

# **Handling Discrimination Claims**

**Submitted by Linda C. Ashar**

## *Recognizing the Issue*

### **A. The Causes of Discrimination Claims**

Stereotypical thinking  
Negativity  
False assumptions  
Personality conflicts  
Lack of effective company policy  
Inconsistent application of company policy  
Disparate impact of facially neutral policy  
Favoritism  
Nepotism  
Workplace romance  
Ineffective complaint procedure  
Perception of unfairness  
Lack of or inadequate documentation  
Inaccurate documentation  
The nasty supervisor  
The oblivious supervisor  
The absentee supervisor  
Poor communication among levels of management and management and workers  
Sometimes it really is discrimination

### **B. Avoiding Discrimination Claims – An Ounce of Prevention**

Commitment from the top to diversity in corporate culture  
Complement of the work force - hiring and promotion policies/practices  
Policy clearly and effectively communicated  
Job descriptions  
Management training  
Complaint procedure  
Investigation in-house  
Remediation and nonretaliation

## **Investigation – EEOC**

Despite all good faith practices a charge is filed with the Equal Employment Opportunity Commission (EEOC), the federal agency charged with enforcing the federal employment discrimination laws: Title VII of the Civil Rights Act, as amended; Age Discrimination in Employment Act, Equal Pay Act, Americans With Disabilities Act.

### **Steps in the EEOC Charge Process**

Employee or applicant for employment (called the Charging Party) files a charge with EEOC.

The charge is sent to employer with an extensive request for information consisting of several questions and forms to be completed, plus the option for the alternative for mediation.

If the employer (called the Respondent) and Charging Party agree to mediation, the Mediation process defers the Charge to a separate section of the EEOC.

A mediator is assigned to meet with the parties to attempt to effect a settlement. Settlements can range from nonmonetary reinstatements to monetary settlements and other actions, depending on the nature of the Charge and specific facts of the situation.

Some examples of mediated results include the following:

- *Age discrimination:* In a failure-to-hire situation, Respondent had assumed a 70-year old man was too old to take on delivery duties. Resolution: Respondent/employer agreed to hire the applicant as a probationary employee in accordance with employer's hiring policy; Charge withdrawn with agreement of EEOC;
- *Gender discrimination Title VII:* An existing employee agreed to resign voluntarily with a 6-week severance pay package, nondisclosure agreement, and neutral letter confirming dates of employment and position held;
- *Equal Pay Act and race discrimination:* Professional African-American female employee agreed to resign in exchange for one year's severance in lump sum, positive letter of recommendation and release with nondisclosure;
- *Equal Pay Act and Title VII:* Existing employee continued employment with pay raise to agreed level, modified job description that employer desired, and contractual

termination date of employment in one year; release of claim with nondisclosure included in new employment contract;

- *Sexual harassment claim, Title VII*; Existing female employee charged that male supervisor repeatedly commented on size of her breasts and that she needed to wear a bra to work; accepted \$100 settlement; nonwritten apology from supervisor in mediation meeting; and agreement that Charging Party would wear a bra to work; Respondent agreed to conduct sexual harassment management training; Charge withdrawn with agreement of EEOC.
- *Gender and age discrimination, Title VII and ADEA*: Former employee claimed lack of respect accorded her at work; accepted letter of apology from employer, letter of recommendation for future employers; no money paid in settlement; release signed.

If the parties (usually employer/Respondent) decline mediation or mediation fails to reach settlement of the Charge, then the EEOC file is referred to an Investigator. A date for the employer's response is agreed with the investigator. Note: the initial Charge papers will state a short period of time to respond. This date can be extended by discussion with the investigator. Always confirm the agreed response date(s), meetings, etc., in writing to the investigator.

Do you need a lawyer to respond to a Charge? Technically – no. But it is recommended. This is a legal response to a claim that carries legal liability, called the Respondent's Position Statement. No matter how frivolous the charge may seem, there is the possibility of an investigator digging into it. It may have a plaintiff's lawyer behind it using the Charge as a basis to satisfy administrative remedies as a précis to file a lawsuit and for free discovery.

Also, all those questions on the list that comes with the Charge do not necessarily need to be answered in the first response, or answered in the precise way they are asked. It is also beneficial to utilize and discuss the weight of the statutory authority and case law relevant to the Charge in support of the Respondent's response.

