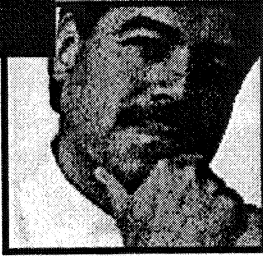


Module 1



Module 1

Module 1

Module 1

Module 1

Module 1

Module 1

Equal Employment Opportunity

Module 1

Module 1



Module 1

Module I

Equal Employment Opportunity

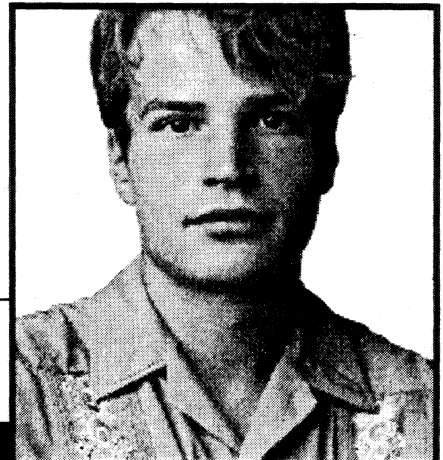
Description: This module is an overview of federal Equal Employment Opportunity (EEO) and affirmative action responsibilities. In this module, you will look at employment civil rights laws, alternative dispute resolution and employment outreach and recruitment.

Objectives: Upon completion of this module, you will be able to:

- Identify employment civil rights laws, purpose and structure.
- Identify prohibited employment activities.
- Identify alternative dispute resolution activities.
- Gain familiarity with compliance requirements.
- Learn about employment outreach and recruitment methods.

Listed below are **lessons** associated with this module.

- Lesson A Employment Civil Rights Laws, Purpose and Structure
- Lesson B Prohibited Discrimination in Employment
- Lesson C Alternative Dispute Resolution
- Lesson D Compliance Requirements
- Lesson E Employment Outreach and Recruitment





Module I

Course: USDA Civil Rights Overview
Module I: Equal Employment Opportunity

Lesson A

Employment Civil Rights Laws, Purpose and Structure

Description: In this lesson, you will examine the different employment civil rights laws, Executive Order 13087 and the purpose and structure of the USDA's civil rights program.

Objectives: Upon completion of this lesson, you will be able to:

- Identify employment civil rights laws and Executive Order 13087.
- Gain familiarity with the purpose and structure of the USDA's civil rights program.

Listed below are the **topics** associated with this module.

Topic 1 Laws: Part I

Topic 2 Laws and Executive Order 13087: Part II

Topic 3 Purpose and Structure





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 1: Laws: Part I

The Civil Rights Act of 1964, Title VII, was the first federal law to prohibit employment discrimination, but it initially excluded the federal government from the definition of employer. Section 701 of Title VII directed the federal government to ensure equal employment opportunity without regard to race, color, religion, sex or national origin.

The Equal Employment Opportunity Act of 1972 amended Title VII by adding Section 717 which provided:

- Coverage for federal employees and applicants for employment.
- Appropriate remedies, such as reinstatement with or without back pay or hiring of employees.
- Filing of civil actions.





Lesson A

Employment Civil Rights Laws, Purpose and Structure Topic 1: Laws: Part I

Example

Civil Rights Act of 1964

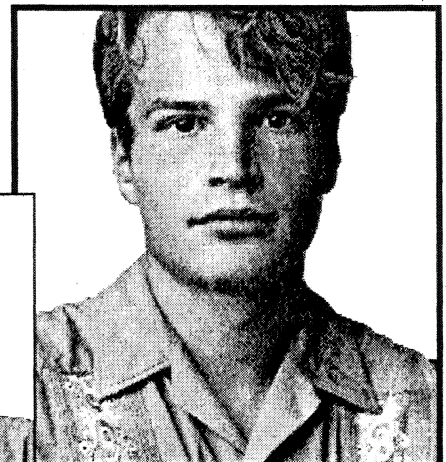
Several co-workers are sitting around in Perry's office eating their sandwiches.

Marc (a young White male): "Did you all see that special on PBS last night on the Civil Rights Movement? That must have been something. Hard to believe that people would feel so strongly about a cause, that they would ride a crowded bus all the way to Washington, DC, just for a march. Perry, were you in any of those marches?"

Perry (a 55-year-old Black male): "Oh, I marched in a few," Perry chuckles. "But you know, what a lot of young people today don't realize is that it wasn't just a cause. It was about our economic survival and the survival of our families. It took a lot of blood, sweat and tears to get the Civil Rights Act passed back in 1964. But if we hadn't done all that marching and boycotting, none of us, including you Marc, would have the equal employment opportunity principles we now take for granted."

Georgia (a 39-year-old White female): "Marc, before Title VII of the Civil Rights Act of 1964, employers didn't have to defend not hiring Blacks, Hispanics, women or anyone else they didn't want working for them. They didn't have to have a reason. If a woman or a minority person was hired, it was usually at the lowest level, and employers could use all kinds of subtle and not-so-subtle methods of intimidation to make sure that person never got promoted. Title VII of the Civil Rights Act of 1964 gave protection from that kind of arbitrary treatment."

Marc: "I never thought of the Civil Rights Act of 1964 as something that benefited me, too. Thanks, to both of you!"





