CHAPTER 7 OUTLINE
GENDER DISCRIMINATION

I. GENDER DISCRIMINATION IN GENERAL
   a. Unless it is a BFOQ, gender is not a legal basis for employment action.

II. RECOGNIZING GENDER DISCRIMINATION
   a. Milligan-Jensen p. 230
      i. “intentional discrimination” (e.g. disparate treatment) might be proven through actions/conduct that is not necessarily motivated by bias against e.g. women/men.

III. “GENDER-PLUS” DISCRIMINATION
   a. e.g. discrimination for having children
      i. Phillips p. 235
         1. BFOQ for having children - not accepted by courts since then.
         2. (realities of modern workforce - single parents, etc.)
      ii. [California FEHA - having children, or decision not to have children: “prohibited factor” for adverse employment decisions]
      iii. [Pregnancy Discrimination Act - amended Title VII in 1978 - pregnancy, childbirth, and related issues are “protected categories” from employment discrimination. - see VI below.]

IV. GENDER ISSUES
   a. Gender Stereotyping
      i. Price Waterhouse p. 237
   b. Grooming Codes
      i. Harper p. 239: hair length is not an “immutable characteristic”
      ii. [how to avoid liability for grooming codes]
      iii. [Cal. Law: prohibits employer from prohibiting female employees from wearing pants/slacks. - contrary to some court decisions in other states - see p. 241].
   c. Customer or Employee Preferences
      i. Not a BFOQ
      ii. Challenge sometimes facing the multi-national corporation
d. Equal Pay and Comparable Worth
   i. Equal Pay Act
      1. terms
      2. [example of NCAA coaches]

V. GENDER AS A BFOQ
   a. [review difference between BFOQ and valid business reason
defense for “disparate treatment” discrimination claim.]
   b. Women's Workout World p. 252

VI. PREGNANCY DISCRIMINATION
   a. Zaken
   b. [PDA - amended Title VII; FEHA - pregnancy, childbirth are
      also “prohibited factors”]

VII. PARENTAL LEAVE POLICIES: FMLA
   a. Which employers are covered
   b. Which employees are covered
   c. “triggering events”
   d. FMLA rights
   e. FMLA responsibilities of employer/employee
   f. Anti-retaliation provision
   g. Spangler p. 261
   h. [Recent change to California law: paid family leave available.]

VIII. FETAL PROTECTION POLICIES
   a. UAW case p. 263
   b. [When is pregnancy a BFOQ?
      i. Distinct from policies/practices/actions taken to protect
         fetus.]