After the EEOC investigator receives the Respondent's Position Statement, he or she will consult with the Charging Party and (1) request further information from the employer in the form of documents and/or management witness interviews, or (2) interview nonmanagement witnesses by phone, or (3) make recommendations for dismissal of the Charge, or (4) make recommendations there is cause to indicate is discrimination may have occurred, or (5) conduct further investigation with the Respondent/employer onsite before reaching a conclusion.

Types of other information requested typically include names of employees who the investigator hears from the Charging Party may have information to provide; copies of personnel files; copies of certain policies or procedures (if not already provided with the Position Statement); request to interview a member of management.

Note: the investigator is not supposed to talk to any member of management without legal counsel if management so requests or if legal counsel is representing the Respondent/employer in the Charge. Likewise a nonmanagement employee can request the employer's counsel be present in an interview and the EEOC investigator must honor the request.

In an onsite investigation the EEOC investigator will review personnel files, look at the employer's EEO postings on its employee bulletin board(s), interview employees and may tour the premises.

Also during an investigation the EEOC will audit the Respondent/employer's employment application to determine if any illegal questions are asked, and for employers of 100 or more employees, will review the current EEO-1 filing. If the Respondent has fewer than 100 employees the EEOC will ask for a listing of employee numbers by race and gender and also age, if it is an age claim. An investigator often reviews the policy and procedure manual for any discrepancies in legal practices. For example: Is there an adequate sexual harassment policy that contains all the necessary elements of definition, prohibition, making a claim, investigation and nonretaliation?

### ***Administrative Issues – Dealing With the Dispute***

In addition to dealing with the EEOC, there are other dynamics of a pending Charge to be considered. Is the Charging Party an active present-tense employee? If so, there are cautionary measures to keep in mind while the dispute is active within the EEOC.

Keep in mind that everything that is done at the EEOC level could progress to a lawsuit.

**RULE 1:** Leave all discussions and activities relating to the dispute in the EEOC! Attempts to have a friendly "Let's resolve this between us" discussion with the employee almost always backfires and results in a second Charge of retaliation based on the first Charge being filed with the EEOC. An employer who wishes to take this approach should use the EEOC's mediation process and invest in the assistance of legal counsel in the process.

RULE 2: Do not freely discuss the fact of the pending Charge in the workplace, even if the Charging Party is not actively working there. It will be necessary to conduct an investigation to properly respond to the Charge, but this must be done with discretion. Again, if the assistance of legal counsel is utilized for this process, the added advantage of the cloak of attorney client privilege in discussions between counsel and management and attorney work product in discussions with counsel and other personnel underscores confidentiality of the process.

RULE 3: Take it seriously. List all possible witnesses and get their statements, even if you may not ultimately need or use them for the EEOC response. They could become useful at a later date and will have been preserved when memories were fresh and witnesses available.

RULE 4: Document control. Once an employer is on formal notice of a dispute, a duty attaches to preserve all records that are in any way related to the claim. All documents must be gathered and secured, with advice of counsel.

RULE 5: Gossip control. Every workplace has it. Minimize it by impressing on employees the matter is not to be discussed, especially their statements and interaction with the Charging Party.

In addition to dealing with the administrative issues related to the discrimination Charge itself, conduct your own candid forensic in-house confidential analysis of what brought the Charge about. Is it truly one of those frivolous charges that was bound to happen sooner or later in the course of doing business? Or, is it the product of a person's or group of people's behavior or corporate practice that, while possibly not intended to be discriminatory, has caused dissension and unrest such that an employee has seized on the discrimination laws as a remedy?

### **Motion Practice**

From EEOC to court. This happens a couple of ways. The Charging Party may have filed the Charge with assistance of legal counsel with the intent of requesting a Notice of Right to Sue from the EEOC, giving the Charging Party his or ticket into federal court.

Or in the course of investigation, the EEOC may dismiss the claim finding either insufficient evidence to establish cause to proceed further with it, or insufficient evidence to commit U.S. governmental resources to pursue it.

In either case, the Charging Party then has the right to bring suit in federal court on his or her own behalf within 90 days of receipt of the EEOC's notice of right to sue. In many types of discrimination claims there is a concurrent right to sue in state court or in both venues at the same time.

In another scenario the EEOC determines to take the case up on behalf of the U.S. Government (finding "cause") and files suit against the employer after trying first to conciliate the claim. Assuming conciliation has failed and the suit is brought, the Charging Party has the right to intervene in the suit alongside the government as a separate party plaintiff.

