**SHRM Employment Law**

Module 2: Equal Employment Opportunity

A person and person posing for a picture

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Time:  2 minutes

Running time: 2 minutes

**Objective**: Introduce the topic of Equal Employment Opportunity

**Description**:  Introduction to the topic and why it is important.

**Instructional Method**: Lecture/ice breaker

**Script:**

Module Two is an introduction to the fundamental laws that create equal opportunities for employment in the U.S. You will learn that this group of federal laws work together to ideally create a fair and equitable work environment for all employees. However, we don’t live in an ideal world, and we are still developing laws, policies, and procedures to ensure that all workers have equal opportunities in the workplace.

**Facilitator Notes:**

Add your name or any other information to this slide in the subtitle.

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Time:  2 minutes

Running time: 4 minutes

**Objective**: Introduce the learning objectives.

**Description**: Show the objectives.  Answer any questions.

**Instructional Method**: Lecture

**Script**:

Here are the student objectives for this module:

* Define the key terms related to Equal Employment Opportunity
* Determine the appropriate laws to apply to given employment situations.
* Discuss the various laws that support equal opportunity in employment.
* Review affirmative action laws and practices.

**Facilitator Notes:**

Use the objectives topics to create evaluation for the review.

Graphical user interface

Description automatically generated with low confidence**Facilitator Notes:**

Time:  4 minutes

Running time: 8 minutes

**Objective**: Define key terms for Equal Employment Opportunity.

**Description**: Match Key terms to the correct definition.

**Instructional Method**: Game

**Script**:

Let’s play a game to define some key terms used in the compensation and benefits profession.

**Exercise**:  Key terms

1. The instructor will state the definition of each term.
2. Have students choose which term fits the definition.
3. Click to “light up” the correct answer.

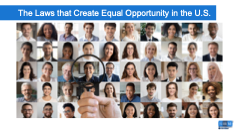
*Virtual*

1. Use chat or annotate/stamp.
2. Read the definition and have students choose the term.

**Facilitator Notes:**

Define Terms:

1. **Affirmative Action**- Affirmative Action laws were created by the government to help create opportunities for historically disadvantaged persons in terms of race, religion, color, sex, and/or national origin.
2. **Equal Pay** - The concept that men and women who perform essentially the same work should receive essentially the same compensation and that differences should be based on skill, effort, responsibility, and working conditions within the same establishment.
3. **Gender Pay Gap** - The difference between what men earn and what women earn for performing the same work.
4. **Reasonable Accommodation** - A “modification or adjustment to a job, the work environment, or the way things are usually done during the hiring process” (DOL.gov).



Time:  2 minutes

Running time: 10 minutes

**Objective**: Transition into Discuss the various laws that support equal opportunity in employment.

**Description**: Transition

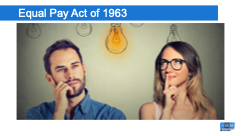
**Instructional Method**: Lecture

**Script**:

As discussed briefly in Module I, we know that employment law is the area that governs all aspects of employment in the U.S. The laws that follow work together to provide a broad foundation of guidance for employers about the way they must deal with their employees and provide advice to employees concerning their rights under the law.

**Facilitator Notes:**

Use handout, *EL study aid 2: U.S. Equal Employment Opportunity Laws,* as a summary for the laws to be reviewed for the remainder of this class.



Time:  10 minutes

Running time: 20 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Equal Pay Act of 1963.

**Instructional Method**: Lecture - Video - Discussion

**Script**:    
Why did we need the Equal Pay Act?

The [Fair Labor Standards Act of 1938](https://www.dol.gov/agencies/whd/flsa) did not have ***equal pay*** provisions included in it when it was originally written. Therefore, it was common for men and women who worked side by side every day doing the same work to earn very different wages. Men made substantially more money than women, simply because they were men, and it was assumed they were worth more money.

The [Equal Pay Act of 1963](https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal/policies/equal-pay-for-equal-work) amended the Fair Labor Standards Act and prohibits employers from paying different wages to men and women for performing the same work. It applies to both men and women, and all forms of compensation.

Of course, the law does allow for legal differences in compensation that are based on skill, effort, responsibility, and working conditions within the same organization.

For example, if a man and woman are hired at the same time for the same job, with the same college degree, but the woman has 6 more years of experience than the man, the organization can legally justify paying the woman a higher starting wage than the man. The amount of experience makes her worthy of a higher wage.

Additionally, a male manager in a firm might make more than a female manager in the same firm because he is responsible for supervising 30 employees in his department, and she only supervises 7 employees. The level of effort required to supervise more employees is more than the effort required to supervise 7 employees.

**Video**: Show videos  
[Equal Pay Public Service Announcement featuring Batman, Batgirl, and Robin!](https://www.youtube.com/watch?v=3LviAKGZxPs) 39 seconds

[*President Lyndon B. Johnson’s Remarks on the Equal Pay Act of 1963*](https://www.youtube.com/watch?v=KDHj_s7aJgQ) 1:54

**Discussion*:***

1. Put students into groups of 3 – 5 (odd number)
2. Have 1 person be the mediator – the other groups “for men” and “for women”
3. Have them debate the Equal pay act.

