



U.S. Equal Employment Opportunity Commission

Coverage of State and Local Governments

General Coverage

If a complaint against a state or local government agency involves race, color, national origin, sex, religion, or disability discrimination, the agency is covered by the laws we enforce if it has 15 or more employees who worked for the agency for at least twenty calendar weeks (in this year or last).

Age Discrimination and Coverage

If a complaint involves age discrimination, the state or local government agency is covered by the law no matter how many employees it has.

Equal Pay Act and Coverage

Almost all state and local governments are covered by the Equal Pay Act (EPA), which makes it illegal to pay different wages to men and women if they perform substantially equal work in the same workplace.

Deciding Coverage of State and Local Governments

Figuring out whether or not a state or local government is covered can be complicated. If you aren't sure whether coverage exists, you should contact one of our field offices as soon as possible so we can make that decision. It is also important to keep in mind that, if an employer is not covered by the laws we enforce, the employer still may be covered by a state or local anti-discrimination law. If it is, we can refer you to the state or local agency that enforces that law.



Prohibited Employment Policies/Practices

Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The law forbids discrimination in every aspect of employment.

The laws enforced by EEOC prohibit an [employer or other covered entity](#) from using neutral employment policies and practices that have a disproportionately negative effect on applicants or employees of a particular race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), or national origin, or on an individual with a disability or class of individuals with disabilities, if the policies or practices at issue are not job-related and necessary to the operation of the business. The laws enforced by EEOC also prohibit an employer from using neutral employment policies and practices that have a disproportionately negative impact on applicants or employees age 40 or older, if the policies or practices at issue are not based on a reasonable factor other than age.

Job Advertisements

It is illegal for an employer to publish a job advertisement that shows a preference for or discourages someone from applying for a job because of his or her race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

For example, a help-wanted ad that seeks "females" or "recent college graduates" may discourage men and people over 40 from applying and may violate the law.

Recruitment

It is also illegal for an employer to recruit new employees in a way that discriminates against them because of their race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

For example, an employer's reliance on word-of-mouth recruitment by its mostly Hispanic work force may violate the law if the result is that almost all new hires are Hispanic.

Application & Hiring

It is illegal for an employer to discriminate against a job applicant because of his or her race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not refuse to give employment applications to people of a certain race.

An employer may not base hiring decisions on stereotypes and assumptions about a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

If an employer requires job applicants to take a test, the test must be necessary and related to the job and the employer may not exclude people of a particular race, color, religion, sex (including gender identity, sexual

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orientation, and pregnancy), national origin, or individuals with disabilities. In addition, the employer may not use a test that excludes applicants age 40 or older if the test is not based on a reasonable factor other than age.

If a job applicant with a disability needs an accommodation (such as a sign language interpreter) to apply for a job, the employer is required to provide the accommodation, so long as the accommodation does not cause the employer significant difficulty or expense.

Background Checks

See "[*Pre-Employment Inquiries*](#)" below.

Job Referrals

It is illegal for an employer, employment agency or union to take into account a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information when making decisions about job referrals.

Job Assignments & Promotions

It is illegal for an employer to make decisions about job assignments and promotions based on an employee's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not give preference to employees of a certain race when making shift assignments and may not segregate employees of a particular national origin from other employees or from customers.

An employer may not base assignment and promotion decisions on stereotypes and assumptions about a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

If an employer requires employees to take a test before making decisions about assignments or promotions, the test may not exclude people of a particular race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), or national origin, or individuals with disabilities, unless the employer can show that the test is necessary and related to the job. In addition, the employer may not use a test that excludes employees age 40 or older if the test is not based on a reasonable factor other than age.

Pay And Benefits

It is illegal for an employer to discriminate against an employee in the payment of wages or employee benefits on the bases of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. Employee benefits include sick and vacation leave, insurance, access to overtime as well as overtime pay, and retirement programs. For example, an employer may not pay Hispanic workers less than African-American workers because of their national origin, and men and women in the same workplace must be given equal pay for equal work.

In some situations, an employer may be allowed to reduce some employee benefits for older workers, but only if the cost of providing the reduced benefits is the same as the cost of providing benefits to younger workers.