Early in the lawsuit there are bases to examine for Motions under the Federal Rules of Civil Procedure (FRCP).

### **Motion for More Definite Statement**

The rules permit "notice pleading" in a complaint, sufficing to be a short and plain statement under FRCP 8. This means great detail is not required to set forth the claim against the defendant. Nevertheless, sufficient facts must be pled to give the defendant an understanding of the basis of the claim(s) brought. A poorly pled complaint provides the opportunity to file a Motion for More Definite Statement under FRCP 12(e) which allows a defendant a right to object to a complaint that is so vague and ambiguous that it cannot form a responsive pleading. *See Schaedler v. Reading Eagle Publication, Inc.*, 39 FRD 22, 23 (E.D. Pa. 1965)(granting motion for more definite statement).

Notice pleading used to be something that was an easy standard to meet but discrimination cases have encountered a higher burden since the U.S. Supreme Court's decision in *Bell Atlantic Corp. v. Twombly* (2007), which held that judges can dismiss cases unless

plaintiffs state sufficient facts in their complaints to state a “plausible” claim. *Bell Atlantic* was an antitrust case, but it has since been applied to discrimination cases. **Motion to Dismiss**

FRCP 12 lists various grounds to dismiss, such as statute of limitations, venue (the wrong court), and failure to state a claim upon which relief can be granted. These grounds should always be examined and never be assumed to not apply. Sometimes plaintiffs miss the mark, such as filing a few days too late. They may have missed filing on time in the EEOC in the first place (such as within 180 days of the act of discrimination for an age claim) or file later than the time allowed after the EEOC issues a Notice of Right to Sue.

Consider other dismissal grounds such as whether the correct party has been named, especially corporate parties and individuals. Has proper service of process been made?

### **Motion for Protective Order**

Often parties can mutually reach an agreed protective order to be filed with the court. (FRCP 26) Where this does not happen, a motion may be necessary. An employer needs to be cognizant of protecting confidentiality of business records, trade secrets, employee medical information and other employee information, such as social security numbers. Many types of such information about nonparty employees are frequently requested by plaintiff in discovery. The flip side of motions for protective order are motions to compel, when the other party drags feet on producing needed discovery.

Beware of FRCP, local court rules, and standing judge’s case management orders about discovery dispute issues before filing motions relating to such disputes. These procedures require the parties to try to amicably resolve discovery before going to the court for assistance and proving that such efforts were made.

### **Discovery**

Employers are well-advised to take the plaintiff’s deposition early to lock him or her into the story – all of the who, what, where, when, how. Use employer’s records to obtain important admissions. Find out what documents the plaintiff has and follow the deposition with a document request for those identified documents and requests for admissions.

If the plaintiff has claimed physical or mental ailment as part of damages explore these thoroughly and then follow up with your expert witness after you have the plaintiff committed to record. Look for inconsistencies in the plaintiff's own medical records subpoenaed from the plaintiff's medical providers.

Depose witnesses identified by the plaintiff in his or her deposition testimony.

Follow-up depositions with "clean up" FRCP 33 interrogatories and FRCP 26, 34 requests for production of documents that cover identifying trial witnesses, experts, trial exhibits, and damages.

### **Summary Judgment**

#### **Motion for Summary Judgment**

Many discrimination lawsuits are resolved in an employer's favor on summary judgment. A case may have the appearance of discrimination because the plaintiff has been able to state a *prima facie* case, that is: s/he is a member of a protected class, who received an adverse employment action that constituted disparate treatment from similarly situated employees who are not members of that class.

FRCP 56(c) says that a party is entitled to summary judgment where there is no issue of material fact, and construing the undisputed facts in favor of the nonmoving party, the moving party is entitled to judgment as a matter of law. Simply stated, there is no issue of fact to present to a jury to resolve. Employers frequently prevail on summary judgment where they are able to show that there was a legitimate business reason for decision it made (such as decision not to hire or decision to fire the plaintiff), that the plaintiff received equal treatment, or the conduct complained of is simply not actionable.

Employers currently hold the high road of percentages of success in winning motions for summary judgment.

