

## 8.8: Equal Employment Opportunity Law

### Learning Objectives

- Explain the equal employment opportunity law

Retail managers and human resource management within a retail company are most likely familiar with or at some time become aware of the Equal Employment Opportunity Act (EEOA) as implemented by Congress.<sup>[1]</sup> This act is an amendment to the Civil Rights Act of 1964 which prohibits discrimination based on color, race, religion, national origin and gender. Congress further added to this act by passing the Age Discrimination in Employment Act of 1967 which also prohibits discrimination based on age and concentrating on the protection of individual employees ages 40 to 65 years of age.<sup>[2]</sup> Another act implemented by Congress was the Americans with Disabilities Act of 1990 which requires employers to make reasonable accommodations to disabled individuals.

A regulatory administrative agency governing the enforcement of the EEOA was established by the federal government. This agency is called the Equal Employment Opportunity Commission (EEOC).<sup>[3]</sup> The EEOC has the power to seek statutory remedies for individuals whose rights as set forth by the EEOA have been egregiously violated. These remedies can include but are not limited to punitive and compensatory damages and back-pay (depending on the case). However, the EEOC is not an answer or remedy necessarily for everyone who feels that they have become a victim of prejudice in the workplace as they typically only file suit in less than one percent of charges per year.<sup>[4]</sup>

If an employee feels that they have been discriminated against and moves forward with filing suit, the burden of proof relies on the plaintiff and he or she must build a “prima facie” case of discrimination. This means that the plaintiff must prove the employers discriminatory motive as prohibited by the EEOA. For example, written proof in the form of email or text explaining to the employee that they did not receive a promotion solely based off of the fact that they are a woman or a minority could be considered proof enough for the EEOC to pick up the suit. Typically the EEOC establishes proving discrimination based off of the treatment the employee received, the impact it had on them and/or if there was harassment involved. Harassment is another way to prove discrimination. In this instance it is a bit more complicated to build a “prima facie” case against a potential violator of this type of discrimination which will be addressed further in the section on sexual harassment laws.

For an employee to prove discrimination as defined by the EEOC the individual employee (or alleged victim in this instance) must be capable of establishing that “he or she was treated differently than other employees who were similarly situated, and that the difference was based on a protected characteristic.”<sup>[5]</sup> The EEOC has various types of reporting forms which are used and kept as record if a case is filed against a company for discrimination. Filing a charge against an employer would require an individual employee to sign a sworn statement naming the offender and detailing the discriminatory offense. Once the EEOC has received a complaint of discrimination the business organization being accused will be notified and given the opportunity to rectify the situation.

In the case of discrimination retail organizations who have over a certain number of employees must comply. For this reason some of these laws may not apply to single-store retailers or retailers with a smaller organizational structure. Regardless of the size or type of retail store, management’s daily operations when dealing with subordinates such as hiring, firing, promotions and raises should be carried out in the most ethical manner.

### Practice Questions

<https://assessments.lumenlearning.co...sessments/9228>

1. [https://www.law.cornell.edu/wex/equal\\_employment\\_opportunity\\_commission](https://www.law.cornell.edu/wex/equal_employment_opportunity_commission) ↵
2. <https://www.dol.gov/general/topic/discrimination/agedisc> ↵
3. <https://www.eeoc.gov/employees/charge.cfm> ↵
4. <https://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm> ↵
5. <https://www.nolo.com/legal-encyclopedia/disparate-treatment-discrimination.html> ↵

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