

EEO BASICS

EEO Toolkit – Module I

Laws Enforced by the EEOC

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The EEOC enforces four laws that prohibit discrimination:

- Title VII of the 1964 Civil Rights Act
- The Rehabilitation Act of 1973
- The Age Discrimination in Employment Act
- Equal Pay Act

Title VII of the 1964 Civil Rights Act

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex and national origin.

Unlike the other laws enforced by the EEOC Title VII applies to everyone. Everyone has a race, color, sex and national origin. Additionally Title VII prevents employers from refusing to hire someone or firing someone because he or she is /is not religious.

Title VII of the 1964 Civil Rights Act

cont'd.

NOTE: Most people think of Title VII as protecting members of minority groups, the law protects all people from employment discrimination because of race, color, sex, national origin or religion.

The Rehabilitation Act of 1973

The Rehabilitation Act of 1973 was the first “rights” legislation to prohibit discrimination against people with disabilities. However, this law applied to programs conducted by Federal agencies, those receiving federal funds, such as colleges participating in federal student loan programs, Federal employment, and employment practices of businesses with federal contracts. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in [Title I of the Americans with Disabilities Act.](#)

The Age Discrimination in Employment Act

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. The ADEA permits employers to favor older workers based on age even when doing so adversely affects a younger worker who is 40 or older.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.

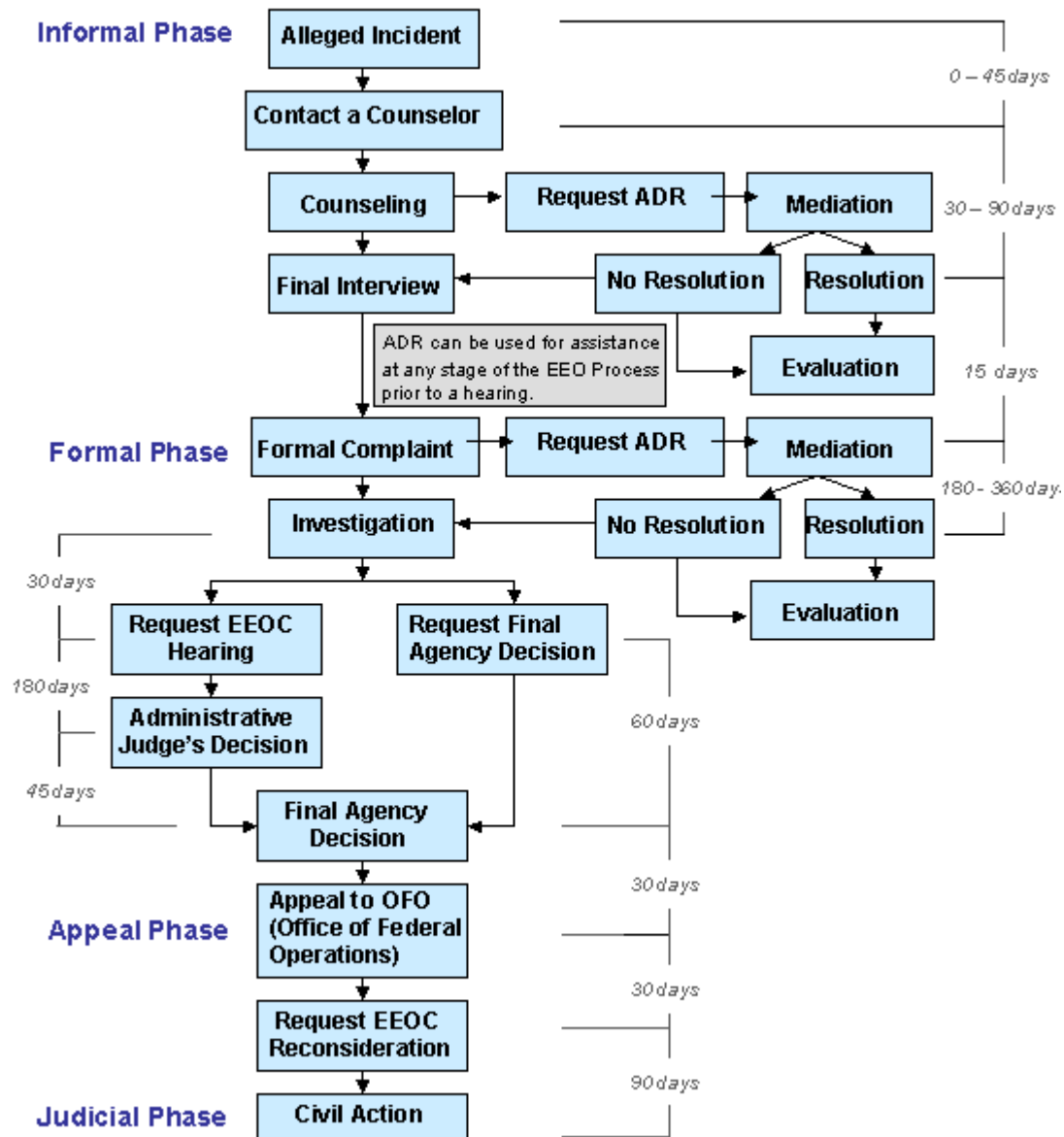
The Equal Pay Act

The Equal Pay Act (EPA), requires employers to pay male and female employees equally for doing the same work. It was passed in 1963 as an amendment to the Fair Labor Standards Act and can be found at 29 U.S.C. § 206.