### **Offer of Judgment FRCP 68**

A handy vehicle under FRCP 68 is an offer of judgment. If a defendant thinks there is some liability and wishes to cut to the chase and limit exposure, FRCP offers an option not available in Ohio state courts. Under the offer of judgment the defendant puts money on the table. If the plaintiff refuses, and thereafter loses the case, the defendant is entitled to an award of costs incurred in continuing defense of the case. FRCP 68 states:

‘At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.’

### **Trial**

#### **How will it play in Peoria?**

Consider a private summary mock trial to see how a sample jury reacts to your witnesses and argument.

#### **Settlement Conference**

Last chance. Generally no parties want the expense of a trial, except maybe the lawyers. Judges will try to get a case settled at this point if nothing has worked so far in the case. Sometimes a plaintiff just wants his/her “day in court.” If this fails the FRCP 68 is an option to consider.

August 13, 2007

MEMORANDUM

TO: All District, Field, Area, and Local Office Directors  
Regional Attorneys

FROM: Nicholas M. Inzeo, Director  
Office of Field Programs

Ronald S. Cooper  
General Counsel

SUBJECT: Timely Notification to Respondents of Receipt of Intake  
Questionnaires or other Correspondence Constituting Charges

The Supreme Court will be considering a case raising the issue of whether a minimally sufficient intake questionnaire that manifested the complainant's intent to file a charge constitutes a charge for timeliness purposes, even though the EEOC failed to docket it and notify the employer. **See Federal Express Corp. v. Holowecki**, No. 06-1322 (U.S.). Although the Court of Appeals found the questionnaire to be a charge, the district court in this case, as well as another circuit court, held that in these circumstances a questionnaire does not constitute a charge, resulting in the loss of the plaintiff's suit rights.

Our field office neglected to send a timely notice of the intake questionnaire. That situation should not have occurred, and this guidance is intended to insure that timely notice of charges is sent. An intake questionnaire or other correspondence can constitute a charge under the statutes we enforce if it contains all the information required by EEOC regulations governing the contents of a charge and constitutes a clear request for the agency to act. EEOC Compl. Man., Vol. I, §§ 2.2(b) and 2.7.

Under the statutes EEOC enforces, we are required to provide notification to the respondent once we receive a charge. Title VII and the ADA provide for EEOC to notify respondents within 10 days of receiving a charge. The ADEA similarly provides for EEOC to provide "prompt []" notice of a charge. Accordingly, if it appears that a perfected charge cannot be docketed and served within ten days of receipt of a correspondence meeting the minimal requirements of a charge, be it a letter or intake questionnaire; staff must take steps to promptly ascertain whether the submitter intended to initiate proceedings and, if so, docket the questionnaire or other correspondence as a charge and serve notice on the respondent within ten days of receipt. Intent can be inferred from a plain reading of the correspondence or determined by contacting the author/submitter. Staff should send respondent notice by mailing a Form 131 accompanied by the charge or by mailing only Form 131 (in situations where sending the charge "would impede the law enforcement function of the Commission)."

These instructions should be sent to all Enforcement and Legal Staff.

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*This page was last modified on September 11, 2007.*

## Facts About Mediation

Mediation is a form of Alternative Dispute Resolution (ADR) that is offered by the U.S. Equal Employment Opportunity Commission (EEOC) as an alternative to the traditional investigative or litigation process. Mediation is an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination. The decision to mediate is completely voluntary for the charging party and the employer. Mediation gives the parties the opportunity to discuss the issues raised in the charge, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreements into resolutions. A mediator does not resolve the charge or impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. The mediation process is strictly confidential. Information disclosed during mediation will not be revealed to anyone, including other EEOC employees.

### How Mediation Works

An EEOC representative will contact the employee and employer concerning their participation in the program. If both parties agree, a mediation session conducted by a trained and experienced mediator is scheduled. While it is not necessary to have an attorney in order to participate in EEOC's Mediation Program, either party may choose to do so. It is important that persons attending the mediation session have the authority to resolve the dispute. If mediation is unsuccessful, the charge is investigated like any other charge.

