



# **EPLI: What is it and does my nonprofit need it?**

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## Mission of Pro Bono Partnership of Atlanta:

*To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.*

## Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
  - ✓ Be a 501(c)(3) nonprofit.
  - ✓ Be located in or serve the greater Atlanta area.
  - ✓ Serve low-income or disadvantaged individuals.
  - ✓ Be unable to afford legal services.
- *Visit us on the web at [www.pbpatl.org](http://www.pbpatl.org)*
- We host free monthly webinars on legal topics for nonprofits
  - ✓ To view upcoming webinars or workshops, see the calendar on our homepage
  - ✓ Join our mailing list by emailing [rla@pbpatl.org](mailto:rla@pbpatl.org)

## Legal Information:

This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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**36-53%**





**\$160,000**



84,254

# Review of Applicable Federal Laws

## All Employers

- ✓ Sec. 1981 of the Civil Rights Act of 1866
- ✓ Uniformed Services Employment and Reemployment Act (USERRA)
- ✓ Fair Labor Standards Act of 1938
  - ✓ Equal Pay Act of 1963
- ✓ Occupational Safety and Health Act (OSHA)
  - ✓ I-9 Requirements

## 15 or More Employees

- ✓ Americans with Disabilities Act
- ✓ Title VII (incl. Pregnancy Discrimination Act)
- ✓ Genetic Information Non-Discrimination Act

## 20 or More Employees

- ✓ Age Discrimination in Employment Act
  - ✓ COBRA for Benefits

## 50 or More Employees

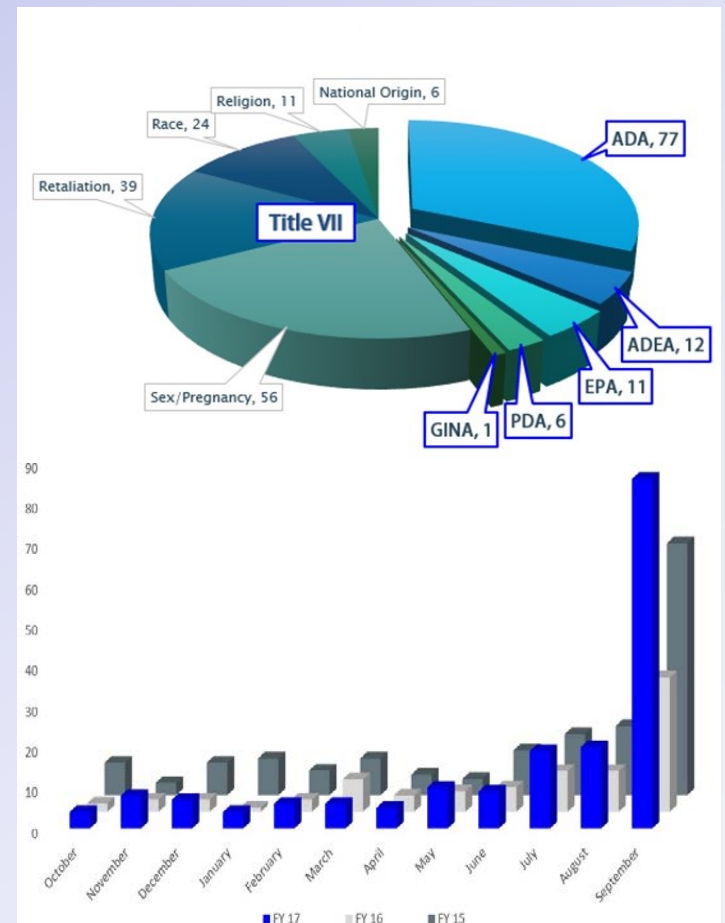
- ✓ Family and Medical Leave Act
  - ✓ Affordable Care Act
- ✓ FLSA Lactation Break Requirements





## EEOC-Initiated Litigation Filings Skyrocket In FY 2017

- As in prior years, ADA and Title VII lawsuits made up the majority of the total cases filed by the EEOC in FY 2017.
  - ✓ Total Title VII: 98
  - ✓ Total ADA 77
- Despite the ideological shift in American politics in 2017, government-initiated litigation actually increased substantially
  - ✓ The EEOC filed 184 merit lawsuits in 2017. This is more than double the 86 merit lawsuits that were filed in 2016.