Discipline & Discharge

An employer may not take into account a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information when making decisions about discipline or discharge. For example, if two employees commit a similar offense, an employer may not discipline them differently because of their race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

When deciding which employees will be laid off, an employer may not choose the oldest workers because of their age.

Employers also may not discriminate when deciding which workers to recall after a layoff.

Employment References

It is illegal for an employer to give a negative or false employment reference (or refuse to give a reference) because of a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

Reasonable Accommodation & Disability

The law requires that an employer provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer.

A reasonable accommodation is any change in the workplace (or in the ways things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

Reasonable accommodation might include, for example, providing a ramp for a wheelchair user or providing a reader or interpreter for a blind or deaf employee or applicant.

Reasonable Accommodation & Religion

The law requires an employer to reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause difficulty or expense for the employer. This means an employer may have to make reasonable adjustments at work that will allow the employee to practice his or her religion, such as allowing an employee to voluntarily swap shifts with a co-worker so that he or she can attend religious services.

Training & Apprenticeship Programs

It is illegal for a training or apprenticeship program to discriminate on the bases of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not deny training opportunities to African-American employees because of their race.

In some situations, an employer may be allowed to set age limits for participation in an apprenticeship program.

Harassment

It is illegal to harass an employee because of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

It is also illegal to harass someone because they have complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Harassment can take the form of slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. Sexual harassment (including unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature) is also unlawful. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Harassment outside of the workplace may also be illegal if there is a link with the workplace. For example, if a supervisor harasses an employee while driving the employee to a meeting.

Read more about [harassment](#).

Terms & Conditions Of Employment

The law makes it illegal for an employer to make any employment decision because of a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. That means an employer may not discriminate when it comes to such things as hiring, firing, promotions, and pay. It also means an employer may not discriminate, for example, when granting breaks, approving leave, assigning work stations, or setting any other term or condition of employment - however small.

Pre-Employment Inquiries (General)

As a general rule, the information obtained and requested through the pre-employment process should be limited to those essential for determining if a person is qualified for the job; whereas, information regarding race, sex, national origin, age, and religion are irrelevant in such determinations.

Employers are explicitly prohibited from making pre-offer inquiries about disability.

Although state and federal equal opportunity laws do not clearly forbid employers from making pre-employment inquiries that relate to, or disproportionately screen out members based on race, color, sex, national origin,

religion, or age, such inquiries may be used as evidence of an employer's intent to discriminate unless the questions asked can be justified by some business purpose.

Therefore, inquiries about organizations, clubs, societies, and lodges of which an applicant may be a member or any other questions, which may indicate the applicant's race, sex, national origin, disability status, age, religion, color or ancestry if answered, should generally be avoided.

Similarly, employers should not ask for a photograph of an applicant. If needed for identification purposes, a photograph may be obtained after an offer of employment is made and accepted.

Pre-Employment Inquiries and:

- [Race](#)
- [Height & Weight](#)
- [Financial Information](#)
- [Unemployed Status](#)
- [Background Checks](#)
- [Religious Affiliation Or Beliefs](#)
- [Citizenship](#)
- [Marital Status, Number Of Children](#)
- [Gender](#)
- [Disability](#)
- [Medical Questions & Examinations](#)

Dress Code

In general, an employer may establish a dress code which applies to all employees or employees within certain job categories. However, there are a few possible exceptions.

While an employer may require all workers to follow a uniform dress code even if the dress code conflicts with some workers' ethnic beliefs or practices, a dress code must not treat some employees less favorably because of their national origin. For example, a dress code that prohibits certain kinds of ethnic dress, such as traditional African or East Indian attire, but otherwise permits casual dress would treat some employees less favorably because of their national origin.

Moreover, if the dress code conflicts with an employee's religious practices and the employee requests an accommodation, the employer must modify the dress code or permit an exception to the dress code unless doing so would result in undue hardship.

Similarly, if an employee requests an accommodation to the dress code because of his disability, the employer must modify the dress code or permit an exception to the dress code, unless doing so would result in undue hardship.

Constructive Discharge/Forced To Resign

Discriminatory practices under the laws EEOC enforces also include constructive discharge or forcing an employee to resign by making the work environment so intolerable a reasonable person would not be able to stay.