### Advantages of Mediation

- **Free**  
Mediation is available at no cost to the parties.
- **Fair and Neutral**  
Parties have an equal say in the process and decide settlement terms, not the mediator. There is no determination of guilt or innocence in the process.
- **Saves Time and Money**  
Mediation usually occurs early in the charge process, and many mediations are completed in one meeting. Legal or other representation is optional but not required.
- **Confidential**  
All parties sign a confidentiality agreement. Information disclosed during mediation will not be revealed to anyone, including other EEOC investigative or legal staff.
- **Avoids Litigation**  
Lengthy litigation CAN be avoided. Mediation costs less than a lawsuit and avoids the uncertainty of judicial outcome. **Fosters Cooperation**
- Mediation fosters a problem solving approach to complaints and workplace disruptions are reduced. With investigation, even if the charge is dismissed by EEOC, the underlying problems may remain, affecting others in the workforce and human resources staff.
- **Improves Communication**  
Mediation provides a neutral and confidential setting where both parties can openly

discuss their views on the underlying dispute. Enhanced communication can lead to mutually satisfactory resolutions. ***Discover the Real Issues in your Workplace*** Parties share information, which can lead to a better understanding of issues affecting the workplace.

- ***Design your own Solution***

A neutral third party assists the parties in reaching a voluntary, mutually beneficial resolution. Mediation can resolve all issues important to the parties, not just the underlying legal dispute.

- ***Everyone Wins***

An independent survey showed 96% of all respondents and 91% of all charging parties who used mediation would use it again if offered.

For additional information about the mediation program at EEOC, you may contact the [EEOC field office nearest you](#).

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*This page was last modified on November 1, 2004.*

www.eeoc.gov

# Federal Equal Employment Opportunity (EEO) Laws

## Celebrating the Laws



Celebrating the 40th Anniversary of Title VII: 1964 - 2004

See also ...

- The Equal Pay Act Turns 40: 1963 - 2003
- The Americans with Disabilities Act (ADA): 1990 - 2002

The Federal laws prohibiting job discrimination are:

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, 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;
- the Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older;
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government; and
- the Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces all of these laws. EEOC also provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.

Other federal laws, not enforced by EEOC, also prohibit discrimination and reprisal against federal employees and applicants. The Civil Service Reform Act of 1978 (CSRA) contains a number of prohibitions, known as prohibited personnel practices, which are designed to promote overall fairness in federal personnel actions. 5 U.S.C. 2302. The CSRA prohibits any employee

who has authority to take certain personnel actions from discriminating for or against employees or applicants for employment on the bases of race, color, national origin, religion, sex, age or disability. It also provides that certain personnel actions can not be based on attributes or conduct that do not adversely affect employee performance, such as marital status and political affiliation. The Office of Personnel Management (OPM) has interpreted the prohibition of discrimination based on conduct to include discrimination based on sexual orientation. The CSRA also prohibits reprisal against federal employees or applicants for whistle-blowing, or for exercising an appeal, complaint, or grievance right. The CSRA is enforced by both the Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB).

*Additional information about the enforcement of the CSRA may be found on the OPM web site at <http://www.opm.gov/er/address2/guide01.htm>; from OSC at (202) 653-7188 or at <http://www.osc.gov>; and from MSPB at (202) 653-6772 or at <http://www.mspb.gov> .*

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*This page was last modified on April 20, 2004.*

www.eeoc.gov



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Thank you for using the EEOC Assessment System. The information you gave us indicates that your situation may be covered by the laws we enforce. If you want to file a charge, you can start the process by filling out the Intake Questionnaire, signing it, and either bringing it or mailing it to the EEOC office listed below right away. If you live within 50 miles of the EEOC office listed below, we recommend that you bring the completed questionnaire with you to this office to discuss your situation.

EEOC Cleveland Field  
AJCFB - Suite 3001  
1240 E. 9th St  
Cleveland, OH 44199

If you would like to bring the questionnaire to us in person instead of mailing it to us, please click [www.eeoc.gov/offices.html](http://www.eeoc.gov/offices.html) to find out the office hours of the EEOC office closest to you. If you would like to fax the questionnaire to us, please click [www.eeoc.gov/offices.html](http://www.eeoc.gov/offices.html) to find out the fax number of the office nearest to you.

You should be aware that filing a charge can take up to two hours. If you find that you are having difficulty completing the questionnaire on your own, you may call the number below for assistance.

Please be sure to:

- Answer all questions as completely as possible.
- Include the location where you work(ed) or applied.
- Complete all pages and sign the last page.
- Attach additional pages if you need more space to complete your responses.

You can find out more information about the laws we enforce and our charge-filing procedures on our website at [www.eeoc.gov](http://www.eeoc.gov).