## Review of Applicable State Laws

### All Employers

- ✓ Age Discrimination Statute
- ✓ Georgia Military Leave Law
  - ✓ Jury Duty Statute

### 3 or More Employees

- ✓ Workers Compensation Law

### 4 or More Employees

- ✓ Unemployment Compensation Act

### 10 or More Employees

- ✓ Wage Discrimination Statute

### 11 or More Employees

- ✓ E-Verify Requirements

### 15 or More Employees

- ✓ Equal Employment for Persons with Disabilities Code

### 25 or More Employees

- ✓ Georgia Sick Leave Law

## Review of Applicable Local Law

### Atlanta Ordinance

- ✓ **Unlawful Employment Practices Ordinance (10 or more employees)**

Similar local ordinances prohibiting discrimination based on sexual orientation and gender identity in Macon-Bibb County, Athens-Clark County, and Savannah



# Common Employment-Related Disputes



## How an Employee Was Treated

- Discrimination
  - Harassment
  - Retaliation
  - Wrongful Termination
- Illegal Background Check



## How an Employee Was Paid

- Minimum Wage
- Overtime
- Off-The-Clock Work
- Misclassification
- Unpaid Internships

## Lawsuits Involving Non-profits

- EEOC v. The Alpha Group of Delaware, Inc., Case No. 2:07-cv-913 (S.D. Ohio 2009)
  - The Alpha Group of Delaware, Inc. is a 501 (c) (3) nonprofit agency which provides gainful employment, quality rehabilitation, and adult day support services to individuals with disabilities in Delaware and surrounding counties.
  - Single plaintiff sex discrimination and harassment lawsuit
  - Settlement amount: \$160,000
- EEOC v. Blinded Veterans Association, Case No. 1:14-cv-02102-RDM (D.D.C. 2014)
  - The Blinded Veterans Association (BVA) is an organization of blinded veterans established specifically to help veterans and their families meet and overcome the challenges of blindness.
  - Wrongful termination based on age discrimination lawsuit
  - Settlement amount: \$108,360 to Claimant A and \$41,753 to Claimant B



**So what are  
my nonprofit's options  
to minimize these risk?**

## Employment Practices Liability Insurance

Provides coverage for a “Wrongful Employment Act”

- Breach of Employment Contract
- Employment Discrimination
- Employment Harassment
- Retaliation
- Workplace Tort
- Wrongful Employment Decision
- Wrongful Termination

## Who is Covered

- Who is covered?
  - The Organization and an “Insured Person”
- “Insured Person”:
  - Executive or Employee of the Organization
  - Independent Contractor working for the Organization
  - Volunteers (Board Members) by Endorsement

## What does a typical policy pay?

- Policy pays a “loss” arising out of a claim;
- Compensatory Damages
- Back pay, Front pay, Attorneys’ Fees
- Judgements
- Settlements and
- Defense Costs

## Typical Policy Exclusions

- Prior and Pending Acts
- Bodily Injury and Property Damage
- Workers Compensation
- Employee Benefits
- OSHA Violations
- Wage and Hour
- Labor Management Relations (Collective Bargaining)



## Advantages

- Employment Practice Hotline
- Legal Defense at Reduced Rates
- Prequalified Labor Attorneys
- Insurance Company Pays Attorney Fees
- Some policies come with Crisis Response/PR expense coverage.

## Considerations and Cost

- Tie with D&O Coverage
- Stand Alone Policy
- Shared Limits or Separate
- Carriers (Many)
- Third Party Extension
- Defense Costs Erode Limits or In Addition

## Sample Costs

- Sample costs:
  - 24 Employees: \$1M limit - \$1,000
  - 35 Employees: \$2M Limit - \$3,212
  - 13 Employees: \$1M Limit - \$500

## Underwriting

- Application
- Financial Statement
- Employee Handbook
- Past Claims
- New Entity – Management Experience

## “Take Aways”

- Litigation happens
- Insurance policy protects balance sheet in the event of a loss and pays defense expenses and loss.
- Evaluate cost and decide for your organization.



Questions?



## **For More Information:**

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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