**Facilitator Notes:**   
Forty[-two states](https://www.paycor.com/resource-center/articles/pay-equity-and-state-by-state-laws/) also have equal pay laws on the books, making it illegal at the state level to discriminate between men and women in terms of compensation as well.

With this many laws in place to enforce equal pay laws, one might think that the U.S. would have eradicated pay disparity. Unfortunately, this is not yet the case. The ***gender pay gap*** is still a concerning issue.

According to the [U.S. Census, in 2020 women made 83 cents for every dollar men made](https://www.census.gov/newsroom/stories/equal-pay-day.html). Both the [U.S. Census](https://www.census.gov/newsroom/stories/equal-pay-day.html) and the [American Association of University Women (AAUW)](https://www.aauw.org/), identify how far  into the year that women have to work to earn as much as men (on average). This date has come to be known as [Equal Pay Day](https://www.aauw.org/resources/article/equal-pay-day-calendar/) and took place on March 13, 2022. These pay equity issues impact people of color and the LGBTQIA+ community even more substantially.  We will discuss this issue more in-depth in Module 3.

**Video:** [*President Lyndon B. Johnson’s Remarks on the Equal Pay Act of 1963*](https://www.youtube.com/watch?v=KDHj_s7aJgQ)1:45

**Video:** [Equal Pay Public Service Announcement featuring Batman, Batgirl, and Robin!](https://www.youtube.com/watch?v=3LviAKGZxPs) 39 Seconds

[**Equal Pay Act 1963**](https://www.eeoc.gov/laws/guidance/equal-pay-act-1963-and-lilly-ledbetter-fair-pay-act-2009)**- “**The Equal Pay Act (EPA) prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions” (EEOC.gov).

**Equal Wages** (EEOC.gov)

* Wages can include more than just hourly or annual pay. Wages include bonuses, company cars, expense accounts, insurance, etc.
* An employer cannot lower the wages of some employees to make wages equal.
* Wages must be in the same form. An employer cannot pay a higher hourly wage to a male employee and then attempt to equalize the difference by periodically paying a bonus to a female employee.
* The EPA speaks in terms of equal work, but the word "equal" does not require that the jobs be identical, only that they are substantially equal. In comparing two jobs for purposes of the EPA, consideration should be given to the actual job duties, not job titles or classifications.

**Skill**- “Measured by factors such as the experience, ability, education and training required to perform a job” (EEOC.gov).

**Effort**- “Amount of physical or mental exertion needed to perform the job” (EEOC.gov).

**Responsibility**- “Usually defined as the degree of accountability required in performing a job. Factors to be considered in determining the level of responsibility in a job include

* Extent to which the employee works without supervision
* Extent to which the employee exercises supervisory functions, and
* Impact of the employee's exercise of his or her job functions on the employer's business” (EEOC.gov).

**Working Conditions**- “Usually consist of two factors:

* Surrounding
* Hazards” (EEOC.gov).



Time:  5 minutes

Running time: 25 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Title VII of the civil rights act 1964.

**Instructional Method**: Lecture - Videos (optional) - Discussion

**Script**:

“Title VII prohibits employment discrimination based on race, color, religion, sex and national origin” (EEOC.gov).

**Discussion**:

**ASK**: Why is this Act so very important? How did it change history?

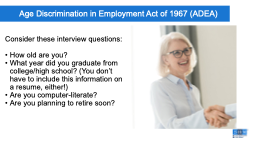
**Facilitator Notes:**

* Applies to employers with 15 or more employees (many states and municipalities have similar laws that apply to employers with fewer employees- so be aware of your local statutes).
* This includes discrimination in compensation, benefits, and incentives as well as in hiring, promotion, and virtually any other employment situation.
* Employers may not discriminate against employees based on sex which includes pregnancy discrimination, sexual orientation, and gender identity. This is a federal law and even if a local city or state has differing laws, the law that benefits the employee the most will take precedence.
* Employers may not allow harassment of protected employees based on race, color, religion, sex, and national origin- intentional or otherwise. Employers must create policies and practices that are non-discriminatory in nature.

**Video:**[*President John F. Kennedy’s Civil Rights Address*](https://www.youtube.com/watch?v=7BEhKgoA86U)13:23  
**Video:**[*President Lyndon B. Johnson signs the Civil Rights Act of 1964*](https://www.youtube.com/watch?v=sQjNESlx5Zc)2:58

**Discussion**:

**ASK**: Why is this Act so very important? How did it change history?



Time:  3 minutes

Running time: 28 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Age Discrimination in Employment Act of 1967 (ADEA)

**Instructional Method**: Lecture - Discussion

**Script**:  This law protects persons 40 and older from being discriminated against in employment, including hiring, promotion, termination, compensation, or terms, conditions, or privileges of employment and applies to employers who have 20 or more employees (DOL.gov).