If you want to file a charge about job discrimination, there are time limits to file the charge. In many States that limit is 300 days from the date you knew about the harm or negative job action, but in other States it is 180 days. To protect your rights, it is important that you fill out the questionnaire, sign it, and bring it or send it to us right away.

**Filling out and bringing us or sending us this questionnaire does not mean that you have filed a charge.** This questionnaire will help us look at your situation and figure out if you are covered by the laws we enforce. If you live within 50 miles of the office listed above, we recommend that you bring the completed questionnaire to us to discuss your situation. If you mail the completed questionnaire to us, someone from the EEOC should contact you by mail or by phone within 30 days. If you don't hear from us in 30 days, please call us at **1-800-669-4000**.

Sincerely,

U.S. Equal Employment Opportunity Commission

Phone: 1-800-669-4000

TTY: 1-800-669-6820

Internet: [www.eeoc.gov](http://www.eeoc.gov)

Email: [info@eeoc.gov](mailto:info@eeoc.gov)



**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
INTAKE QUESTIONNAIRE**

Please immediately complete the entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER**, a charge of employment discrimination must be filed within the time limits imposed by law, generally within 180 days or in some places 300 days of the alleged discrimination. Upon receipt, this form will be reviewed to determine EEOC coverage. **Answer all questions as completely as possible, and attach additional pages if needed to complete your response(s). If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "n/a." Please Print.**

**1. Personal Information**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_  
Street or Mailing Address: \_\_\_\_\_ Apt Or Unit #: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
Phone Numbers: Home: (\_\_\_\_) \_\_\_\_\_ Work: (\_\_\_\_) \_\_\_\_\_  
Cell: (\_\_\_\_) \_\_\_\_\_ Email Address: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Sex: Male \_\_\_\_\_ Female: \_\_\_\_\_ Do You Have a Disability? Yes  No

**Please answer each of the next three questions.** i. Are you Hispanic or Latino? Yes  No   
ii. What is your Race? Please choose all that apply.  American Indian or Alaska Native  Asian  
 Black or African American  Native Hawaiian or Other Pacific Islander  White  
iii. What is your National Origin? \_\_\_\_\_

**Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:**

Name: \_\_\_\_\_ Relationship: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: (\_\_\_\_) \_\_\_\_\_ Other Phone: (\_\_\_\_) \_\_\_\_\_

**I believe that I was discriminated against by the following organization(s): (Check those that apply)**

Employer \_\_\_\_\_ Union \_\_\_\_\_ Employment Agency \_\_\_\_\_ Other (Please Specify) \_\_\_\_\_

**2. Organization Contact Information**

**Organization #1 Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_ **County:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **Phone:** (\_\_\_\_) \_\_\_\_\_  
**Type of Business:** \_\_\_\_\_ **Job Location if different from Org. Address:** \_\_\_\_\_  
**Human Resources Director or Owner Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_  
**Number of Employees in the Organization at All Locations:** Please Check (√) One  
Less Than 15  15 - 100  101 - 200  201 - 500  More 500

**Organization #2 Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_ **County:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **Phone:** (\_\_\_\_) \_\_\_\_\_

Type of Business: \_\_\_\_\_ Job Location if different from Org. Address: \_\_\_\_\_

Human Resources Director or Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Number of Employees in the Organization at All Locations: Please Check (✓) One

Less Than 15       15 - 100       101 - 200       201 - 500       More 500

**3. Your Employment Data** (Complete as many items as you can)

Date Hired: \_\_\_\_\_ Job Title At Hire: \_\_\_\_\_

Pay Rate When Hired: \_\_\_\_\_ Last or Current Pay Rate: \_\_\_\_\_

Job Title at Time of Alleged Discrimination: \_\_\_\_\_

Name and Title of Immediate Supervisor: \_\_\_\_\_

If Applicant, Date You Applied for Job \_\_\_\_\_ Job Title Applied For \_\_\_\_\_

**4. What is the reason (basis) for your claim of employment discrimination?**

*FOR EXAMPLE, if you are over the age of 40 and feel you were treated worse than younger employees **or** you have other evidence of discrimination, you should check (✓) **AGE**. If you feel that you were treated worse than those not of your race **or** you have other evidence of discrimination, you should check (✓) **RACE**. If you feel the adverse treatment was due to multiple reasons, such as your sex, religion and national origin, you should check all three. If you complained about discrimination, participated in someone else's complaint or if you filed a charge of discrimination and a negative action was threatened or taken, you should check (✓) **RETALIATION**.*