Employment Tests and Selection Procedures

Employers often use tests and other selection procedures to screen applicants for hire and employees for promotion. There are many different types of tests and selection procedures, including cognitive tests, personality tests, medical examinations, credit checks, and criminal background checks.

The use of tests and other selection procedures can be a very effective means of determining which applicants or employees are most qualified for a particular job. However, use of these tools can violate the federal anti-discrimination laws if an employer intentionally uses them to discriminate based on race, color, sex, national origin, religion, disability, or age (40 or older). Use of tests and other selection procedures can also violate the federal anti-discrimination laws if they disproportionately exclude people in a particular group by race, sex, or another covered basis, unless the employer can justify the test or procedure under the law.

On May 16, 2007, the EEOC held a public meeting on Employment Testing and Screening. Witnesses addressed legal issues related to the use of employment tests and other selection procedures. (To see the testimony of these witnesses, please see the EEOC's website at <http://eeoc.gov/eeoc/meetings/archive/5-16-07/index.html>.)

This fact sheet provides technical assistance on some common issues relating to the federal anti-discrimination laws and the use of tests and other selection procedures in the employment process.

Background

- Title VII of the Civil Rights Act of 1964 (Title VII), the Americans with Disabilities Act of 1990 (ADA), and the Age Discrimination in Employment Act of 1967 (ADEA) prohibit the use of discriminatory employment tests and selection procedures.
- There has been an increase in employment testing due in part to post 9-11 security concerns as well as concerns about workplace violence, safety, and liability. In addition, the large-scale adoption of online job applications has motivated employers to seek efficient ways to screen large numbers of online applicants in a non-subjective way.
- The number of discrimination charges raising issues of employment testing, and exclusions based on criminal background checks, credit reports, and other selection procedures, reached a high point in FY 2007 at 304 charges.

Types of Employment Tests and Selection Procedures

Examples of employment tests and other selection procedures, many of which can be administered online, include the following:

- Cognitive tests assess reasoning, memory, perceptual speed and accuracy, and skills in arithmetic and reading comprehension, as well as knowledge of a particular function or job;
- Physical ability tests measure the physical ability to perform a particular task or the strength of specific muscle groups, as well as strength and stamina in general;

- Sample job tasks (e.g., performance tests, simulations, work samples, and realistic job previews) assess performance and aptitude on particular tasks;
- Medical inquiries and physical examinations, including psychological tests, assess physical or mental health;
- Personality tests and integrity tests assess the degree to which a person has certain traits or dispositions (e.g., dependability, cooperativeness, safety) or aim to predict the likelihood that a person will engage in certain conduct (e.g., theft, absenteeism);
- Criminal background checks provide information on arrest and conviction history;
- Credit checks provide information on credit and financial history;
- Performance appraisals reflect a supervisor's assessment of an individual's performance; and
- English proficiency tests determine English fluency.

Governing EEO Laws

- Title VII of the Civil Rights Act of 1964
 - Title VII prohibits employment discrimination based on race, color, religion, sex, or national origin.
 - With respect to tests in particular, Title VII permits employment tests as long as they are not “designed, intended or used to discriminate because of race, color, religion, sex or national origin.” 42 U.S.C. § 2000e-2(h). Title VII also imposes restrictions on how to score tests. Employers are not permitted to (1) adjust the scores of, (2) use different cutoff scores for, or (3) otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, or national origin. *Id.* at §2000e-2(l).
 - Title VII prohibits both “disparate treatment” and “disparate impact” discrimination.
 - Title VII prohibits **intentional** discrimination based on race, color, religion, sex, or national origin. For example, Title VII forbids a covered employer from testing the reading ability of African American applicants or employees but not testing the reading ability of their white counterparts. This is called “**disparate treatment**” discrimination. Disparate treatment cases typically involve the following issues:
 - Were people of a different race, color, religion, sex, or national origin treated differently?
 - Is there any evidence of bias, such as discriminatory statements?
 - What is the employer's reason for the difference in treatment?
 - Does the evidence show that the employer's reason for the difference in treatment is untrue, and that the real reason for the different treatment is race, color, religion, sex, or national origin?
 - Title VII also prohibits employers from using neutral tests or selection procedures that have the **effect** of disproportionately excluding persons based on race, color, religion, sex, or national origin, where the tests or selection procedures are not “job-related and consistent with business necessity.” This is called “**disparate impact**” discrimination.