Enforced by the Equal Employment Opportunity Commission, the [ADEA](https://www.dol.gov/general/topic/discrimination/agedisc) helps limit the power of employers to terminate higher-paid, older workers and replace them to do the same job for lower rates of pay. It also provides protection from being forced into retirement, with the exception of executives who are entitled to a high-paying pension.

What does this mean in practical terms? An employer cannot ask your age, nor can they ask questions concerning retirement, grandchildren, etc.

**ASK**: Consider these interview questions:

* How old are you?
* What year did you graduate from college/high school? (You don’t have to include this information on a resume, either!)
* Are you computer-literate?
* Are you planning to retire soon?

**Facilitator Notes:**

Each of these questions is a violation of ADEA and should not be asked in an interview or as part of the promotional process. An employee must be able to perform the essential functions of the job, regardless of their age. The correct way to determine if an applicant has the necessary technical skills to perform a job is to state those requirements in the job description and in job postings. During the interview, the technical skills requirement can be discussed, and the interviewer may ask if the applicant possesses the required skills, but may not simply assume that an older applicant doesn’t have the skills based on their age, and may not ask how old the applicant is.

Are there protections for persons under 40?

Yes, but only if you are a member of another protected class. Some students struggle with the concept that there are no age protections to prevent them from being terminated or discriminated against because of their young age and inexperience level. However, this is the reality of the law.

**Video:** [How to Spot Age Discrimination in A Job Interview](https://www.youtube.com/watch?v=pweTKlMB4RM) (1:51)

**Video:** [Age Discrimination Food Truck Experiment](https://www.youtube.com/watch?v=UYCxAIqjyCA) (2:14)



Time:  2 minutes

Running time: 30 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Equal Employment Opportunity Act of 1972

**Instructional Method**: Lecture - optional video

**Script**:

The [Equal Employment Opportunity Act of 1972](https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg103.pdf) amended the Civil Rights Act of 1964 to give the EEOC the necessary tools to make it more effective in enforcing the law.

This act did several things:

* Gave the EEOC litigation authority so they could sue employers who violate anti-discrimination laws in federal court..
* Made educational, state and local, and federal governments subject to Title VII.
* Reduced the number of employees from 25 to 15 needed for an employer to be subject to Title VII.
* Extended the time employees have to file complaints from 90 or 120 days to 180 or 300 days.

**Video:** [EEOC.wmv](https://www.youtube.com/watch?v=bQeSZGgh-8U) (7:50)



Time:  2 minutes

Running time: 32 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Rehabilitation Act of 1973

**Instructional Method**: Lecture - optional video

**Script**:

Sections 501 and 505 of the [Rehabilitation Act of 1973](https://www.eeoc.gov/statutes/rehabilitation-act-1973) prohibits employment discrimination against persons with disabilities in the federal sector, and prohibits federally funded programs, agencies, and buildings from discriminating against those with disabilities. This mandatory change brought about a new perspective on the way facilities were designed, what types of accommodations had to be provided and paved the way for the eventual passage of the Americans with Disabilities Act.

**Video:** [“Crip Camp” and the Disability Rights Movement](https://www.youtube.com/watch?v=7i_ZJxVhdhU) (7:01)



Time:  2 minutes

Running time: 34 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Vietnam Era Veterans’ Readjustment Assistance Act of 1974

**Instructional Method**: Lecture - optional video

**Script**:    
The [VEVRAA](https://www.dol.gov/agencies/ofccp/vevraa) is “A law that prohibits federal contractors and subcontractors from discriminating in employment against protected veterans and requires employers take ***affirmative action*** to recruit, hire, promote, and retain these individuals” (DOL.gov).

This act requires multiple actions on the part of federal contractors and subcontractors over a $50,000 (since amended to $100,000) to conduct comply with the orders. Eligible contractors must comply with mandatory job-listing provisions, collect data, set hiring benchmarks, and post information about Veteran’s rights in the workplace.

Many returning Vietnam Veterans were not treated well. Many were the targets of hate speech and physical assault as a result of the anti-war protests and some employers wouldn’t hire them simply because of the negative attention or lack of business it might bring to their organization. The VEVRAA was an attempt to assist these valuable workers in finding quality jobs following their service to the country.

**Video:** [What was It Like Returning Home from the Vietnam War](https://www.youtube.com/watch?v=X_x2Yl7xW8U) (9:05)

Two people sitting at a table

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Time:  2 minutes

Running time: 36 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Uniform Guidelines on Employee Selection Procedures (UGESP) (29 CFR Part 1607) (1978)

**Instructional Method**: Lecture - optional video - Discussion

**Script**:    
[UGESP](https://www.govinfo.gov/content/pkg/CFR-2011-title29-vol4/xml/CFR-2011-title29-vol4-part1607.xml) provides a “framework for determining the proper use of tests and other selection procedures” (govinfo.gov). Many employers use a variety of selection tests throughout their screening processes, both for initial hiring and for promotional purposes. These include cognitive tests, credit checks, personality checks, background checks, and medical exams. These types of assessments are perfectly legal, so long as the tests are job related and non-discriminatory.

