment benefits offered to non-disable employees.

ADA applies to:

The ADA applies to private employers with 15 or more employees. State and local government employers with 25 or more employees are required to comply with the ADA.

The ADA’s obligations cover private employers, employment agencies, state and local government, labor organizations and joint labor-management committees. Exceptions from the law are the United States Government, Indian tribes, a corporation wholly owned by the United States, or a bona fide private membership club.

ADA Enforcement

The ADA is enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and, in the case of state and local government employers, the Department of Justice. The Department of Justice also enforces claims pertaining to physical access to public accommodations, such as theaters, sports areas, stores, and medical facilities. Before making a claim in court, an individual must file a Charge of Discrimination with the EEOC or local fair employment practices agency as soon as possible after the discrimination occurs (generally between 180 and 300 days).

Resources

ADA: What You Need to Know, is available from CWA (small fee per copy).

CIVIL RIGHTS ACT OF 1964 (TITLE VII)

Title VII of the Civil Rights Act of 1964 is one of the principal federal laws that protects workers from discrimination in employment.

Title VII makes it unlawful for an employer to discriminate on the basis of:

- Sex
- Race
- Color
- Religion
- National origin

Under Title VII, it is unlawful for an employer to discriminate with regard to job advertisements; recruitment; testing; hiring and firing; compensation; assignments or classification of employees; transfer; promotion, or job assignments; layoff or recall; use of company facilities; training and apprenticeship programs; fringe benefits such as life and health insurance; pay, retirement plans and disability leave; causing or attempting to cause a union to discriminate; retirement; and other terms, and benefits or conditions of employment.

Employers may have somewhat different obligations under Title VII depending on what type of discrimination is being alleged. An employer may not make employment decision based on race/color or national origin, including use of stereotypes about performance or traits of individuals in certain groups. Similarly, no opportunities can be denied based on marriage to or association with an individual of a different race, membership, in particular ethnic-based groups, or attendance at schools or other organizations generally associated with certain minorities. Title VII also prohibits an employer from using neutral job standards or policies that may disproportionately exclude minorities unless they can be shown to be job related. An employer may not segregate employees based on race or color or assign them to predominantly minority geographic areas, or take other actions that effectively classify or segregate employees based on race or color.

Employers are also prohibited from harassing employees based on race/color or national origin. Offensive remarks or racial “jokes” or slurs will violate the law if they create a hostile or intimidating atmosphere that interferes with an individual’s ability to perform her or his job, or otherwise creates a hostile work environment.

In the case of national origin, employers may not deny employment because of an individual’s accent or manner of speaking unless speaking in a certain manner is necessary to perform a particular job. Similarly, employers cannot impose a rule that only English is to be spoken on the job unless such a requirement is critical for business purposes. If such rules are used to exclude individuals of a certain national origin, the law is violated. The Immigration Reform and Control Action of 1986 (IRCA) requires proof that employees hired after that date are legally authorized to work in the United States. IRCA also extends the prohibition against national

origin discrimination to smaller employers; i.e., those with between 4 – 14 employees. However, an employer may violate both Title VII and IRCA if it singles out individuals of a particular national origin to provide verification of their status. Requiring employees to be U.S. citizens may violate IRCA.

Employers may not make adverse employment decisions based on religion. In addition, employers are required to reasonably accommodate an individual's religious preference or practices in matters such as scheduling, assignments, or dress codes, unless doing so would create an "undue hardship." "Undue hardship" in this context has a lower standard than the employer has to meet in the ADA context.

Title VII also prohibits discrimination based on an individual's sex. Intentional discrimination is forbidden, such as the use of job standards or requirements that have a disparate impact on one sex and cannot be justified as a "bona fide occupational qualification" for the job and essential to the operation of the business. Some specific forms of gender, or sex, discrimination (pregnancy discrimination, sexual harassment) are discussed in the following sections.

Title VII also protects workers who file charges of discrimination against their employers from retaliation. If you think you have been retaliated against for filing a Title VII charge, you should immediately file another charge.

