

Terms – Concepts - Definitions

Administrative Judge (AJ). An official assigned by the Equal Employment Opportunity Commission (EEOC) to hold hearings on formal complaints of discrimination and to otherwise process individual or class complaints for the EEOC.

Adverse Impact. Discrimination can result from neutral employment policies and practices which are applied equitably to all employees and applicants, but which have the effect of disproportionately excluding women and/or minorities. Once adverse impact is established, the employer must justify the continued use of the procedures(s) causing the adverse impact as a business necessity.

Affirmative Action. Positive steps taken by an employer which contribute toward greater employment opportunities for minorities, females, the elderly, and the disabled. In federal employment, extra effort must be made to include qualified women, minorities, employees over 40 and the disabled at grade levels and in job categories where they are under represented.

Affirmative Action Plan/Affirmative Employment Plan (AEP). Written plans for programs required by Executive Order 11478 and other laws and regulations. AEPs may contain studies which show how the work force at the Center has been used, and may include goals and timetables for increasing the representation of protected class members in those areas where they have been under represented.

Age Discrimination. A claim of discrimination based on age by an individual who is at least 40 years of age at the time of the alleged discriminatory act.

Aggrieved Person. A person who believes that he/she has been discriminated against in some way and files an informal EEO complaint.

Allegation. The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what he/she expects to prove.

Allegation of Reprisal. A claim of restraint, interference, coercion, discrimination, or retaliation in connection with presenting or processing a complaint or because of any opposition to an employment practice made unlawful under Title 29 CFR part 1614.

Alternative Dispute Resolution (ADR). EEOC regulations require all agencies to establish or make available an ADR program for both the pre-complaint process and the formal complaint process. The ADR Program must be fair, voluntary, neutral, confidential, and enforceable and meet all requirements of NASA and the EEOC. ADR Methods have the flexibility of including but not limited to mediation, facilitation, and negotiation.

Compensatory Damages. Damages, which compensate the injured party and replace losses suffered by the injured party and nothing more.

Complaint. A complaint is an allegation of illegal discrimination that is handled through an administrative procedure. A complaint may result when an employee believes he or she has been unfairly treated because of race, color, genetic information, etc. The allegation itself is not proof that illegal discrimination has taken place. The investigation that follows the filing of a formal complaint will determine if illegal discrimination has, in fact, occurred. A person who files a complaint is called a complainant.

Class Complaint/Class Action. A complaint stated or filed by a group of people who feel that personnel or management policies or practices discriminate against them as a group. Members of the group believe that the characteristic they share -- race, color, religion, sex, national origin, age, genetic information, or disabilities serves as the basis for the discrimination. For example, a class may be made up of women who believe they have been consistently discriminated against at NASA SSC because of their sex. In such a case, all female employees, past and present, and all female applicants would be included in the complaint. When a class complaint goes to court, it becomes a class action. As with complaints by individuals, illegal discrimination may or may not have occurred.

Discrimination. Illegal discrimination is unfavorable treatment of a person by category, class, or group rather than objective treatment on the basis of merit. Under EEO law, it is illegal to discriminate on the basis of race, color, religion, national origin, sex, age genetic information, or handicap. Discrimination can be intentional or unintentional. See Disparate Treatment and Disparate Impact.

Disparate Treatment. Inconsistent application of rules and policies to one group of people over another. Discrimination may result when rules and policies are applied differently to members of protected classes. Disciplining Hispanic and African-American employees for tardiness, while ignoring tardiness among other employees, is an example of disparate treatment. Such inconsistent application of rules often leads to complaints.

Disparate Impact. Under EEO law, less favorable effect for one group than for another. Disparate impact results when rules applied to all employees have a different and more inhibiting effect on women and minority groups than on the majority. For example, nonessential educational requirements for certain jobs can have a disparate impact on minority groups looking for work, as they often have been limited in their access to educational opportunities.

Equal Employment Opportunity. The goal of laws which make some types of discrimination in employment illegal. Equal employment opportunity will become a reality when each U.S. citizen has an equal chance to enjoy the benefits of employment. EEO is not a guarantee of employment for anyone. Under EEO law, only job related factors can be used to determine if an individual is qualified for a particular job. Ideally, EEO laws and Affirmative Action programs combine to achieve equal employment opportunities. See EEO law, Affirmative Action, and Affirmative Action Plan/Affirmative Employment Plan

Equal Employment Opportunity Commission (EEOC): The Federal agency with overall responsibility for federal sector complaints. The EEOC issues policy and regulations on the discrimination complaint system, holds hearings and makes findings and recommendations on discrimination complaints; and, makes final decisions on discrimination complaints that have been appealed. It also reviews, upon request, decisions of negotiated grievances and Merit Systems Protection Board (MSPB) appeals if they include issues of discrimination.