**Ask**: What types of pre-employment or employment tests or assessments did you need to take at a job (past or present)?

**Facilitator Notes:**

The EEOC provides some [best practice suggestions](https://www.eeoc.gov/laws/guidance/employment-tests-and-selection-procedures) for testing and selection:

* Employers should administer tests and other selection procedures without regard to race, color, national origin, sex, religion, age (40 or older), or disability.
* Employers should ensure that employment tests and other selection procedures are properly validated for the positions and purposes for which they are used. The test or selection procedure must be job-related and its results appropriate for the employer’s purpose. While a test vendor’s documentation supporting the validity of a test may be helpful, the employer is still responsible for ensuring that its tests are valid under UGESP.
* If a selection procedure screens out a protected group, the employer should determine whether there is an equally effective alternative selection procedure that has a less adverse impact and, if so, adopt the alternative procedure. For example, if the selection procedure is a test, the employer should determine whether another test would predict job performance but not disproportionately exclude the protected group.
* To ensure that a test or selection procedure remains predictive of success in a job, employers should keep abreast of changes in job requirements and should update the test specifications or selection procedures accordingly.
* Employers should ensure that tests and selection procedures are not adopted casually by managers who know little about these processes. A test or selection procedure can be an effective management tool, but no test or selection procedure should be implemented without an understanding of its effectiveness and limitations for the organization, its appropriateness for a specific job, and whether it can be appropriately administered and scored (EEOC.gov).

**Video:** [Uniform Guidelines on Employee Selection Procedures](https://www.youtube.com/watch?v=S4NMWJuc-2k) (2:03)



Time:  5 minutes

Running time: 42 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Pregnancy Discrimination Act of 1978.

**Instructional Method**: Lecture - optional videos - Discussion

**Script**:    
Some employers struggle a lot with pregnancy discrimination because they worry that a woman’s pregnancy will put them at a higher risk for workplace injury claims, they know that they will have to allow at least paid time off (and hold the job) under the [Family Medical Leave Ac](https://www.dol.gov/agencies/whd/fmla)t, and they might even have to pay the employee (depending on state laws) for the time they are off to have a child. Combine that with the possibility of pre-term labor and other pregnancy complications, and pregnancy can be a source of concern for employers. These types of reasons are why women are now protected by the [Pregnancy Discrimination Act](https://www.dol.gov/agencies/oasam/civil-rights-center/internal/policies/pregnancy-discrimination).

**Ask**: Who would like to share any experiences you have had due to pregnancy in the workplace?

**Facilitator Notes:**   
The EEOC enforces two laws related to pregnancy discrimination, the Civil Rights Act of 1963 and the Americans with Disabilities Act. “Title VII and the ADA cover employment discrimination in all aspects of employment, including

* Hiring or the job application and selection process;
* Pay, job assignments, or promotions;
* Training, employee benefits, or any other term or condition of employment; and
* Firing from a job, reduction of hours, layoff, or termination of employment” (EEOC.gov).

The reality is that the Americans with Disabilities Act and the Family Medical Leave Act also cover pregnancy as a temporary disability so employers must make reasonable accommodations under the law for women with high-risk pregnancies. This can include temporary work assignments, light duty, remote work, intermittent time off, and more.

The EEOC provides [Enforcement Guidance on Pregnancy Discrimination and Related Issues](https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues) that students may find useful.

**Video:** [Woman Wins Settlement in Pregnancy Discrimination Case](https://www.youtube.com/watch?v=uKAZrh04gK4) (2:04)

**Video:** [Jury awards mother more than $185M in damages in pregnancy discrimination case against AutoZone](https://www.youtube.com/watch?v=Z6l9nc5yy1E) (1:51)

*Breastfeeding*

Employers are required by law to allow women the opportunity to express breast milk for breastfeeding and must do so in a respectful manner.

“Section 4207 of the Patient Protection and Affordable Care Act provides the following:

* Employers must provide "reasonable break time" for breastfeeding employees to express breast milk until the child's first birthday.
* Employers must provide a private place, other than a bathroom, for this purpose.
* An employer need not pay an employee for any work time spent for this purpose.
* Hourly employees who are not exempt from the overtime pay requirements of the Fair Labor Standards Act are entitled to breaks to express milk.
* Employers with fewer than 50 employees are not subject to these requirements if the requirements "would impose an undue hardship by causing significant difficulty or expense when considered in relation to the size, nature, or structure of the employer's business."
* Nothing in this law preempts a state law that provides greater protections to employees” EEOC.gov).

**Video:** [What are your rights to pump breast milk at work?](https://www.youtube.com/watch?v=LQykuvE6gzE) (5:12)

*Abortion*

Abortion is the latest hot topic in employment law. Under federal law, abortion is covered by the Pregnancy Discrimination Act in terms of insurance coverage and may be covered by the Family Medical Leave Act in terms of a personal health situation (if there are complications that require ongoing medical care), but since the overturn of Roe v. Wade on June 24, 2022, many states have made abortion illegal.

Right now, the jury is still out on how this will impact Pregnancy Discrimination and FMLA long-term.