Title VII applies to:

- Any private employer, state or local government, educational institution and labor organization having 15 or more employees.
- Title VII also prohibits discrimination by the federal government, private and public employment agencies, and joint labor-management committees for apprenticeships and training.
- Exceptions from the law include religious institutions, which are excluded with respect to hiring persons of particular religion, but are covered with respect to discrimination based on sex, race, or other protected status.

Where to file a complaint:

Charges of employment discrimination may be filed at any of the 53 field offices of the U.S. Equal Employment Opportunity Commission (EEOC).

As with the ADA, there are time limits on filing charges. A charge should be filed as soon as a discriminatory action occurs or is discovered, and within 180 days (6 months) of the act complained of.

CIVIL RIGHTS ACT OF 1991

Title VII has been amended several times since 1964 to expand its protections. The Civil Rights Act of 1991 amended Title VII of the Civil Rights Act of 1964 as well as several other civil rights statutes: Section 1981 of the Civil Rights Act of 1866, the Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act of 1967.

Remedies for violations of Title VII

Under Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act of 1990, a complaining party may recover compensatory and punitive damages and be provided jury trials in cases of intentional discrimination.

Punitive damages are monetary awards intended to punish the offender for malicious or intentional and reckless conduct. A complaining party must show that the respondent engaged in an intentional discriminatory practice “with malice or with reckless indifference to the federally protected rights of an aggrieved individual.”

Compensatory damages are monetary awards intended to compensate an individual for related pain and suffering, out of pocket medical expenses, etc. Compensatory damages do not include back pay, interest on back pay, or comparable relief already authorized under Title VII.

Both compensatory and punitive damage awards are subject to statutory limits that differ depending on the size of the employer:

- More than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000;
- Those with more than 100 employees but fewer than 201 under the same circumstances, \$100,000;
- Those with more than 200 employees but fewer than 501, \$200,000; and
- Those with more than 500 employees, \$300,000.

Any party can demand jury trials for compensatory and punitive damages and the court shall not inform the jury of the limitations on damages. There is also a new prohibition to Title VII regarding the use of test scores. Employers may not “in connection with the selection or referral of applicants or candidates for employment or promotion” use different scores or adjust those scores or alter the results of employment-related tests on the basis of race, color, religion, sex, or national origin.

The Equal Pay Act

The Equal Pay Act of 1963 prohibits discrimination in pay and other forms of compensation between women and men who perform work requiring substantially equal skill, effort, and responsibility, performed under similar working conditions with similar job content within the

same work place. The employer must pay equal wages not only for identical jobs, but also for substantially similar jobs.

If wage payments are made pursuant to a bona fide, non-discriminatory system (such as seniority systems, merit systems, or systems that reward worker productivity), differences in compensation based on that system do not violate the provisions of the Equal Pay Act.

The Equal Pay Act applies to:

The Equal Pay Act is part of the Fair Labor Standards Act (FLSA), and protects most workers whose employers are covered by the FLSA, including those employees who are exempt from minimum wage and overtime requirements.

Where to file a complaint:

If you think someone is not receiving equal pay for equal work, you may file a complaint with the EEOC which enforces the Equal Pay Act. Federal contractors are obligated to comply with the Equal Pay Act. Complaints alleging compensation discrimination can also be filed with the U.S. Department of Labor's Office of Federal Contract Compliance Program.

Under the Equal Pay Act, individuals also have a right to sue privately, without first going to the EEOC, for back pay, damages, attorney's fees, and court costs. The suit must be filed within two years of the violation, except in the case of a willful violation, in which case there is a three-year time limit.

You may not sue the employer if you have already been paid full back wages under EEOC supervision or if EEOC has filed a suit in court to collect these wages.

PREGNANCY DISCRIMINATION ACT

Title VII was amended in 1978 by Congress to include the Pregnancy Discrimination in Employment Act (PDA). The PDA prohibits an employer from treating a woman differently due to or on the basis of pregnancy, childbirth, or pregnancy-related medical conditions, and requires that women within that group be treated the same as all other individuals with respect to all terms and conditions of employment, including employee health benefits.

Employers may not refuse to hire pregnant applicants who can perform essential job functions, even if clients, co-workers, or customers prefer otherwise. It is also unlawful to single out pregnant employees and require special medical screenings to determine their ability to work, although they can be subjected to routine medical examinations or certifications applied to all employees seeking leave. Employees who take leave due to pregnancy must be allowed to return as soon as they are medically able to do so.