Lesson A

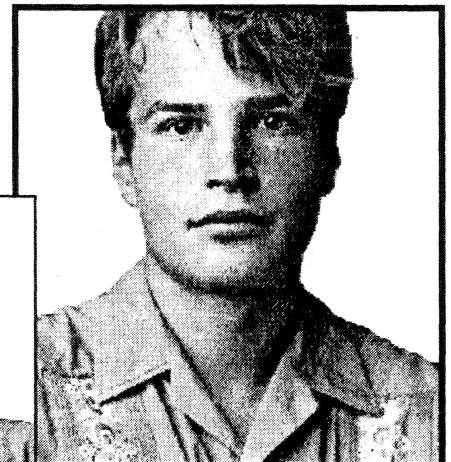
Employment Civil Rights Laws, Purpose and Structure
Topic 1: Laws: Part I

Exercise

Purpose of the 1964 Civil Rights Act

Which of the following statements is true concerning Title VII of the Civil Rights Act of 1964? (Select all that apply.)

- a. Title VII of the Civil Rights Act of 1964 made it illegal to give job assignments based on stereotypes about the abilities of members of a particular race, ethnic group or religion.
- b. When Title VII of the Civil Rights Act of 1964 was initially passed, it applied ONLY to federal employees.
- c. Title VII of the Civil Rights Act of 1964 originally prohibited discrimination based only on race, color, national origin, sex and religion.





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 1: Laws: Part I

Exercise Answers

Answers a and c are correct.

Which of the following statements is true concerning Title VII of the Civil Rights Act of 1964? (Check all that apply.)

a. Correct statement!

Title VII of the Civil Rights Act of 1964 made it illegal to give job assignments based on stereotypes about the abilities of members of a particular race, ethnic group or religion.

Title VII of the Civil Rights Act of 1964 made employment decisions based on stereotypes, rather than job-related factors, illegal. For example, an agency cannot justify nonselection of Black candidates for positions in rural Idaho just because of an assumption that Black people would only be happy living in urban areas.

b. Incorrect statement.

When Title VII of the Civil Rights Act of 1964 was initially passed, it applied ONLY to federal employees.

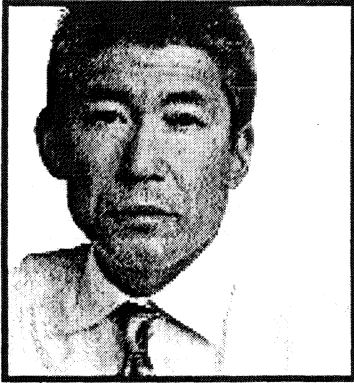
When the Civil Rights Act was passed, it applied ONLY to the private sector. It was not until the Equal Employment Opportunity Act of 1972 that the coverage of the Civil Rights Act was extended to include the federal sector.

c. Correct statement!

Title VII of the Civil Rights Act of 1964 originally prohibited discrimination based only on race, color, national origin, sex and religion.

All of these bases for discrimination were included in Title VII of the Civil Rights Act of 1964.





Lesson A

Employment Civil Rights Laws, Purpose and Structure Topic 2: Laws and Executive Order 13087: Part II

Other acts and an executive order protecting civil rights:

The Equal Pay Act of 1963 prohibits gender discrimination in the payment of wages. Equal wages must be paid to men and women for equal work if the jobs performed require "equal skill, effort and responsibility and are performed under similar working conditions."

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination based on age for individuals 40 years of age or older. ADEA also allows federal employees to bypass the complaint process and proceed directly to Federal District Court.

Section 501 of the Rehabilitation Act of 1973 prohibits employment discrimination against individuals with physical or mental disabilities in the federal sector. The Rehabilitation Act also requires federal agencies to make reasonable accommodation for a qualified applicant for employment or an employee with a disability.

The Pregnancy Discrimination Act of 1978 prohibits discrimination on the basis of pregnancy, childbirth or related medical conditions. Women who are pregnant or have related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

The Civil Service Reform Act of 1978

- Established the Office of Personnel Management (OPM) and the Merit Systems Protection Board (MSPB).
- Allows Equal Employment Opportunity (EEO) complaints, including non-EEO allegations, to be heard by the MSPB.
- Allows for Equal Employment Opportunity Commission review of MSPB cases.

The Civil Rights Act of 1991 provides the following major provisions for the federal sector:

- Compensatory damages.
- Jury trials in cases alleging compensatory damages.
- Interest on back-pay awards.
- Extension of filing time in mixed cases from 30 to 90 days.

Executive Order (EO) 13087, which amended EO 11478, prohibits employment discrimination against any civilian applicant or employee of the federal government on the basis of sexual orientation.





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 2: Laws and Executive Order 13087: Part II

Example

Disability Discrimination #1

Lee is a 43-year-old Asian male who uses a wheelchair. He is an Information Specialist and has applied for the position of Agency Public Affairs Officer. Lee is one of the top three candidates and the only one with a disability.

Lee's interview is conducted by Sondra, the Black female Branch Chief, who will be making the selection. Sondra is very careful to be thoroughly professional in her approach and to ask Lee questions that are **strictly related to duties** of the job for which he is applying.

Example of interview questions and issues:

- Sondra asks Lee to describe his experience as public spokesperson for the local Combined Federal Campaign.
- Sondra asks Lee to describe any experience he has had fielding questions from a reporter.
- Sondra makes no reference to Lee's disability.
- Sondra states that the person selected will be responsible for making all press briefings and that the job may require occasional travel and long hours. She asks Lee whether he would be able to meet those requirements.