Some employers are offering benefits for employees who live in states where abortion is illegal to go and have an abortion in another state, including paid time off for the procedure and the recovery.

Some of those same state governments are looking at laws that reward others for reporting suspected abortions and some employers may feel obligated to report to law enforcement authorities if they become aware of an abortion.

The bottom line is this: At the time of this publication, the future is unknown regarding how abortion might impact Equal Employment Opportunity.

**Article Link:** [Overturning Roe v. Wade- What Workers Need to Know](https://www.forbes.com/sites/tomspiggle/2022/07/04/overturning-roe-v-wade--what-workers-need-to-know/?sh=362663ee1155)

**Video:** [SCOTUS Overturns Roe v. Wade- What Employers Should Consider](https://www.youtube.com/watch?v=k-XzhhzHKoI) (2:59)



Time:  5 minutes

Running time: 47 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Americans with Disabilities Act of 1990 (ADA) and amendments.

**Instructional Method**: Lecture - optional video – Discussion

**Script**:

The Americans with Disabilities Act (ADA) is a law that “prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all private places that are open to the general public” (adata.org).

**Ask**:

* What have you noticed built for people with disabilities in offices, transportation, or streets?
* What is a reasonable accommodation for your place of business?

**Facilitator Notes:**

Each of the titles of the law cover particular aspects that relate to employers in various ways. This section of text is quoted directly from the [adata.org website](https://adata.org/factsheet/ADA-overview):

*Title I- Employment*

* Helps people with disabilities access the same employment opportunities and benefits available to people without disabilities.
* Applies to employers with 15 or more employees.
* Requires employers to provide reasonable accommodations to qualified applicants or employees. A “reasonable accommodation” is a change that accommodates employees with disabilities so they can do the job without causing the employer “undue hardship” (too much difficulty or expense).
* Defines disability, establishes guidelines for the reasonable accommodation process, and addresses medical examinations and inquiries.
* Regulated and enforced by the [U.S. Equal Employment Opportunity Commission](http://www.eeoc.gov/laws/types/disability.cfm).

*Title II- Public Services: State and Local Government*

* Prohibits discrimination on the basis of disability by “public entities” such as state and local government agencies. .
* Requires public entities to make their programs, services and activities accessible to individuals with disabilities.
* Outlines requirements for self-evaluation and planning; making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; identifying architectural barriers; and communicating effectively with people with hearing, vision, and speech disabilities.
* Regulated and enforced by the [U.S. Department of Justice](https://www.justice.gov/).

*Title III - Public Accommodations and Services Operated by Private Entities*

* Prohibits places of public accommodation from discriminating against individuals with disabilities. Public accommodations include privately owned, leased, or operated facilities like hotels, restaurants, retail merchants, doctor’s offices, golf courses, private schools, daycare centers, health clubs, sports stadiums, movie theaters, and so on.
* Sets the minimum standards for accessibility for alterations and new construction of commercial facilities and privately owned public accommodations. It also requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense.
* Directs businesses to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities.
* Requires that businesses take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities.
* Regulated and enforced by the [U.S. Department of Justice](https://www.justice.gov/).

*Title IV - Telecommunications*

* Requires telephone and Internet companies to provide a nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing or speech disabilities to communicate over the telephone.
* Requires closed captioning of federally funded public service announcements.
* Regulated by the [Federal Communication Commission](https://www.fcc.gov/).

*Title V - Miscellaneous Provisions*

* Contains a variety of provisions relating to the ADA as a whole, including its relationship to other laws, state immunity, its impact on insurance providers and benefits, a prohibition against retaliation and coercion, illegal use of drugs, and attorney’s fees.
* Provides a list of certain conditions that are not considered disabilities.

*Transportation*

* Public Transportation offered by a state or local government is covered by Title II of the ADA. Publicly funded transportation includes, but is not limited to, bus and passenger train (rail) service. Rail service includes subways (rapid rail), light rail, commuter rail, and Amtrak.
* If transportation is offered by a private company, it is covered by Title III. Privately funded transportation includes, but is not limited to, taxicabs, airport shuttles, intercity bus companies, such as Greyhound, and hotel-provided transportation.
* The U.S. Department of Transportation, [Federal Transit Administration](http://www.fta.dot.gov/ada) releases information, guidance, and regulations on transportation and the ADA.

**So what does this mean in real terms for employers?**

In terms of the workplace, employers are expected to provide ***reasonable accommodations*** for employees. A reasonable accommodation is defined as a “modification or adjustment to a job, the work environment, or the way things are usually done during the hiring process” (DOL.gov). Any employee must be able to perform the essential functions of a job, with or without accommodation, so accommodating employees with disabilities should never be considered a burden. Accommodations come in many shapes and sizes- they can be small, such as providing simple accommodations such as ramps, special software, or individual lighting, they can also be more advanced such as special working conditions, hours, or other individual accommodations.