A woman who is temporarily unable to perform her job due to a condition related to pregnancy or childbirth must be treated the same as any other temporarily disabled employee. She is entitled to return to her job with no loss of seniority and no loss of pension service credit if these benefits are provided to other workers who take leave for temporary disabilities. Employers are also required to provide sick leave, health insurance, and other medical fringe benefits to employees who are temporarily disabled due to pregnancy, childbirth, or related medical conditions if they provide these benefits for other employees with temporary medical disabilities.

The employer can exclude elective abortions from health insurance coverage, except where the life of the mother is endangered or where medical complications have arisen from an abortion.

The PDA *does not* require employers to provide special benefits to individuals protected by the PDA. The employer must only provide the same level and type of benefits provided to all other employees. However, the laws of some states give employees additional rights with respect to pregnancy, childbirth or related conditions.

Employers must provide spouses of male employees and female employees with the same level of health benefits. Pregnancy-related benefits cannot be limited to married employees.

A pregnant employee cannot be forced or required to take a mandatory leave at any stage of her pregnancy. A woman who is able to perform her job is entitled to work up to the day of her delivery if she so chooses.

PDA applies to: The same as Title VII.

Where to file a complaint: File complaint with EEOC.

SEXUAL HARASSMENT - SEXUAL DISCRIMINATION (TITLE VII)

Sexual harassment is a form of sex-discrimination and as such is unlawful under Title VII. This applies to men and women workers alike. Sexual harassment includes “unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature” that affect an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment. This form of sex discrimination can, however, also consist of non-sexual offensive remarks about a person’s sex/gender.

Sexual harassment can take place in many circumstances.

- The victim and the harasser may be either a woman or a man; the victim may be a member of the same or opposite sex.
- The harasser can be the victim’s supervisor, a supervisor in another part of the company, a co-worker, an agent authorized to act for the employer or a non-employer.

- The victim does not have to be the person harassed, but can be someone who is adversely affected by the offensive conduct.

Unlawful sexual harassment may occur without any economic injury to the victim. Conditioning any employment benefit (e.g., promotion, assignment, salary, continuation of a job) on the performance of sexual favors violates Title VII. In addition, any unwelcome behavior or conduct that is sexually offensive (e.g., lewd comments, sexually derogatory remarks, pornographic pictures) and continuing may constitute a hostile environment. An employer that allows such conduct to continue after being told about it may be held liable under the statute.

Employers should establish and publicize meaningful complaint procedures that encourage employees to complain about sexual harassment. Failure to do so may result in employer liability for sexual harassment. Any complaint process allows the individual to complain to someone who is not the alleged harasser. If an employer does not adequately investigate complaints and provide remedies in situations where harassment has occurred, liability may also result. However, if fair and effective complaint procedures have been established and made available to employees, the employer may have a defense against liability if an employee fails to take advantage of them.

Employees should be encouraged to follow the employer's complaint procedures if they are fair and effective. Depending on the language of the specific contract, the employee can also file a grievance through the negotiated grievance procedure. Whether the harasser is a coworker or member of management, the individual needs to communicate to the harasser that the conduct is unwelcome and s/he wants it to stop. Efforts should be made to increase local members' awareness of sexual or other forms of harassment, including posting information on union bulletin boards, conducting training for members or asking the employer to do so.

The union should also try to resolve such issues so that they do not become serious problems requiring the filing of formal employer complaints or grievances. Efforts should be made to increase local members' awareness of sexual or other forms of harassment, including posting information on union bulletin boards, conducting training for members or asking the employer to do so.

Employees covered: The same as Title VII.

Where to file a complaint: File complaint with the EEOC.

THE 19th AMENDMENT TO THE U.S. CONSTITUTION – WOMEN’S RIGHT TO VOTE

The 19th Amendment guarantees all American women the right to vote. Achieving this milestone required a lengthy and difficult struggle; victory took decades of agitation and protest. Beginning in the mid-19th century, several generations of woman suffrage supporters lectured, wrote, marched, lobbied, and practiced civil disobedience to achieve what many Americans considered a radical change of the Constitution. While few of the movements early supporters lived to see final victory—victory was achieved on August 26, 1920, changing the face of the American electorate forever.