Sondra appropriately conducts the interview by not disqualifying Lee because of his disability, but by specifically defining what will be required to fill the position and directly asking Lee if he can meet those requirements.





Lesson A

Employment Civil Rights Laws, Purpose, and Structure
Topic 2: Laws and Executive Order 13087: Part II

Exercise

EEO Programs

Complete the following exercise illustrating how Equal Employment Opportunity has expanded its programs by entering the correct letter to the respective law that applies to a situation involving:

_____ The Age Discrimination in
_____ Employment Act of 1967

_____ Title VII of the Civil Rights Act
_____ of 1964 (sexual harassment)

_____ The Rehabilitation Act
_____ of 1973

_____ The Pregnancy Discrimination Act
_____ of 1978

_____ Executive Order 13087

_____ The Equal Pay Act of 1963

- A. Braille or sign language
- B. Women making less money than men
- C. A gay or lesbian person
- D. A man with provocative, graphic poster in the office
- E. A pregnant woman working at her desk
- F. A 53-year-old person





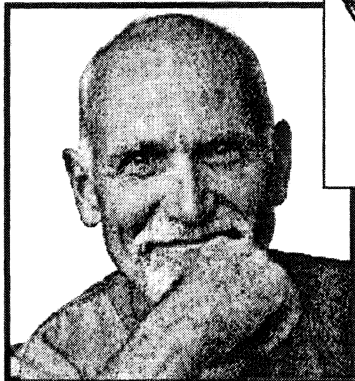
Lesson A

Employment Civil Rights Laws, Purpose, and Structure
Topic 2: Laws and Executive Order 13087: Part II

Exercise Answers

- F** The Age Discrimination in Employment Act of 1967 *A 53-year-old person*
- D** Title VII of the Civil Rights Act of 1964 (sexual harassment) *A man with a provocative, graphic poster in the office*
- A** The Rehabilitation Act of 1973 *Braille or sign language*
- E** The Pregnancy Discrimination Act of 1978 *A pregnant woman working at her desk*
- C** Executive Order 13087 *A gay or lesbian person*
- B** The Equal Pay Act of 1963 *Women making less money than men*





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 3: Purpose and Structure of the Federal EEO Program

The purpose of the federal EEO program is to:

- Eliminate existing unlawful discrimination against federal employees and applicants.
- Prevent future discrimination.
- Address the effects of past discriminatory practices on work force representation of women, minorities and people with disabilities.
- Strive for a federal work force that reflects our nation's diversity.

The structure of the federal EEO program is as follows:

Special Emphasis

- Identifies recruitment strategies to address documented under-representation of women, minorities and people with disabilities.

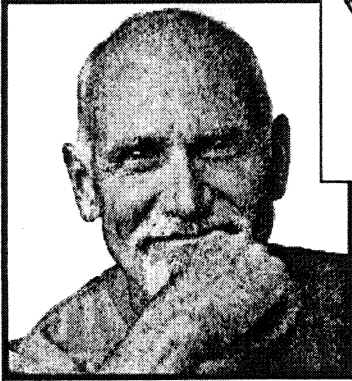
Federal Affirmative Employment Planning

- Identifies under-representation.
- Eliminates policies and practices that contributed to the under-representation.
- Designs strategies to improve employment and advancement opportunities for members of under-represented groups.

Discrimination Complaint Process

- Provides the best possible opportunity for swift resolution of allegations of unlawful discrimination by employees and applicants.





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 3: Purpose and Structure of the Federal EEO Program

Example

EEO Responsibilities

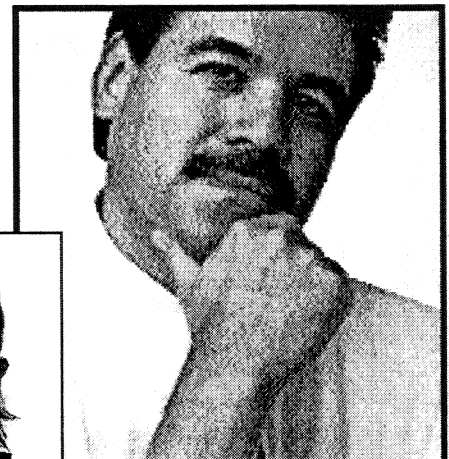
Tony, a 32-year-old Hispanic male, is his agency's Equal Employment Opportunity counselor. He is meeting with Angela, a 26-year-old American Indian female. Angela believes that the recent letter of reprimand she received was due to her supervisor's bias against American Indians.

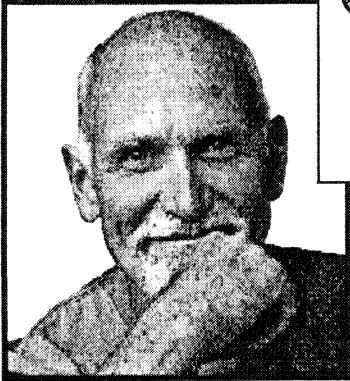
Maria, a 44-year-old American Indian female in the same agency, is the agency's American Indian Employment Program Manager. She is meeting with members of the agency's American Indian Advisory Committee to plan an in-house workshop on resume writing.

Victor, a 50-year-old White male, is the EEO officer for the agency. He is making a presentation to other managers on goals and strategies for recruiting minority college graduates for entry level accounting positions.

Summary point

These people are all a part of our federal EEO program's effort to eliminate discrimination and under-representation and to strive for national diversity.