For example, an employer has an employee whose medical condition makes her cold all the time. She sits at her desk wrapped in clothes, but still struggles to maintain her body heat due to this medical condition. Moving her into an individual office that allows her to maintain an individual temperature is an example of an accommodation. The employee has to be able to successfully complete the work duties, but if providing a temperature-controlled workspace is possible without undue hardship to an employer, then the employer should provide it.

Persons with disabilities have a right to access facilities. For public facilities, this means things like reserved parking spaces, wheelchair-accessible doors, elevators, restrooms, water fountains, etc. Every part of the building those with disabilities might need to access should be considered. Employers should also consider accessibility in terms other than physical as well. Accessibility for those with sight or hearing impairments might need additional resources such as the use of special telephone or communication systems.

**Video:** [How the ADA Changed the Built World](https://www.youtube.com/watch?v=5aiFVhXSvgc) (11:56)



Time:  4 minutes

Running time: 51 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Genetic Information Nondiscrimination Act of 2008 (GINA)

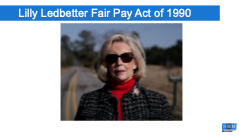
**Instructional Method**: Lecture - optional video

**Script**:    
The [Genetic Information Nondiscrimination Act](https://www.eeoc.gov/laws/guidance/what-you-should-know-questions-and-answers-about-genetic-information) “prohibits the use of genetic information in making employment decisions in any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, or any other term or condition of employment” (EEOC.gov).

Employers are not permitted to gather or use any type of genetic information to make any employment-related decisions.

For example, during the process of checking an applicant’s background, the HR professional Googles the applicant’s name and their name and photo appear on a breast cancer fundraiser website, where the applicant is pictured bald and listed as a cancer survivor. The employer may not use this information to decides not to offer employment because of concerns that the cancer may resurface and could lead to higher insurance premiums and lost time and production.

**Video:** [An Overview of the Genetic Information Nondiscrimination Act of 2008 (GINA)](https://www.youtube.com/watch?v=lfOdDmaFvUs) (6:19)



Time:  4 minutes

Running time: 55 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Lilly Ledbetter Fair Pay Act of 1990

**Instructional Method**: Lecture - optional video

**Script**:    
Still trying to ensure that workers receive fair pay, this law amended the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 that limited an employee’s rights to file a claim of discrimination to within 180 days of its occurrence.

**Facilitator Notes:**

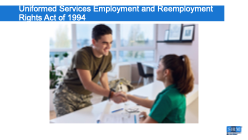
According to the EEOC website:

“Under the Act, an individual subjected to compensation discrimination under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990 may file a charge within 180 (or 300) days of any of the following:

* When a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted;
* When the individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or
* When the individual's compensation is affected by the application of a discriminatory compensation decision or other discriminatory practice, including each time the individual receives compensation that is based in whole or part on such compensation decision or other practice.

**Video:** [Faces of Change: Lilly Ledbetter’s Equal Pay Story](https://www.youtube.com/watch?v=tMxsYqaFwA0) (6:22)

Photo from Video



Time:  5 minutes

Running time: 60 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss the Uniformed Services Employment and Reemployment Rights Act of 1994

**Instructional Method**: Lecture - optional video

**Script**:

The [Uniformed Services Employment and Reemployment Rights Act](https://osc.gov/Services/Pages/USERRA.aspx) “protects military service members and veterans from employment discrimination on the basis of their service and allows them to regain their civilian jobs following a period of uniformed services” (osc.gov). This law applies to all public and private employers in the U.S. and the bottom line is that an employer cannot discriminate against employees on the basis of their military service, must reinstate them when they return from duty, and must accommodate regularly occurring service (such as the Reserves and National Guard).

**Facilitator Notes:**   
**What does this mean for employers?**

* Employers may not discriminate against applicants in hiring, firing, promotion, compensation, or any other benefit due to military service.
* Employers are not required to give preferential treatment to service members.
* Employers may discipline returning employees who do not request reemployment in a timely manner.
* Employers may not have to re-employ service members if they are going out of business, the original position was temporary to begin with, the service member has an injury resulting from service that would create an undue hardship on the employer, the service member received a dishonorable discharge from the military, or the service member exceeded the five-year limit in the law.

**What does this mean for employees?**

* An applicant cannot be discriminated against in hiring due to military service.
* An employee may not be discriminated against in firing, discipline, promotion, or any other benefit offered to other employees due to military service.
* An employee may not be retaliated against for exercising USERRA rights or filing a complaint.
* Employees are placed on leave from the employer when performing military service.
* Returning service member employees must be reinstated to a highly similar position and their compensation and benefits should be fully restored as if they’d not been away.

**Video:** [Understanding Your Rights Under USERRA](https://www.youtube.com/watch?v=YpchlPHBAGo) (7:39)

**Video:** [80th TC JAG USERRA RIGHTS scenario](https://www.youtube.com/watch?v=N2IcVuN1OQI) (3:36) – This one is funny.



Time: 5 minutes

Running time: 65 minutes

**Objective**: Discuss the various laws that support equal opportunity in employment.

**Description**: Discuss Affirmative Action and Executive Order 13672.

**Instructional Method**: Lecture - video

**Script**:

[Affirmative Action](https://www.dol.gov/general/topic/hiring/affirmativeact) laws were created by the government to help create opportunities for historically disadvantaged persons in terms of race, religion, color, sex, and/or national origin.