Disparate impact cases typically involve the following issues:

- Does the employer use a particular employment practice that has a **disparate impact** on the basis of race, color, religion, sex, or national origin? For example, if an employer requires that all applicants pass a physical agility test, does the test disproportionately screen out women? Determining

whether a test or other selection procedure has a disparate impact on a particular group ordinarily requires a statistical analysis.

- If the selection procedure has a disparate impact based on race, color, religion, sex, or national origin, can the employer show that the selection **procedure is job-related and consistent with business necessity**? An employer can meet this standard by showing that it is necessary to the safe and efficient performance of the job. The challenged policy or practice should therefore be associated with the skills needed to perform the job successfully. In contrast to a general measurement of applicants' or employees' skills, the challenged policy or practice must evaluate an individual's skills as related to the particular job in question.
- If the employer shows that the selection procedure is job-related and consistent with business necessity, can the person challenging the selection procedure demonstrate that there is a **less discriminatory alternative** available? For example, is another test available that would be equally effective in predicting job performance but would not disproportionately exclude the protected group?

See 42 U.S.C. § 2000e-2 (k). This method of analysis is consistent with the seminal Supreme Court decision about disparate impact discrimination, *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

- In 1978, the EEOC adopted the Uniform Guidelines on Employee Selection Procedures or "UGESP" under Title VII. See 29 C.F.R. Part 1607.¹ UGESP provided uniform guidance for employers about how to determine if their tests and selection procedures were lawful for purposes of Title VII disparate impact theory.
 - UGESP outlines three different ways employers can show that their employment tests and other selection criteria are job-related and consistent with business necessity. These methods of demonstrating job-relatedness are called "test validation." UGESP provides detailed guidance about each method of test validation.
- Title I of the Americans with Disabilities Act (ADA)
 - Title I of the ADA prohibits private employers and state and local governments from discriminating against qualified individuals with disabilities on the basis of their disabilities.
 - The ADA specifies when an employer may require an applicant or employee to undergo a medical examination, *i.e.*, a procedure or test that seeks information about an individual's physical or mental impairments or health. The ADA also specifies when an employer may make "disability-related inquiries," *i.e.*, inquiries that are likely to elicit information about a disability.
 - When hiring, an employer may not ask questions about disability or require medical examinations until **after** it makes a conditional job offer to the applicant. 42 U.S.C. §12112 (d)(2);
 - After making a job offer (but before the person starts working), an employer may ask disability-related questions and conduct medical examinations as long as it does so for **all individuals entering the same job category**. *Id.* at § 12112(d)(3); and
 - With respect to **employees**, an employer may ask questions about disability or require medical examinations only if doing so is **job-related and consistent with**

business necessity. Thus, for example, an employer could request medical information when it has a **reasonable belief**, based on **objective evidence**, that a particular employee will be unable to perform essential job functions or will pose a direct threat because of a medical condition, or when an employer receives a request for a **reasonable accommodation** and the person's disability and/or need for accommodation is not obvious. *Id.* at § 12112(d)(4).

- The ADA also makes it unlawful to:
 - Use employment tests that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test, as used by the employer, is shown to be job-related and consistent with business necessity. 42 U.S.C. § 12112(b)(6);
 - Fail to select and administer employment tests in the most effective manner to ensure that test results accurately reflect the skills, aptitude or whatever other factor that such test purports to measure, rather than reflecting an applicant's or employee's impairment. *Id.* at § 12112(b)(7); and
 - Fail to make reasonable accommodations, including in the administration of tests, to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such accommodation would impose an undue hardship. *Id.* at § 12112(b)(5).
- The Age Discrimination in Employment Act (ADEA)
 - The ADEA prohibits discrimination based on age (40 and over) with respect to any term, condition, or privilege of employment. Under the ADEA, covered employers may not select individuals for hiring, promotion, or reductions in force in a way that unlawfully discriminates on the basis of age.
 - The ADEA prohibits **disparate treatment** discrimination, i.e., intentional discrimination based on age. For example, the ADEA forbids an employer from giving a physical agility test only to applicants over age 50, based on a belief that they are less physically able to perform a particular job, but not testing younger applicants.
 - The ADEA also prohibits employers from using neutral tests or selection procedures that have a **discriminatory impact** on persons based on age (40 or older), unless the challenged employment action is based on a **reasonable factor other than age**. *Smith v. City of Jackson*, 544 U.S. 228 (2005). Thus, if a test or other selection procedure has a disparate impact based on age, the employer must show that the test or device chosen was a reasonable one.