FAMILY MEDICAL LEAVE ACT

The Family Medical Leave Act (FMLA) is the first federal law to require flexible work options in the private sector. The law enacted in 1993, enables employees to balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interest of employers and promote equal employment opportunity for men and women.

FMLA applies to all public agencies, all public and private elementary and secondary employees. These employers must provide and eligible employees with up to 12 weeks for the following reasons:

- for the birth and care of the newborn child of an employee;
- for placement with employee of a child for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health issue;
- to take medical leave when the employee is unable to work because of a serious health issue.

Employees are eligible for leave if they have worked for their employer at least 12 months, and work at a location where the company employs 50 or more employees and worked within 75 miles. Whether an employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours or work.

Time taken off work due to pregnancy complications can be counted against the 12 weeks of family medical leave.

LILLY LEDBETTER FAIR PAY ACT

The Lilly Ledbetter Fair Pay Act of 2009 is an Act of Congress enacted by the 111th United States Congress and signed into law by President Barack Obama on January 29, 2009.

The bill amends the Civil Rights Act of 1964 stating that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new discriminatory paycheck. The law was a direct answer to the *Ledbetter v. Goodyear Tire and Rubber Co.*, 550 U.S.618 (2007), a U.S. Supreme Court decision holding that the statute of limitations for presenting an equal-pay lawsuit begins at the date the pay was agreed upon, not at the date of the most recent paycheck, as a lower court had ruled.

MATTHEW SHEPARD AND JAMES BYRD, JR. – HATE CRIMES PREVENTION ACT

After more than a decade of advocacy by the Human Rights Campaign, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) was signed into law by President Barack Obama on October 28, 2009.

A hate crime occurs when the perpetrator of a crime intentionally selects a victim because of who the victim is. Hate crimes tear the fabric of our society and fragment communities because they target an entire community or group of people, not just the individual victim.

The HCPA gives the Department of Justice (DOJ) the power to investigate and prosecute bias-motivated violence by providing the DOJ with jurisdiction over crimes of violence where a perpetrator has selected a victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability.

In addition, it provides the DOJ with the ability to aid state and local jurisdictions with investigations and prosecutions of bias-motivated crimes of violence. The HCPA also authorizes the DOJ to provide grants to state and local communities to cover the extraordinary expenses associated with the investigation and prosecution of hate crimes.

Furthermore, the HCPA requires the Federal Bureau of Investigation to track statistics on hate crimes based on gender and gender identity (statistics for the other groups were already tracked).

RESOURCES FOR ACTIVISTS

CWA Civil Rights and Equity and Women’s Activities Website:

www.cwa-union.org/workers/civil_rights

AFL-CIO Constituency Groups:

A. Philip Randolph Institute, 202-508-3710; www.apri.org

Asian Pacific American Labor Alliance, 202-842-1263; www.apalanet.org

Coalition of Labor Union Women, 202-429-1203; www.cluw.org

Coalition of Black Trade Unionist, 202-429-1203; www.cbtu.org

Labor Council for Latin American Advancement, 202-347-4223; www.lclaa.org

Pride at Work, 202-637-5085; www.ogc.org/prideatwork

Additional Resources:

Ryerson University School of Journalism—Diversity Glossary,
www.diversitywatch.ryerson.ca/glossary

Domestic Violence, www.ncadv.org

Equal Employment Opportunity Commission (EEOC), www.eeoc.gov

National Women’s History Project, www.nwhp.org

National Organization of Women, www.now.org

The White House Council on Women and Girls, www.whitehouse.gov

Latino USA, www.latinouse.org

National Association for the Advancement of Colored People (NAACP), www.naacp.org

National Center for Transgender Equality, www.ncte.org

National Urban League, www.nul.org

Leadership Conference on Civil and Human Rights, www.civilrights.org

Solidarity Center, www.solidaritycenter.org

SEXUAL HARASSMENT

*It's Not Funny
It's Not Flattering and
It Is Against the Law*

It may be Unlawful to:

- Display sexually offensive materials or objects in the workplace;
- Make Sexual comments about a person's body or clothing;
- Make certain kinds of looks, gestures, or leering;
- Touch, grab, fondle, or stare at body parts sexually; or
- Threaten a worker's job if the worker does not agree to sexual advances.