Race  Sex  Age  Disability  National Origin  Color  Religion  Retaliation  Pregnancy

Other reason (basis) for discrimination (Explain). \_\_\_\_\_

**5. What happened to you that you believe was discriminatory? Include the date(s) of harm, action(s) and include the name(s) and title(s) of the persons who you believe discriminated against you. (Example: 10/02/06 - Written Warning from Supervisor, Mr. John Soto)**

A) Date: \_\_\_\_\_ Action: \_\_\_\_\_

Name and Title of Person(s) Responsible: \_\_\_\_\_

B) Date: \_\_\_\_\_ Action: \_\_\_\_\_

Name and Title of Person(s) Responsible: \_\_\_\_\_

Describe any other actions you believe were discriminatory.

(Attach additional pages if needed to complete your response.)

6. What reason(s) were given to you for the acts you consider discriminatory? By whom? Title?

7. Name and describe others who were in the same situation as you. Explain any similar or different treatment. Who was treated worse, who was treated better, and who was treated the same? Provide race, sex, age, national origin, religion, and/or disability status of comparator if known and if connected with your claim of discrimination. Add additional sheets if needed.

Full Name	Job Title	Description
1.		
2.		
3.		

Answer questions 8-10 only if you are claiming discrimination based on disability. If not, skip to question 11.

8. Please check all that apply:
- Yes, I have an actual disability
  - I have had an actual disability in the past
  - No disability but the organization treats me as if I am disabled

9. If you are alleging discrimination because of your disability, what is the name of your disability? How does your disability affect your daily life or work activities, e.g., what does your disability prevent or limit you from doing, if anything? (Example: lifting, sleeping normally, breathing normally, pulling, walking, climbing, caring for yourself, working, etc.).

10. Did you ask your employer for any assistance or change in working condition because of your disability?

Yes  No

Did you need this assistance or change in working condition in order to do your job?

Yes  No

If "YES", when? \_\_\_\_\_ To whom did you make the request? Provide full name of person \_\_\_\_\_ How did you ask (verbally or in writing)? \_\_\_\_\_

Describe the assistance or change in working condition requested?

11. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and indicate what they will say. Add additional pages if necessary.

NAME	JOB TITLE	ADDRESS & PHONE NUMBER
A.		

NAME	JOB TITLE	ADDRESS & PHONE NUMBER
B.		

NAME	JOB TITLE	ADDRESS & PHONE NUMBER
C.		

12. Have you filed a charge previously in this matter with EEOC or another agency? Yes  No

13. If you have filed a complaint with another agency, provide name of agency and date of filing:

14. Have you sought help about this situation from a union, an attorney, or any other source?

Yes  No  - If yes, from whom and when? Provide name of organization, name of person you spoke with and date of contact. Results, if any?

Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so within either 180 or 300 days from the day you knew about the discrimination. The amount of time you have depends on whether the employer is located in a place where a state or local government agency has laws similar to the EEOC's laws. **If you do not file a charge of discrimination within the time limits, you will lose your rights. If you want to file a charge, you should check Box 1, below. If you would like more information before deciding whether to file a charge or you are worried or have concerns about EEOC's notifying the employer, union, or employment agency about your filing a charge, you may wish to check Box 2, below.**

Box 1

<input type="checkbox"/> I want to file a charge of discrimination, and I authorize the EEOC to look into the discrimination I described above. I understand that <b>the EEOC must give the employer, union, or employment agency that I accuse of discrimination information about the charge, including my name.</b> I also understand that the EEOC can only accept charges of job discrimination based on race, color, religion, sex, national origin, disability, age, or retaliation for opposing discrimination.
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Box 2

<input type="checkbox"/> I want to talk to an EEOC employee before deciding whether to file a charge of discrimination. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.
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**Signature**

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**Today's Date**

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:

1. FORM NUMBER/TITLE/DATE. EEOC Intake Questionnaire (9/20/08).
2. AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626. 42 U.S.C. 12117(a)
3. PRINCIPAL PURPOSE. The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
4. ROUTINE USES. EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or if EEOC becomes aware of a civil or criminal law violation. EEOC may also disclose information to respondents in litigation, to congressional offices in response to inquiries from parties to the charge, to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to federal agencies inquiring about hiring or security clearance matters
5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. The providing of this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge of discrimination. It is not mandatory that this form be used to provide the requested information.