Recent EEOC Litigation and Settlements

A number of recent EEOC enforcement actions illustrating basic EEO principles focus on testing.

- **Title VII and Cognitive Tests: Less Discriminatory Alternative for Cognitive Test with Disparate Impact.** *EEOC v. Ford Motor Co. and United Automobile Workers of America*, involved a court-approved settlement agreement on behalf of a nationwide class of African Americans who were rejected for an apprenticeship program after taking a cognitive test known as the Apprenticeship Training Selection System (ATSS). The ATSS was a written cognitive test that measured verbal, numerical, and spatial reasoning in order to evaluate mechanical aptitude. Although it had been validated in 1991, the ATSS continued to have a statistically significant disparate impact by excluding African American applicants. Less discriminatory selection procedures were subsequently developed that would have served Ford's needs, but

Ford did not modify its procedures. In the settlement agreement, Ford agreed to replace the ATSS with a selection procedure, to be designed by a jointly-selected industrial psychologist, that would predict job success and reduce adverse impact. Additionally, Ford paid \$8.55 million in monetary relief.

- **Title VII and Physical Strength Tests: Strength Test Must Be Job-Related and Consistent with Business Necessity If It Disproportionately Excludes Women.** In *EEOC v. Dial Corp.*, women were disproportionately rejected for entry-level production jobs because of a strength test. The test had a significant adverse impact on women – prior to the use of the test, 46% of hires were women; after use of the test, only 15% of hires were women. Dial defended the test by noting that it looked like the job and use of the test had resulted in fewer injuries to hired workers. The EEOC established through expert testimony, however, that the test was considerably more difficult than the job and that the reduction in injuries occurred two years before the test was implemented, most likely due to improved training and better job rotation procedures. On appeal, the Eighth Circuit upheld the trial court’s finding that Dial’s use of the test violated Title VII under the disparate impact theory of discrimination. See <http://www.eeoc.gov/press/11-20-06.html>
- **ADA and Test Accommodation: Employer Must Provide Reasonable Accommodation on Pre-employment Test for Hourly, Unskilled Manufacturing Jobs.** The EEOC settled *EEOC v. Daimler Chrysler Corp.*, a case brought on behalf of applicants with learning disabilities who needed reading accommodations during a pre-employment test given for hourly unskilled manufacturing jobs. The resulting settlement agreement provided monetary relief for 12 identified individuals and the opportunity to take the hiring test with the assistance of a reader. The settlement agreement also required that the employer provide a reasonable accommodation on this particular test to each applicant who requested a reader and provided documentation establishing an ADA disability. The accommodation consisted of either a reader for all instructions and all written parts of the test, or an audiotope providing the same information.

Employer Best Practices for Testing and Selection

- Employers should administer tests and other selection procedures without regard to race, color, national origin, sex, religion, age (40 or older), or disability.
- Employers should ensure that employment tests and other selection procedures are properly validated for the positions and purposes for which they are used. The test or selection procedure must be job-related and its results appropriate for the employer’s purpose. While a test vendor’s documentation supporting the validity of a test may be helpful, the employer is still responsible for ensuring that its tests are valid under UGESP.
- If a selection procedure screens out a protected group, the employer should determine whether there is an equally effective alternative selection procedure that has less adverse impact and, if so, adopt the alternative procedure. For example, if the selection procedure is a test, the employer should determine whether another test would predict job performance but not disproportionately exclude the protected group.
- To ensure that a test or selection procedure remains predictive of success in a job, employers should keep abreast of changes in job requirements and should update the test specifications or selection procedures accordingly.
- Employers should ensure that tests and selection procedures are not adopted casually by managers who know little about these processes. A test or selection procedure can be an effective management tool, but no test or selection procedure should be implemented without

an understanding of its effectiveness and limitations for the organization, its appropriateness for a specific job, and whether it can be appropriately administered and scored.

