How to Prevent Race and Color Discrimination

Racial discrimination in the work environment is not only illegal federally, but also creates an environment of mistrust and poor performance. Title VII of the Civil Rights Act of 1964 (Title VII), applies to employers that have at least 15 employees, as well as to state and local governments, employment agencies, labor organizations, and the federal government. Title VII generally prohibits race-based discrimination.

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color or because of a person's connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain color.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.

Race/Color Discrimination and Work Situations
The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Race/Color Discrimination and Harassment
It is unlawful to harass a person because of that person’s race or color.

Harassment can include, for example, racial slurs, offensive or derogatory remarks about a person’s race or color, or the display of racially-offensive symbols. Although the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when 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.

Race/Color Discrimination and Employment Policies or Practices
An employment policy or practice that applies to everyone, regardless of race or color, can be illegal if it has a negative impact on the employment of people of a particular race or color and is not job-related and necessary to the operation of the business. For example, a “no-beard” employment policy that applies to all workers without regard to race may still be unlawful if it is not job-related and has a negative impact on the employment of African-American men (who have a predisposition to a skin condition that causes severe shaving bumps).

Essential Behaviors for Managers and Company Leaders
▲ Respect cultural and racial differences in the workplace.
▲ Be professional in conduct and speech.
▲ Refuse to initiate, participate, or condone discrimination and harassment.
▲ Avoid race-based or culturally offensive humor or pranks. When in doubt, leave it outside the workplace.
▲ Familiarize yourself with the company’s workplace policies and act responsibly.
▲ Equal Employment Opportunity (EEO) principles and learn about your legal rights and responsibilities under the anti-discrimination laws. Also visit www.eeoc.gov for information on discrimination and harassment.
▲ Be pro-active. Report incidents of inappropriate, discriminatory, harassing or abusive behavior to your supervisor, Human Resources department, union, or management.
If you experience or witness discrimination or harassment contact EEOC or your local human rights commission.

**General Guidance**

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 employee 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.