Although the Act protects both women and men from sex discrimination in pay rates, it was passed to help rectify the wage disparity experienced by women workers, and in practice, this law has almost always been applied to situations where women are paid less than men for doing similar jobs.

Federal EEO Complaint Processing Procedures

Flowchart of EEO Complaint Process **NOTE: (Days = calendar days)**



Contact EEO Counselor

Aggrieved persons who believe they have been discriminated against must contact an agency EEO counselor prior to filing a formal complaint.

The person must initiate counselor contact within 45 days of the matter alleged to be discriminatory.

EEO Counseling

EEO counselors provide information to the aggrieved individual concerning how the federal sector EEO process works, including time frames and appeal procedures, and attempt to informally resolve the matter.

At the initial counseling session, counselors must advise individuals in writing of their rights and responsibilities in the EEO process, including the right to request a hearing before an EEOC administrative judge or an immediate final decision from the agency following its investigation of the complaint.

EEO Counseling cont'd.

Counseling must be completed within 30 days of the date the aggrieved person contacted the agency's EEO office to request counseling.

The 30-day counseling period may be extended for an additional 60 days:

- (1) where the individual agrees to such extension in writing; or
- (2) where the aggrieved person chooses to participate in an ADR procedure.

If the matter is not resolved in that time period, the counselor must inform the individual in writing of the right to file a discrimination complaint. This notice ("Notice of Final Interview") must inform the individual that a complaint must be filed within 15 days of receipt of the notice, identify the agency official with whom the complaint must be filed, and of the individual's duty to inform the agency if he or she is represented. 29 C.F.R. Section 1614.105(d).

EEO Counseling cont'd.

When a complaint is filed, the EEO counselor must submit a written report to the agency's EEO office concerning the issues discussed and the actions taken during counseling.

Alternative Dispute Resolution (ADR)

Beginning January 1, 2000 all agencies were required to establish or make available an ADR program.

At the initial counseling session, counselors must advise individuals that, where an agency agrees to offer ADR in a particular case, the individual may choose between participation in the ADR program and EEO counseling.

As noted above, if the matter is not resolved in the ADR process within 90 days of the date the individual contacted the agency's EEO office, a Notice of Final Interview must be issued to the individual giving him or her the right to proceed with a formal complaint.

Complaints

A complaint must be filed with the agency that allegedly discriminated against the complainant within 15 days of receipt of the Notice of Final Interview.

The complaint must be a signed statement from the complainant or the complainant's attorney, containing the complainant's (or representative's) telephone number and address, and must be sufficiently precise to identify the complainant and the agency, and describe generally the action or practice which forms the basis of the complaint.

Complaints cont'd.

The agency must acknowledge receipt of the complaint in writing and inform the complainant of the date on which the complaint was filed, of the address of the EEOC office where a request for a hearing should be sent, that the complainant has the right to appeal the agency's final action or dismissal of a complaint, and that **the agency must investigate the complaint within 180 days of the filing date.**

Dismissals of Complaints

Prior to a request for a hearing, in lieu of accepting a complaint for investigation an agency may dismiss an entire complaint for any of the following reasons:

- failure to state a claim, or stating the same claim that is pending or has been decided by the agency or the EEOC;
- failure to comply with the time limits;
- filing a complaint on a matter that has not been brought to the attention of an EEO counselor and which is not like or related to the matters counseled;
- filing a complaint which is the basis of a pending civil action, or which was the basis of a civil action already decided by a court;
- where the complainant has already elected to pursue the matter through either the negotiated grievance procedure or in an appeal to the Merit Systems Protection Board;
- where the matter is moot or merely alleges a proposal to take a personnel action;
- where the complainant cannot be located;
- where the complainant fails to respond to a request to provide relevant information;
- where the complaint alleges dissatisfaction with the processing of a previously filed complaint;
- where the complaint is part of a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination.

Dismissals of Complaints cont'd.

If an agency believes that some, but not all, of the claims in a complaint should be dismissed for the above reasons, it must notify the complainant in writing of the rationale for this determination, identify the allegations which will not be investigated, and place a copy of this notice in the investigative file.

Investigations

Investigations are conducted by the respondent agency.

The agency must develop an impartial and appropriate factual record upon which to make findings on the claims raised by the complaint.

An appropriate factual record is defined in the regulations as one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred.

Investigations cont'd.

The investigation must be completed within 180 days from the filing of the complaint.

A copy of the investigative file must be provided to the complainant, along with a notification that, within 30 days of receipt of the file, the complainant has the right to request a hearing and a decision from an EEOC AJ or may request an immediate final decision from the agency.

Grievances

Persons covered by collective bargaining agreements which permit allegations of discrimination to be raised in the grievance procedure, and who wish to file a complaint or grievance on an allegation of employment discrimination, must elect to proceed either under the procedures of 29 C.F.R. Part 1614 or the negotiated grievance procedures, but not both.

- 29 C.F.R. Section 1614.301(a). An election to proceed under Part 1614 is made by the filing of a complaint, and an election to proceed under the negotiated grievance procedures is made by filing a grievance.
- Participation in the pre-complaint procedures of Part 1614 is not an election of the 1614 procedures. The election requirement does not apply to employees of agencies not covered by 5 U.S.C. Section 7121(d), notably employees of the United States Postal Service.