- For further background on experiences and challenges encountered by employers, employees, and job seekers in testing, see the testimony from the Commission's meeting on testing, located on the EEOC's public web site at: <http://eeoc.gov/eeoc/meetings/archive/5-16-07/index.html>.
 - For general information on discrimination Title VII, the ADA and the ADEA see EEOC's web site at <http://www.eeoc.gov/laws/statutes/index.cfm>
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Footnote

¹The Departments of Labor and Justice and the Office of Personnel Management (then called the Civil Service Commission) issued UGESP along with the EEOC.

Last modified on September 23, 2010.



BEST PRACTICES FOR EMPLOYERS AND HUMAN RESOURCES/EEO PROFESSIONALS

How to Prevent Race and Color Discrimination

General

- ☐ **Train** Human Resources managers and all employees on **EEO laws**. Implement a **strong EEO policy** that is **embraced at the top levels** of the organization. Train managers, supervisors and employees on its contents, enforce it, and hold them accountable.
- ☐ Promote an **inclusive culture** in the workplace by fostering an environment of professionalism and respect for personal differences.
- ☐ **Foster open communication** and early dispute resolution. This may minimize the chance of misunderstandings escalating into legally actionable EEO problems. An **alternative dispute-resolution (ADR) program** can help resolve EEO problems without the acrimony associated with an adversarial process.
- ☐ Establish neutral and objective criteria to **avoid subjective employment decisions** based on **personal stereotypes** or **hidden biases**.

Recruitment, Hiring, and Promotion

- ☐ Recruit, hire, and promote with EEO principles in mind, by implementing practices designed to widen and **diversify the pool of candidates** considered for employment openings, including openings in upper level management.
- ☐ Monitor for EEO compliance by **conducting self-analyses** to determine whether current employment practices disadvantage people of color, treat them differently, or leave uncorrected the effects of historical discrimination in the company.
- ☐ Analyze the duties, functions, and competencies relevant to jobs. Then create **objective, job-related qualification standards** related to those duties, functions, and competencies. Make sure they are **consistently applied** when choosing among candidates.
- ☐ Ensure **selection criteria** do not disproportionately exclude certain racial groups unless the criteria are valid predictors of successful job performance and meet the employer's business needs. For example, if educational requirements disproportionately exclude certain minority or racial groups, they may be illegal if not important for job performance or business needs.
- ☐ Make sure **promotion criteria** are made **known**, and that **job openings** are **communicated** to all eligible employees.

- ❑ When using an outside agency for recruitment, make sure the agency does not **search** for **candidates** of a particular race or color. Both the employer that made the request and the employment agency that honored it would be liable.

Terms, Conditions, and Privileges of Employment

- ❑ **Monitor** compensation practices and performance appraisal systems for **patterns of potential discrimination**. Make sure performance appraisals are based on employees' actual job performance. Ensure consistency, i.e., that comparable job performances receive comparable ratings regardless of the evaluator, and that appraisals are neither artificially low nor artificially high.
- ❑ Develop the potential of employees, supervisors, and managers with EEO in mind, by providing **training and mentoring** that provides workers of all backgrounds the opportunity, skill, experience, and information necessary to perform well, and to ascend to upper-level jobs. In addition, employees of all backgrounds should have **equal access to workplace networks**.
- ❑ Protect against retaliation. Provide clear and credible assurances that if employees make complaints or provide information related to complaints, the employer will **protect employees from retaliation**, and consistently follow through on this guarantee.

Harassment

Adopt a strong anti-harassment **policy**, periodically **train** each employees on its contents, and vigorously **follow and enforce** it. The policy should include:

- A clear **explanation** of prohibited conduct, including examples;
- Clear assurance that employees who make complaints or provide information related to complaints will be **protected against retaliation**;
- A clearly described **complaint process** that provides multiple, accessible avenues of complaint;
- Assurance that the employer will protect the **confidentiality** of harassment complaints to the extent possible;
- A complaint process that provides a **prompt, thorough, and impartial investigation**; and
- Assurance that the employer will take **immediate and appropriate corrective action** when it determines that harassment has occurred.

General Information: www.eeoc.gov

Additional Information on Race and Color Discrimination: www.eeoc.gov/types/race.html

Technical Assistance: www.eetraining.eeoc.gov