Affirmative Action was created by President John F. Kennedy when he issued [Executive Order 10925](https://www.presidency.ucsb.edu/documents/executive-order-10925-establishing-the-presidents-committee-equal-employment-opportunity) in 1961- prior to the passage of Title VII. This order required that government employers not discriminate against employees or applicants because of race, creed, color, or national origin, and required that government employers take affirmative actions to ensure this happens.

Women were later added to coverage by [Executive Order 11375](https://www.presidency.ucsb.edu/documents/executive-order-11375-amending-executive-order-no-11246-relating-equal-employment) in 1967.

**Video:** [Affirmative Action](https://www.youtube.com/watch?v=9Pcm00E-DEM) (3:12)

**Facilitator Notes:**   
[According to HG.org:](https://www.hg.org/legal-articles/what-is-affirmative-action-and-why-was-it-created-31524)

The purpose of affirmative action is to promote social equality through the preferential treatment of socioeconomically disadvantaged people. Often, these people are disadvantaged for historical reasons like years of oppression or slavery. However, these laws are not without their opposition. As the original segregation and disparate treatment that led to the creation of these laws has faded, more and more people have called for the abolition of affirmative action. Many have pointed out that selecting someone primarily on the basis of their membership in a protected class than on their actual qualifications can be counterproductive to society as a whole. Indeed, members of protected classes have even begun to call for the abolition of affirmative action, saying that it creates an assumption of lack of qualification and preferential treatment that robs minorities of the respect of their peers. Another problem is the creation of so-called “reverse discrimination,” in which non-protected class members are actually passed over in favor of less qualified diversity candidates.

As a private employer, Affirmative Action might never impact you, but the other laws that prohibit discrimination do apply to you and the expectation of our society is that discrimination in any form is wrong and should be avoided.

**Video:** [Ricci v. DeStefano Case Brief Summary Law](https://www.youtube.com/watch?v=8Wub7nBbzcI) (1:08)

Executive Order 13672

This [Executive Order](https://www.presidency.ucsb.edu/documents/executive-order-13672-further-amendments-executive-order-11478-equal-employment), signed into law by President Obama in 2014, amends and extends Executive Orders 11478 and 11246 to include language adding “sexual orientation and gender identity” to the laws. This makes clarifies that these types of discrimination are prohibited by the federal government.

Executive Order 13672

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Time: 15 minutes

Running time: 80 minutes

**Objective**: Determine the appropriate laws to apply to given employment situations.

**Description**: Students will review the material by answering the questions on the slide.

**Instructional Method**: Pair and share discussions, exercises, homework

**Script:** Now, let’s dive deeper into EEO and employment laws.

**Exercise**:

1. Pair students
2. Have students discuss and answer the first question on the slide.
3. Have students share their answers.

Individual Exercise:

1. Have each student write a one-page answer to question #2
2. Have students get into to groups of 3-5 and discuss their answers
3. Have students share with the entire class (optional)

**State Employment Law Focus**

**Video:** [State and Local Equal Employment Opportunity Laws](https://www.youtube.com/watch?v=ql2JG_z2Y1Y)

**Discussion Prompts**

1. Is it legal for an employer to discriminate on the basis of an applicant’s physical appearance? Support your answer with at least two sources.
2. Which EEO law do you feel impacts you the most and why?

**HR Skills Exercise**

Choose one of the EEO laws that you feel personally relates to you (or does relate to you) in some way. Write a one-page summary of how this law applies to your situation. If none of the laws have ever applied to you, choose one that interests you and conduct research to find real a real case/story to explain the law. You may not choose a case that was cited in the course.