Lesson A

Employment Civil Rights Laws, Purpose and Structure
Topic 3: Purpose and Structure of the Federal EEO Program

Exercise

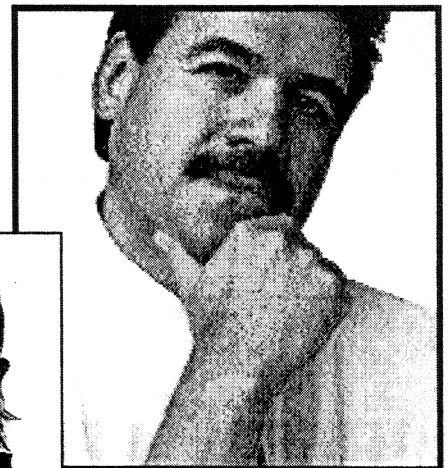
Aaron's Story

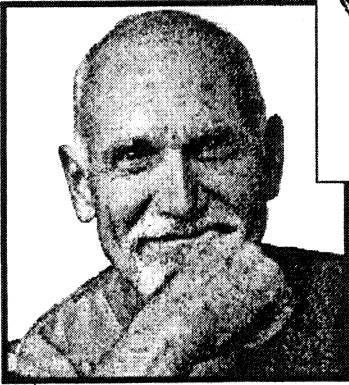
A major purpose of the federal Equal Employment Opportunity program is to eliminate discrimination against federal employees and applicants and to prevent future discrimination. A function of the federal affirmative employment planning process is not only to identify discrimination practices but also to design strategies to improve employment and advancement opportunities for members of under-represented groups.

Aaron, an African-American male, and five of his neighborhood friends are seeking jobs as administrative assistants with a large federal agency located in the downtown federal building in his city. Too late, they discover that the agency has recently filled ten administrative assistant positions with White applicants and is not planning to fill any more vacancies. They learn that the only public announcement of these vacancies was in one of the city's suburban newspapers. Aaron and his friends all file complaints alleging discrimination in the recruitment for these positions.

What can the federal affirmative employment planning process do to ensure that this situation does not happen again? **Circle the correct answer(s).**

- a. Make certain that future positions are advertised in newspapers that are circulated in areas of under-represented portions of the population.
- b. Create a strategy for determining what other avenues of advertisement will enhance the awareness of new positions in the agency.
- c. Replace five of the already hired applicants with Aaron and his friends.





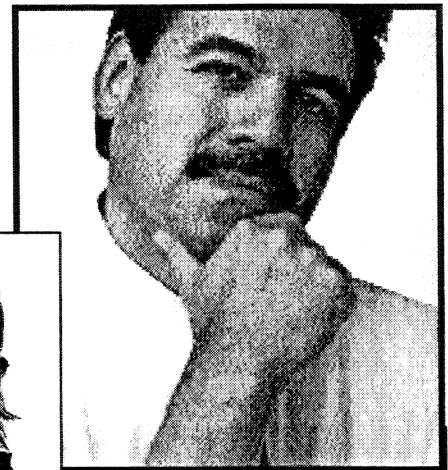
Lesson A

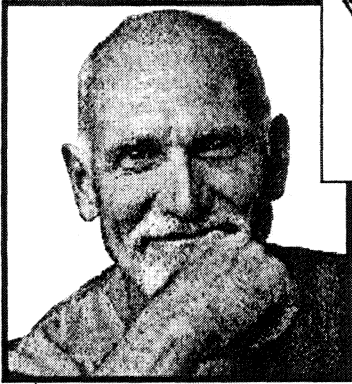
Employment Civil Rights Laws, Purpose and Structure
Topic 3: Purpose and Structure of the Federal EEO Program

Exercise Answers

What can the federal affirmative employment planning process do to ensure that this situation does not happen again? **Circle the correct answer(s).**

- a. **Correct.** Make certain that future positions are advertised in newspapers that are circulated in areas of under-represented portions of the population.
- b. **Correct.** Create a strategy for determining what other avenues of advertisement will enhance the awareness of new positions in the agency.
- c. **Incorrect.** Replace five of the already hired applicants with Aaron and his friends. *This would be unjust treatment to those who were hired.*





Lesson A

Employment Civil Rights Laws, Purpose and Structure

Lesson Summary

1. The purpose of employment civil rights laws is to ensure equal employment opportunity and benefits to all employees and applicants without regard to: (Select all that apply.)

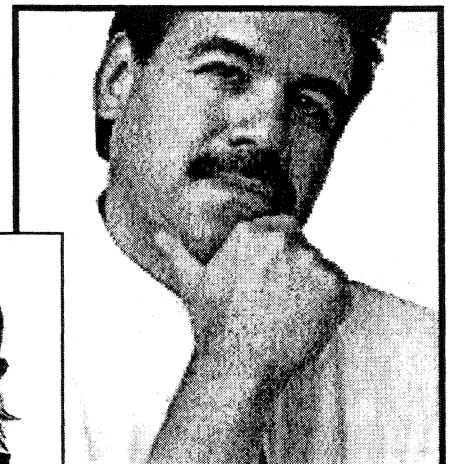
- A. Race
- B. Sex
- C. National origin
- D. Political affiliation