EEO Counselor. SSC utilizes external EEO counselor's – either contracted with a vendor or NASA HQ ODEO. The counselor works under the direction of the ODEO Officer and makes informal inquiries and seeks resolution of informal complaints.

Equal Employment Opportunity Laws. Five laws which prohibit discrimination on the basis of race, color, religion, sex, national origin, genetic information, physical and mental handicap in any terms, conditions, or privileges of employment. The U.S. Equal Employment Opportunity Commission (EEOC) enforces the following laws:

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, genetic information, or national origin.
- The Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.
- Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older.
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government.
- Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.

EEO Regulations.

- 29 Code of Federal Regulations (CFR), Part 1614: sets forth responsibilities and guidelines for establishing and maintaining an EEO program in the Federal government.
- Management Directive 110 (MD 110): developed by the Equal Employment Opportunity Commission (EEOC) to prescribe the procedures and guidelines for processing complaints of discrimination.
- Management Directive 715 (MD 715): developed by EEOC to prescribe requirements for developing a model EEO program through the identification of barriers to equal employment opportunity and the development of action items to eliminate such barriers.

Ethnic Group. A group of people classes according to common racial, national, tribal, religious, linguistic, or cultural origin or background. i.e. Irish-Americans, Mexican-Americans, Cajun, Southerner, Jewish, Navajo. Some members of ethnic groups participate in the customs and practices of their groups, while others do not. Discrimination based on these customs and practices may be illegal under EEO law. See Minority.

Formal Complaint. A written complaint filed under 29 CFR 1614, alleging that a specific act of discrimination or reprisal has/have taken place that is personal to the individual. The formal stage of the EEO complaints process is concerned with the development of evidence, the determination of discrimination, and corrective action, if appropriate. It consists of the investigation and decision phases. The investigation phase provides for the compilation of evidence through the taking of affidavits and gathering documents. NASA HQ ODEO administers the formal complaint process.

Hearing. The presentation of such oral and written evidence concerning a complaint of discrimination presented before the EEOC.

Individual with a Disability. Any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment. Major life activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.

Informal Complaint. A matter of alleged discrimination which an aggrieved person brings to the attention of the EEO Counselor before a formal discrimination complaint is filed.

Investigative Report. The report of investigation prepared by an investigator after a formal discrimination complaint is filed, accepted for processing, and is investigated.

Job Related. Essential to job performance. The knowledge, skills, abilities, and experience necessary to perform a particular job. Tests are job related if they test whether an applicant or employee can perform the job in question. A rule or practice is job related if it is necessary for the safe and efficient performance of a particular job. For example, a rule prohibiting employees from wearing loose, flowing clothing around high speed rotating equipment is job related. However, the same rule applied in an office with no rotating equipment is not job related, and may have a disparate impact on some ethnic minorities.

Labor Force / Labor Market. Labor Force describes all civilians who are at least 16 years old and are employed or looking for work. The labor market is a group within the labor force whose members could fill a particular job. To be considered part of the labor market for a GS-5 clerical position, for instance, an individual must meet all minimum job-related requirements for that grade and classification. For most jobs, employers can find enough applicants in the local labor market. For jobs that have high minimum qualifications, employers may need to tap the national labor market to find enough applicants.

Merit Principles. The rules established by the Office of Personnel Management (OPM) that the federal government follows in hiring, promoting, and all terms and conditions of employment.

Merit Systems Protection Board (MSPB). The federal agency responsible for deciding appealable personnel actions and mixed case appeals.

Minority. The smaller part of a group. A group within a country or state that differs in race, religion or national origin from the dominant group. According to Equal Employment Opportunity Commission guidelines, minority is used to mean four particular groups who share a race, color or national origin.

Mixed Case Appeal. An appeal filed directly with the MSPB that alleges that an appealable agency action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, disability, age, genetic information, or reprisal. There is no right to a hearing before an EEOC Administrative Judge on a mixed-case complaint.

Mixed Case Complaint. A complaint of employment discrimination filed with a federal agency based on race, color, religion, sex, national origin, age, genetic information, disability, or reprisal related to or stemming from an action that may be appealed to the MSPB. The complaint may contain only a claim of employment discrimination or it may contain additional non-discrimination claims that the MSPB has jurisdiction to address.