**Case Law in the Spotlight**

* A.V., a child, through his mother and next friend, MICHELLE HANSON v. DOUGLAS COUNTY SCHOOL DISTRICT RE-1, ET AL.- [Discrimination based on disabilities.](https://www.ada.gov/av_douglas_co_soi.html)
* *Coddington v. Adelphi University, 45 f. Sup. 2d 211 (E.D.N.Y. 1999)-* [Discrimination based on learning disabilities.](https://law.justia.com/cases/federal/district-courts/FSupp2/45/211/2498372/)
* *EEOC v. Amma Investment Group, LLC, and Maryland Health Management, LLC d/b/a Nature’s Medicine-* [Discrimination based on sexual orientation and gender identity](https://www.eeoc.gov/fact-sheet-notable-eeoc-litigation-regarding-title-vii-discrimination-based-sexual-orientation-and)*.- Civil Rights Act of 1964*
* *EEOC v. BNV Home Care Agency, Inc.-* [*Unlawful request of protected health information*](http://efaidnbmnnnibpcajpcglclefindmkaj/https:/www.newyorkemploymentattorneyblog.com/files/2014/09/EEOC_v_BNV_HOME_CARE_AGENCY_14-CV-5441.pdf)*- GINA*
* *EEOC v. Daimler Crysler Corp*- [Employer Must Provide Reasonable Accommodation on Pre-employment Test for Hourly, Unskilled Manufacturing Jobs.](https://www.eeoc.gov/laws/guidance/employment-tests-and-selection-procedures) ADA and Test Accommodation.
* *EEOC v. Dial Corp*- [Strength Test Must Be Job-Related and Consistent with Business Necessity If It Disproportionately Excludes Women.](https://www.eeoc.gov/laws/guidance/employment-tests-and-selection-procedures) Physical and strength testing. Adverse impact in employment testing against women due to a misrepresented job requirement.
* *EEOC v*. *Ford Motor Co. and United Automobile Workers of America*- [Less Discriminatory Alternative for Cognitive Test with Disparate Impact.](https://www.eeoc.gov/laws/guidance/employment-tests-and-selection-procedures)Cognitive testing. Adverse impact in employment testing against persons of color.
* *EEOC v. Hawaii Healthcare Proessionals, Inc.-* [Age Discrimination in Employment](https://www.eeoc.gov/newsroom/court-orders-hawaii-healthcare-professionals-and-its-owner-pay-over-190000-age)
* *EEOC v. Houston Funding, 717 F.3d 425 (5th Cir. 2013)-* [*Discrimination based on pregnancy and/or lactation*](https://www.eeoc.gov/fact-sheet-recent-eeoc-pregnancy-discrimination-litigation)*.* Pregnancy Discrimination
* *EEOC v. Porous Materials, Inc.-* [Harassment and Retaliation Suit](https://www.eeoc.gov/newsroom/porous-materials-pay-93000-settle-eeoc-harassment-and-retaliation-suit)*-* EEO Discrimination
* *EEOC v. Unified School District 245 LeRoy-Gridley (USD 245)-* [Pay discrimination on the basis of sex](https://www.eeoc.gov/newsroom/kansas-school-district-pay-11250-settle-equal-pay-act-lawsuit)*.- Equal Pay Act*
* Ledbetter v. Goodyear Tire & Rubber Co. (No. 05-1074) 421 F. 3d 1169, affirmed.- [Every new instance of discrimination restarts the filing clock.](https://www.law.cornell.edu/supct/html/05-1074.ZS.html) - Lilly Ledbetter
* *MACY v. HOLDER-* [Transgender Discrimination](https://www.quimbee.com/cases/macy-v-holder)- Executive Order 136372
* *Monroe v. Standard Oil Co. (1981)-* [*Discrimination against U.S. Armed Services Members*](https://caselaw.findlaw.com/us-supreme-court/452/549.html)
* *Ricci v. DeStefano*, 2009 - [Before taking an action of intentional discrimination in order to prevent disparate impact, an employer must be able to prove that it will be subject to disparate impact liability.](https://ballotpedia.org/Affirmative_action_and_anti-discrimination_lawsuits) - Affirmative Action
* TORRES v. TEXAS DEPARTMENT OF PUBLIC SAFETY- [Employee’s rights to accommodation after military service](http://efaidnbmnnnibpcajpcglclefindmkaj/https:/www.supremecourt.gov/opinions/21pdf/20-603_o758.pdf)- USERRA
* **Relevant Laws: See study aid**
* Executive Order 10925
* Equal Pay Act of 1963
* Civil Rights Acts of 1964, including Title VII
* Age Discrimination in Employment Act of 1967 (ADEA) and amendments
* Equal Employment Opportunity Act of 1972
* Rehabilitation Act of 1973, including sections 501 and 503
* Vietnam Era Veterans’ Readjustment Assistance Act of 1974
* Uniform Guidelines on Employee Selection Procedures (29 CFR Part 1607) (1978)
* Pregnancy Discrimination Act of 1978
* Americans with Disabilities Act of 1990 (ADA) and amendments
* Genetic Information Nondiscrimination Act of 2008 (GINA)
* Lilly Ledbetter Fair Pay Act of 1990
* Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
* Executive Order 13672 (2014)

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Time:  10 minutes

Running time: 90 minutes

**Objective**: Review main points in this module. Determine the appropriate laws to apply to given employment situations.

**Description**:  Be sure that students have a fun way to remember the material.

**Instructional Method**: Game – Review

**Script**:

Let’s see how much we remember about this module.

**Facilitator Notes:**

Review Exercise:  Create a fun game to review the material.  Remember to use the objectives to measure learning:

* Define the key terms related to Equal Employment Opportunity
* Determine the appropriate laws to apply to given employment situations.
* Discuss the various laws that support equal opportunity in employment.
* Review affirmative action laws and practices.
* Have each student submit a question on a piece of paper, crumple it up and toss it in a bucket (clean wastebasket), Instructor will then read them and give points to each team with the correct answer.
* Any game show – Family Feud, Jeopardy, $10,000 pyramid, Password, Tic Tac Toe
* Extra credit quizzes

There are many ways to review material virtually or in person.  Students can use their phones or computers to navigate to various online review websites.

A few are:

* Kahoot
* Quizlet