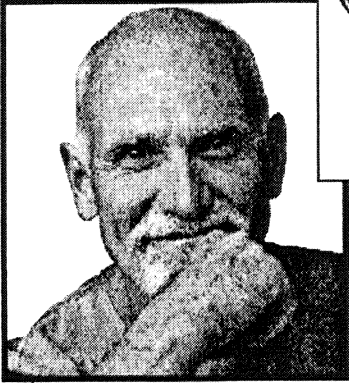
2. The Age Discrimination in Employment Act (ADEA) of 1967 prohibits discrimination based on age for employees and applicants who are at least:

- A. 35 years of age or older
- B. 60 years of age or older
- C. 40 years of age or older
- D. 45 years of age or older

3. The structure of the federal Equal Employment Opportunity (EEO) program is built on: (Select all that apply.)

- A. Special emphasis
- B. Federal affirmative employment planning
- C. Quotas
- D. The discrimination complaint process





Lesson A

Employment Civil Rights Laws, Purpose and Structure

Lesson Summary Answers

1. The purpose of employment civil rights laws is to ensure equal employment opportunity and benefits to all employees and applicants for employment without regard to: (Select all that apply.)

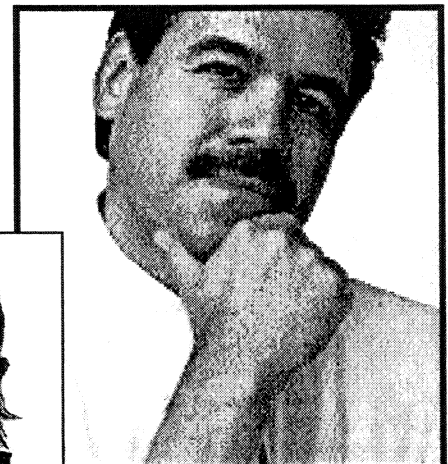
The correct answers are A, B and C. Political affiliation is not a basis of discrimination found in employment civil rights laws. Applicants and employees are also protected from unlawful employment discrimination on the basis of color, religion, age, sexual orientation, disability and equal pay.

2. The Age Discrimination in Employment Act (ADEA) of 1967 prohibits discrimination based on age for employees and applicants for employment who are at least:

The correct answer is C. ADEA also allows federal employees with age complaints to bypass the complaint process and go directly into court.

3. The structure of the federal Equal Employment Opportunity (EEO) program is built on: (Select all that apply.)

The correct answer is A, B and D. The quotas are never used in the federal EEO program.





Course: USDA Civil Rights Overview
Module I: Equal Employment Opportunity

Lesson B

Prohibited Discrimination in Employment

Description: In this lesson, you will examine what are the prohibited forms of discrimination and how they can be identified and eliminated.

Objectives: Upon completion of this lesson, you will be able to:

- Identify the five key components of discrimination.
- Identify five ways discrimination can occur.
- Identify the eight bases for unlawful discrimination.

Listed below are the **topics** associated with this lesson.

- Topic 1 Five Key Components of Discrimination
- Topic 2 Five Ways Discrimination Can Occur
- Topic 3 Race, Color and National Origin
- Topic 4 Sex, Sexual Orientation, Sexual Harassment and Pregnancy
- Topic 5 Religion, Age, Disability and Equal Pay





Lesson B

Prohibited Discrimination in Employment Topic 1: Five Key Components of Discrimination

There are five key components of discrimination:

- | | |
|-------------------------|--|
| Cause | The cause of discrimination is any act, failure to act, policy, practice or procedure. |
| Result | The result of discrimination is an adverse effect on employment opportunities, privileges, benefits or working conditions. |
| Basis | The basis of discrimination is the reason someone believes he or she has been discriminated against: race, color, national origin, religion, sex, age, sexual orientation, disability or opposition to discrimination (retaliation). |
| Motive | Discrimination may be intentional or unintentional. |
| Affected Persons | Affected persons include federal employees, applicants for federal employment or former federal employees (referrals/post-employment benefits). |





Lesson B

Prohibited Discrimination in Employment
Topic 1: Five Key Components of Discrimination

Example

Age/Race Discrimination

John, a 55-year-old African American male, has worked for USDA for 30 years. He began his career while still in college. John has recently felt that his career has become stagnant. He has not received training or a promotion in 10 years. He decides to apply for a new job that would result in a promotion. John is not selected.

John requests a meeting with the selecting official, a former coworker, and asks for feedback as to why he was not selected. John is gently told that he has not kept up with the technological revolution but that the person who was selected has.

John thinks about this honest feedback and then decides to file a civil rights complaint alleging discrimination on the basis of race (Black) and age (55). He has asked for computer training each year, but younger employees were chosen instead of him. The last three hires, furthermore, were of different races than his. Was John discriminated against (based only on the information given)?

CONCLUSION: Based on the information given, John was probably discriminated against. However, more information needs to be provided, such as why he was denied training, and why the new hires were given training.





Lesson B

Prohibited Discrimination in Employment
Topic 1: Five Key Components of Discrimination

Exercise

Unintentional Discrimination

A mortgage lending company is trying to reach out to Asian-Americans in a rural community. They open a branch office in the community where 60 percent of the population is Asian-American. As the mortgage lending company interviews applicants for this new office, they only recruit Asian-Americans, who the company feels will relate better to their customers.

Components of Discrimination: Motive

Discrimination can occur intentionally, but many times it is unintentional.

1. Is this an example of discrimination, even if it was not intentional?

(Circle one)

YES

NO

2. Is unintentional discrimination illegal? (Circle one)

YES

NO





Lesson B

Prohibited Discrimination in Employment
Topic: 1 Five Key Components of Discrimination

Exercise Answers

1. Is this an example of discrimination, even if it was not intentional?

YES is the correct answer.