Negotiated Settlement Agreement. A written settlement agreement voluntarily signed by the complainant or agent and the agency, during the precomplaint or formal complaint process, which resolves a discrimination complaint. The terms of the agreement are binding on both parties.

Numerical Goal. A target number of qualified women and minorities hired and advanced within a given period of time through an Affirmative Action Program. A numerical goal is not a quota, as it may not be reached within the time frame. It does not permit the hiring or advancement of unqualified employees. Numerical goals provide a standard which allows an activity to measure the effectiveness of its Affirmative Action Program. When numerical goals are reached, the percent of women and minority group members working at appropriate grade levels and classifications will be closer to their percentage in the labor market.

Official Time. Under 29 CFR Section 1614.605, complainants have a right to a "reasonable" amount of official time, if otherwise on duty, to prepare a complaint filed under this regulation. There is no obligation to change work schedules, incur overtime, or pay travel. However, when an EEOC administrative judge requests the complainant's presence in connection with a complaint, the complainant will be granted official time for the duration of such meeting or hearing regardless of the tour of duty. Employees must arrange in advance with their supervisors to use this duty time. Disagreements as to what is "reasonable" time are resolved by the Center Director or his/her designee. "Reasonable duty time" includes all time actually spent in meetings and hearings required by an EEOC official, plus a reasonable amount of preparation time. Reasonable time is generally defined in terms of hours rather than days, weeks, or months.

Parity. The employment of minorities or females in a job category (in percentages) in the workforce equal to those of qualified minorities and females in the relevant labor market.

Protected Class. The groups protected from employment discrimination by law. These groups include men and women on the basis of sex; any group which shares a common race, religion, color, genetic information, or national origin; people over 40; and people with physical or mental handicaps. Every U.S. citizen is a member of some protected class, and is entitled to the benefits of EEO law. However, the EEO laws were passed to correct a history of unfavorable treatment of women and minority group members.

Prima Facie. This Latin term translates as "on first view", or "at first appearance". In EEO cases, complainants present evidence and arguments to support a claim of discrimination. If those arguments cannot be rebutted with additional evidence, the claim will be supported by the court without further argument. Thus, a prima facie case is established. In the EEO area, statistics of under utilization have been sufficient to make a prima facie case for discrimination.

Quota. Court ordered (or imposed) hiring or promotion of specific numbers or ratios of minorities or women in positions from which they were purposefully excluded through illegal discrimination.

Reasonable Accommodation. Adjustments and changes an employer must make in the work schedule or work environment to meet the needs of employees. These changes could be made to allow a handicapped worker to perform his or her job. Widening doorways, installing access ramps, and lowering work tables are all considered reasonable accommodations for handicapped workers. Schedule changes that allow employees time off for religious observances are also reasonable accommodations. Adjustments or changes are considered reasonable if they do not have a negative effect on work flow or production.

Relevant Labor Market. The labor market from which candidates are normally drawn for any particular job. i.e. For positions in engineering, the relevant labor force is likely to be the whole United States, while for clerical positions it would probably be the SSC local area.

Representative. A person selected and designated in writing by a complainant or the class agent. The representative may accompany, represent, and advise in the complaint process.

Reprisal. Unlawful restraint, coercion or discrimination against complainants, their representatives, witnesses, EEO Counselors, investigators, and other agency officials with responsibility for processing EEO complaints.

Settlement. An adjustment arrived at during the precomplaint or formal complaint process, which resolves issues raised to the satisfaction of the complainant. The terms of the adjustment must be set out in a negotiated settlement agreement.

Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature based on one or more of the following conditions a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Under Represented. Inadequately represented in the work force of a particular activity. This term is used to describe the extent to which women and minorities are represented in particular grade levels and job categories. The percentage of women and minorities in the labor market is used as a standard to determine under representation. For example, suppose there are 100 GS-12's at SSC; three employees (or 3%) are Hispanic. However, the Hispanic labor market for GS-12 positions is 15%. In this case, Hispanics are under represented at the GS-12 level.

Under Utilized. To use less than fully; below potential use. This term is often applied to categories of employees who are working at jobs that do not make use of their skills and abilities, although they may have been hired for those skills and abilities. When an employee is consistently assigned to "dead end" jobs, he or she may be under utilized because they are often seen as able to perform only limited tasks.