Sexual Harassment is an Abuse of Power—Not Sexual Desire

If you are subjected to harassment:

- Tell the offender, verbally and in writing, that the behavior is unwelcome, offensive, and must stop. Try to get a witness.
- Document each incident and make copies.
- Keep records of you job evaluations, assignments, and promotions, if you have access to them.
- Seek support counseling from friends, family, and your union.
- File a formal complaint with your employer, or ask the union to file a grievance on your behalf. The employer is obligated to investigate and provide a meaningful remedy. If it does not do so, it may be found liable for sex discrimination.

If this does not stop the harassment, notify your union steward, local or appropriate union official. The employer has the responsibility to make sure that all employees as well as supervisors or managers do not engage in sexual harassment. The union has the responsibility to represent you on issues of sexual harassment.

The Law

Sexual harassment is sex discrimination under Title VII of the Civil Rights Act of 1964, many state laws, and union contract non-discrimination provisions.

If forced to quit or if fired from your job because of sexual harassment, you are entitled under Title VII and some state laws to reinstatement, back pay, attorney fees, and damages, unemployment, or worker's compensation.

CWA Civil Rights and Equity and Women's Activist Networks

CWA continuously compiles lists of members interested in receiving updates on issues and/or participating in campaigns related to Civil Rights and Women's issues. If interested, please join our network by filling out this form.

1. CWA District _____
2. Name: _____ Local: _____
3. Position in Local: _____
4. Company/Company Position: _____
5. E-mail address: _____
6. Work Phone #: _____ Fax #: _____
7. Home Phone #: _____ Cell #: _____

Please list any Civil Rights, Women's, community, or religious organizations in which you have influence or hold an office.

1. Name of Organization: _____
Your involvement/position: _____
2. Name of Organization: _____
Your involvement/position: _____
3. Name of Organization: _____
Your involvement/position: _____

You can fax this form to the CWA Human Rights Office at 202-434-1318. Or you can email it to Alfonso Pollard, apollard@cwa-union.org. Thank you.

CWA Policy On Mutual Respect

- 1** The Communications Workers of America reaffirms its commitment as a matter of principle and policy that all forms of discrimination, for whatever reason, be vigorously opposed until all vestiges of discrimination are eliminated from society.
- 2** Freedom from discrimination within our Union is a right and privilege of all CWA members. Any abridgement of this right and privilege shall be subject to a complaint under the CWA Internal Appeals Procedures and should be investigated immediately without fear of reprisal and retaliation.
- 3** In restating our policy for conduct within our Union, it is equally important that our employers reflect this policy so that neither the Company nor the Union shall unlawfully discriminate against a person on account of race, color, gender, religion, age, marital/parental status, political beliefs, sexual orientation, gender identity or expression, national origin, or because a person is handicapped, a disabled veteran, or a veteran of the military service. This means what it says: "No form of Discrimination will be tolerated at any level of CWA."
- 4** Any matter which relates to the field of discrimination should be immediately and appropriately handled by the appropriate level of the Union that comes across the allegation of discrimination. It should be handled thoroughly in an honest and positive manner.
- 5** It is a matter of principle that no one member is more equal than another. The handling of the representation of our members at all levels of CWA should be done in an evenhanded way with no fear; no preference; no favorites.
- 6** Local Equity and Women's Committees can play a positive role by providing continuous education training assistance and by reporting to the members of the Local on the ways and means of eliminating discrimination in its entirety.
- 7** CWA Constitutional Committees should be representative of the Union. Local CWA Constitutional Committees should be representative of all the Local membership and should be active committees, not paper committees.
- 8** The Union policy to have a job steward for each fifteen members should be fully implemented and should be reflective and representative of the entire membership of each Local.

Adopted by the CWA Executive Board June 11, 2002; revised December 17, 2009