Even though it may be unintentional, it is still discrimination. The mortgage lending company should make employment opportunities available to all qualified applicants. It can hire a significant amount of Asian-Americans to service the community, but cannot hire ONLY Asian-Americans.

2. Is unintentional discrimination illegal?

YES is the correct answer.

Actions or decisions that have the unintentional effect of discrimination are also illegal.





Lesson B

Prohibited Discrimination in Employment

Topic 2: Five Ways Discrimination Can Occur

Disparate Treatment - Treatment that excludes individuals from employment opportunities or treats individuals unfairly on the basis of their race, color, national origin, sex, age, sexual orientation or disability.

Disparate Impact - An employment policy or practice that appears to be neutral and is applied equally to all employees. However, this policy or practice has the effect of unfairly excluding groups of people on the basis of their race, color, national origin, religion, sex, age, sexual orientation or disability.

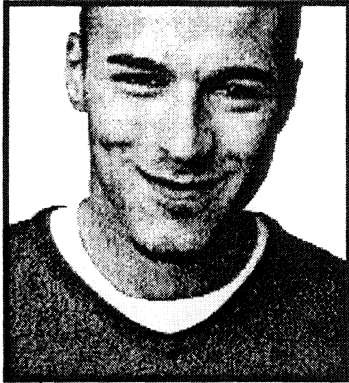
Accommodation of Religion - Federal agencies are required to accommodate the religious beliefs or practices of an individual. Exceptions to this rule include the accommodation being unreasonable, creating an undue hardship on the agency, or if the employee or candidate was not otherwise qualified for the employment opportunity.

Accommodation of Disability - Federal agencies are required to make reasonable accommodation in the application process or essential job functions for any "qualified" individual applying for employment or employed by the agency.

Retaliation (also known as reprisal) - Retaliation is any act of discrimination, restraint, interference or pressure against an individual because he or she has:

- Filed or stated an intention to file an EEO complaint or lawsuit.
- Participated or stated an intention to participate in any stage of an EEO complaint or lawsuit as a representative, witness, counselor or other capacity.
- Opposed discrimination.





Lesson B

Prohibited Discrimination in Employment

Topic 2: Five Ways Discrimination Can Occur

Example

Religious Accommodation

Daniel, a 34-year-old Jewish male who wears a yarmulke, walks up to his supervisor, Pete, a 53-year-old White male. Daniel asks him whether he can take a week of annual leave the following month so he can be with his parents during the High Holy Days.

"Get out of here," Pete shouts.

Daniel hangs his head and starts to walk away. Pete calls after him. "You know that's our busiest time. They're going to be breathing down our necks to get the financial reports done. Forget it! Maybe I'll let you have off that other holiday that all you people have. What's it called? Hanukkah?"





Lesson B

Prohibited Discrimination in Employment
Topic 2: Five Ways Discrimination Can Occur

Exercise

Disparate Treatment Discrimination

Disparate Treatment, Disparate Impact.

Test your understanding of what makes a situation discriminatory.

Cindy, a White female, is not selected for a customer service representative position in one of the agency's field offices. Instead, a Black female is selected. The reason for Cindy's nonselection is that the selecting official felt Cindy would not be able to establish rapport with the field office's customers, most of whom are Black.

Why is this situation discriminatory? (Circle the correct answer.)

- A. Cindy's nonselection is an example of reprisal.
- B. Cindy's nonselection is an example of disparate treatment.
- C. Cindy's nonselection is an example of disparate impact.





Lesson B

Prohibited Discrimination in Employment
Topic 2: Five Ways Discrimination Can Occur

Exercise Answers

- a. Incorrect Cindy's nonselection is not an example of reprisal.
- b. Correct Cindy's nonselection is an example of a candidate being treated differently because of his or her race - a form of disparate treatment.
- c. Incorrect Cindy's nonselection is not an example of disparate impact.





Lesson B

Prohibited Discrimination in Employment Topic 3: Race, Color and National Origin

Discrimination Based on Race (Title VII, Civil Rights Act of 1964): The denial of any employment opportunity on the basis of an individual's race.

Discrimination Based on Color (Title VII, Civil Rights Act of 1964): The denial of any employment opportunity on the basis of an individual's skin color, shade, tone or complexion.

Discrimination Based on National Origin (Title VII, Civil Rights Act of 1964): The denial of any employment opportunity on the basis of an individual's national origin. National origin refers to an individual's country of origin, birthplace or cultural identity.

Exceptions:

A rule requiring employees to speak only English at all times on the job may be a form of illegal discrimination. The exception would be if the employer can show that English is necessary for conducting business. If an employer believes that the English-only rule is critical for business purposes, employees have to be told when they must speak English and the penalty for violating the rule.





Lesson B

Prohibited Discrimination in Employment
Topic 3: Race, Color and National Origin

Example

Subtle Discrimination

Anytime an employer allows a person's hereditary characteristics or racial identity to influence an employment decision or workplace condition to that person's disadvantage, the employer is guilty of race discrimination.

The bias that influences racially discriminatory actions can be subtle, such as a subconscious need to preserve a personal comfort level by surrounding oneself with people with similar genetic characteristics. Once such a pattern is established, the racial discrimination is often perpetuated in subsequent decisions for years to come.





