Family Responsibility Discrimination Claims Up by 400%

Stephanie Sipe
Family responsibility discrimination claims up by 400%

The Center for Worklife Law recently commissioned a study concerning discrimination against workers who have family responsibilities. The report contains some shocking revelations about one of the newest recognized causes of actions to be filed under Title VII of the Civil Rights Act.

The study reports three trends in these types of discrimination that fit this description: New supervisor syndrome; second-child bias; and the elder-care effect.

The study also suggests that too few employers understand the legal risks of failing to prevent discrimination and would do well to educate themselves about family responsibility discrimination and training their supervisors on best practices.

**New supervisor syndrome**

This occurs when employees with family responsibilities have been performing well and balancing competing obligations until they have a change in supervisors. For whatever reason, the new supervisor rejects flexible work schedules, changing shifts or imposing new productivity requirements.

The new supervisor comes into the workplace with a bias against workers with families, often mothers with small children, and fails to recognize the success of the employee despite the circumstances.

**Second-child bias**

In this situation, mothers who experience no hardship in the workplace report a significant difference in treatment once their second child is born. Some supervisors may make a “preemptive” personnel decision, based on the assumption that the employee will no longer be committed to work because of her additional family responsibilities.

**The elder-care effect**

Given the changing demographics of today’s workforce, more and more employees are facing the possibility of caring for aging parents. As in the case of second-child bias, supervisors often act on stereotypes that their employee’s commitment to home will affect productivity or performance at work and will act preemptively to “protect” the work environment.

According to the authors of this study, litigation risks and costs in this area are rising as a result of family responsibility claims. Further workplace structures and expectations may be unrealistic in light of the changing circumstances of the workforce. Family responsibility discrimination may occur when a mother is passed over for a promotion because her supervisor thinks she won’t want to work additional hours or travel because she has children at home. Or if a father is told he would be career suicide if he takes time off to stay at home with his sick children.

Sometimes this discrimination is subtle, and sometimes it is overt. Either way, it is illegal.

The report reviewed 2,100 recent cases involving family responsibility discrimination. Since 1999, the number of all employment discrimination claims has declined.

In contrast, during that same time period, family responsibility discrimination claims have increased nearly 400 percent. And unlike most employment discrimination claims, in which the employer is overwhelmingly successful (usually 70 percent or more), in family responsibilities cases plaintiffs tend to win about 50 percent of the claims.

When that is reduced to dollars, a typical win for a plaintiff is approximately $757,000. When we look at 29 claims filed in Georgia, 48 percent were judged or settled in favor of the plaintiff.

**What can or what should employers do?**

First, understand legal risks in this area. Second, put policies in place that minimize the risks that employees’ rights would be violated, and third, train supervisory personnel that employees with family responsibilities do not necessarily sacrifice productivity and stability.

With proper education and training, this can be a win-win situation for employer and employee.

Stephanie Sipe is associate professor of legal studies in the School of Accounting. She can be contacted at ssipe@georgiasouthern.edu.