

Get The Facts Series: Small Business Information

What laws does the Equal Employment Opportunity Commission enforce?

The Equal Employment Opportunity Commission (EEOC) enforces the following federal laws: Title VII of the Civil Rights Act of 1964 (Title VII), Age Discrimination in Employment Act (ADEA), Equal Pay Act (EPA), titles I and V of the Americans with Disabilities Act, as amended (ADA), and title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). These laws prohibit employment discrimination based on race, color, sex, religion, national origin, age, disability, genetic information, or in retaliation for opposing job discrimination, filing a charge or participating in proceedings under the laws. EEOC's mandate is to determine in a fair and objective manner whether the laws it enforces have been violated.

What small businesses are covered?

The laws cover all private employers, state and local government employers, and educational institutions that employ 15 or more individuals, except for ADEA which covers employers with 20 or more employees. These laws also cover private and public employment agencies, labor organizations, and joint labor management committees controlling apprenticeship and training.

When can employees file charges?

Employees must file their charge with EEOC within 180 days from the date of the alleged discrimination. If the employer is also covered by a state or local employment discrimination law, the time to file a charge with EEOC is extended to 300 days.

How are charges filed with the EEOC?

Any individual who believes that his or her employment rights have been violated because of his or her race, color, sex, religion, national origin, age, disability, genetic information, or because of retaliation may file a charge of discrimination with EEOC. Under statute, EEOC must accept the filing of a charge.

EEOC investigators interview individuals alleging employment discrimination to establish whether we have jurisdiction. Investigators explore in detail a potential charging party's description of the alleged violation and the pertinent date(s). This information is assessed to determine the potential merits of the charge. Based upon our assessment, we advise the potential charging party whether we will investigate or immediately dismiss the charge.

EEOC will notify the employer within 10 days of accepting a charge. Notification normally includes a copy of the charge briefly identifying (a) the charging party, (b) the bases and issue(s) of the allegation, (c) the date of the alleged violation, and (d) an explanation of the employer's obligation to retain records pertaining to the charge. An invitation to mediate the complaint may also be included in the notification package.

Can a small business resolve a charge without an investigation?

Yes! EEOC has a free mediation program. The program is voluntary at all stages of the process. Neutral mediators provide employers and charging parties the opportunity to reach mutually agreeable solutions, while making efficient use of their time and money.

In the event that mediation does not result in a settlement, the charge is referred for investigation. Information disclosed by the parties during the mediation will not be used as a part of EEOC's investigation. Moreover, mediators are bound by confidentiality provisions and may not provide information about the mediation to EEOC investigative staff.

How does EEOC investigate allegations of employment discrimination?

An EEOC investigator asks the employer to respond to the allegations in the charge and provide documentation to substantiate its response. EEOC usually asks for a written answer; however, on-site visits may occur to conduct document reviews and interviews. Although it is not usually necessary, if an employer does not provide the requested information or access, the EEOC may issue a subpoena for access, documents, or testimony. As soon as practical after we receive the position statement and gathering evidence from the employer, EEOC will determine whether to investigate further, propose settlement or dismiss the charge.

What are an individual's rights once the charge has been dismissed?

If EEOC decides that there is insufficient evidence to conclude that a violation exists, the investigator explains the rationale for the decision to the charging party. He or she is given a dismissal notice which includes the right to file a lawsuit in federal court. The statutes EEOC enforces give a charging party the right to proceed in court within 90 days of receiving their dismissal notice. The laws also permit the charging party to choose to proceed to federal court instead of waiting for the EEOC to complete its investigation. In some cases, EEOC may issue a notice of right to sue upon the charging party's request.

What does the EEOC do if it determines that a violation has occurred?

If EEOC decides that there is reasonable cause to believe that discrimination occurred, the investigator explains the rationale to the employer. This is followed by a written determination and invitation to enter into conciliation discussions. The purpose of these discussions is to eliminate the discrimination and provide relief to the charging party and others, if appropriate, without going to court. Negotiations will continue for a reasonable period until the case is resolved or conciliation fails. Conciliation agreements are ordinarily signed by the charging

party, the employer, and the EEOC office director.

Under what circumstances will EEOC pursue a charge in federal court?

If the conciliation efforts fail, EEOC will determine if it will sue a private employer or recommend litigation to the Department of Justice for state and local government employers. If EEOC decides against litigation, the charging party will be given his right to file a lawsuit in federal court.