Lesson B

Prohibited Discrimination in Employment Topic 3: Race, Color and National Origin

Exercise

Robert's Story

Robert, a Black male in his mid-twenties

"A month ago, I applied for a GS-13 Section Chief vacancy in one of the other sections in the division. I just found out before coming to this class that a White co-worker, Bill, was selected. Bill and I both came into the section at about the same time, held identical positions and had the same amount of education. When I asked Hector, our Division Chief, why I didn't get the job, he told me it was because I didn't have prior supervisory experience. Bill had the edge over me because he had served as Acting Section Chief on a number of occasions."

"I was pretty upset and I told Hector that the reason I didn't have any 'acting supervisory' experience like Bill was because I had never been asked to take on that role. Looking back, I realize that every time Karen, our Section Chief, went on leave, she always asked Bill to step in for her. Sure, it used to annoy me because Karen always seemed more comfortable around Bill. I think they went to the same high school together and belong to the same church. I should've complained when it first started, but how did I know that Bill's acting assignments were going to give him an advantage over me come promotion time? As soon as I get back, I intend to talk to an EEO counselor about this."

What should Hector or Karen have done differently to avoid the potential for a discrimination complaint? (Circle the correct answers.)

- A. Hector should have simply told Robert that he did not meet the requirements for the job and nothing more.
- B. The agency should have noncompetitively promoted Bill into the job instead of advertising it.
- C. Karen should have rotated the opportunity to be her acting replacement equally among all her subordinate GS-12s including Bill and Robert.
- D. Hector should have automatically selected Robert to avoid potential for a race complaint.





Lesson B

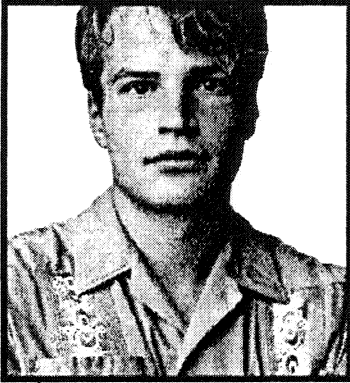
Prohibited Discrimination in Employment
Topic 3: Race, Color and National Origin

Exercise Answers

What should Hector or Karen have done differently to avoid the potential for a discrimination complaint? (Circle the correct answers.)

- A Incorrect Although Hector did not owe Robert any information about the qualification of the person selected, Robert was entitled to know how his own qualifications failed to meet the requirements for the job.
- B Incorrect Robert would still have had a basis for a discrimination complaint.
- C Correct This would have eliminated the potential for a very common basis for discrimination complaints--inequitable distribution of developmental assignments among subordinates. Managers and supervisors should be aware that by not giving all subordinates an equal opportunity for special assignments and developmental experiences, they are engaging in discriminatory practices.
- D Incorrect Unless Hector is able to define his selection based on Robert's job-related qualifications, Bill could have the basis for a race-discrimination complaint.





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Discrimination Based on Sex (Title VII, Civil Rights Act of 1964): The denial of employment opportunity based on an individual's sex. Both male and female federal employees and applicants are equally protected from discriminatory actions and harassment based on gender.

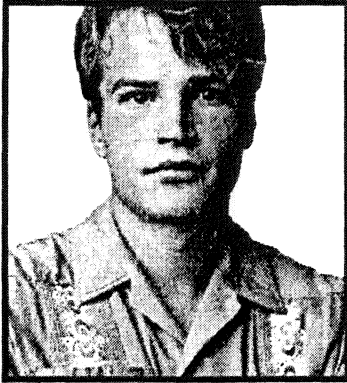
Discrimination Based on Sexual Orientation (Executive Order 13087): This Executive Order prohibits discrimination on the basis of sexual orientation in the federal civilian work force. This Executive Order did not establish appeal rights to the Equal Employment Opportunity Commission (EEOC) or federal district courts.

Sexual Harassment (Title VII, Civil Rights Act of 1964): The EEOC defines sexual harassment as unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:

- Submission to sexual conduct is made either directly or indirectly as a term or condition of employment.
- Submission to, or rejection of, sexual conduct by an individual is used as the basis for employment decisions affecting the individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile or offensive working environment.

Pregnancy Discrimination (Pregnancy Discrimination Act of 1978 and Title VII, Civil Rights Act of 1964): The denial of employment opportunity and benefits on the basis of pregnancy, childbirth or any other related medical condition.





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Example #1

Sex Discrimination

Examples of Sex Discrimination:

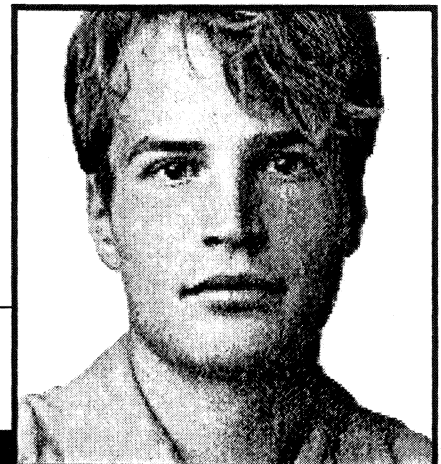
Giving more supervisory coaching and mentoring to members of one gender than to members of the other.

Assigning high-visibility, high-prestige tasks predominately to members of one gender.

Using inappropriate terms of endearment to members of a particular gender.

Excluding members of a particular gender from "nontraditional" developmental assignments, for example, information systems, nursing, mechanics, human resources or law enforcement.

