**Major concepts under EEO Act of 1972**

1. Protected Classes

Initially 5 under Title VII, more added. Currently national origin, race, color, religion, sex, age, pregnancy, disability

Defines unlawful employment practices with minor exceptions, e.g.

2. Bona Fide Occupational Qualification (aka BFOQ)

e.g. requiring that a priest in a Catholic Church must be Catholic

Unlawful practices include:

3. disparate treatment

occurs when members of a protected class are treated in a way that intentionally discriminates against them and is motivated by the fact that they are members of a protected class -- e.g. require females to lift 25 lb. weight, but do not require males to pass the same test.

Weeks v Southern Bell Telephone – practices restricting women from performing some job duties (by assigning weight lifting or other arbitrary requirements) that were not related to job performance were not legitimate BFOQs

4. disparate impact

actions that on the surface appear to be neutral, but result in a disproportionate negative consequence on a protected class Griggs vs. Duke Power – employer must show that job requirements are related to job performance

Washington v Davis – a test is lawful if it is a valid predictor of future job success.

5. sexual harassment

a. quid pro quo – always a supervisor or person with power – asks for sexual or other favors in return for a favorable employment action

b. hostile work environment – anyone – when employees are exposed to taunts, comments, or physical conduct that would be considered offensive by a reasonable person. – must look at all circumstances – frequency of the actions; how severe the actions are; whether the behavior is humiliating or physically threatening; whether the behavior interferes with the employee’s ability to do the job; effect of the behavior on the employee’s psychological well-being

6. Exemption Status

a. non-exempt must be paid in accordance with minimum wage, overtime

b. exempt are persons on salary, not paid by the hour

7. Prima Facie Evidence – McDonnell Douglas Corp v Green four elements needed to prove a prima facie case of discrimination in Title VII cases:

a. complainant must be a member of a protected class

b. complainant must have applied and been qualified for a position for which the employer was seeking applicants

c. despite the qualifications, the applicant must have been rejected

d. after the rejection, the employer must have continued to seek applicants with the same qualifications