Arbitrarily disqualifying female applicants who are pregnant or of child-bearing age from certain positions or assignments because of employer-perceived risk.





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Example #2

Examples of Sexual Harassment

Quid Pro Quo: Jane was fired for calling in sick. Male employees who called in sick were not fired. She believes that she was fired because she refused to submit to the sexual demands of a supervisor.

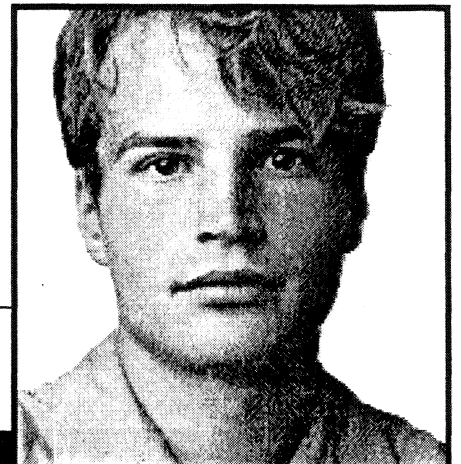
Physical Contact: A woman is sitting at her desk, and a man comes up behind her and massages her shoulders.

Pin-Ups/Posters: A woman is sitting at her desk. She has several pin-up posters on her wall.

Dirty Jokes: Every time the photocopy repair technician shows up to fix the machine, he tells dirty jokes.

Ogling or Staring: A man is looking at a woman walking toward him. He is obviously staring at her.

Personal Space: A woman is helping a man with some work on his desk. She is sitting uncomfortably close to him.





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Example #3

Sexual Orientation

Steve started working in a temporary position as a data entry clerk for a government accounting office. Steve so impressed management that soon after he started, he was promoted to a permanent position, with a large increase in pay. While working in the accounting office, Steve received several letters of commendation for his outstanding service.

A year later Steve brought his significant other, John, to a holiday party. The following week, the Section Chief called Steve into his office. "People find your personal preference offensive," he told Steve. When Steve asked whether he was referring to his being gay, the Section Chief responded, "It just makes people feel too uncomfortable!"

Several weeks later, the Section Chief demoted Steve back to data entry clerk, with a significant decrease in pay. Two months later, Steve was told that he had to be laid off due to a reduction in force.





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Exercise

Types of Sexual Discrimination

Select a discrimination type from below and enter it next to the appropriate story.

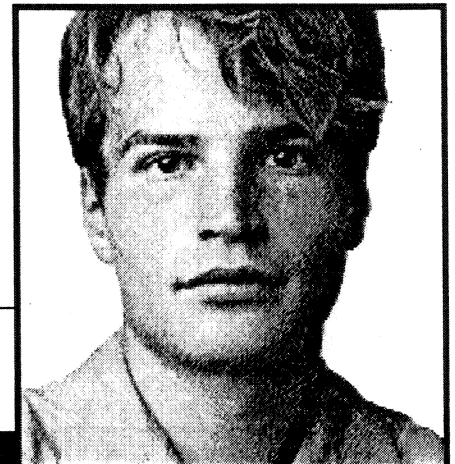
_____ **Stacy's Story:** When a field inspector job opened up, Stacy applied and made the best-qualified list. She was really disappointed when one of the men on the crew was selected. Stacy expected Al, her supervisor, to tell her it was because most of her experience was in research. Stacy couldn't believe it when he told her that it was because she was pregnant. He didn't think that Stacy should apply for such a strenuous job, even though her doctor had given her a green light to perform field inspector work.

_____ **Overnight Business Trip:** Whenever female candidates are considered for out-of-town business trips, their supervisor always asks them if they have their husband's permission to make overnight trips. Of course, the male candidates are never asked if they have their wives' permission.

_____ **Honesty Not the Best Policy:** Ellen, who works as a receptionist at a government agency, is open and honest about the fact that she is lesbian. She has received outstanding ratings by her supervisor in her performance reviews. The office manager, however, feels that Ellen has been giving the office a "bad name" because of her sexual orientation. The office manager met with Ellen several times and warned her to keep her sexual orientation under cover. After several warnings, Ellen was let go due to "continued insubordination."

_____ **Renee's Predicament:** Martha's conduct toward Renee, a coworker, has sexual overtones. Renee is uncomfortable with Martha's conduct but does not report her discomfort to management. Renee thinks that since she and Martha are both female, she does not have grounds to file a complaint.

- A. Discrimination based on sex
- B. Discrimination based on sexual orientation
- C. Sexual harassment discrimination
- D. Pregnancy





Lesson B

Prohibited Discrimination in Employment

Topic 4: Sex, Sexual Orientation, Sexual Harassment and Pregnancy

Exercise Answers

D

Stacy's Story: When a field inspector job opened up, Stacy applied and made the best-qualified list. She was really disappointed when one of the men on the crew was selected. Stacy expected Al, her supervisor, to tell her it was because most of her experience was in research. Stacy couldn't believe it when he told her that it was because she was pregnant. He didn't think that Stacy should apply for such a strenuous job, even though her doctor had given her a green light to perform field inspector work.

A

Overnight Business Trip: Whenever female candidates are considered for out-of-town business trips, their supervisor always asks them if they have their husband's permission to make overnight trips. Of course, the male candidates are never asked if they have their wives' permission.

B

Honesty Not the Best Policy: Ellen, who works as a receptionist at a government agency, is open and honest about the fact that she is lesbian. She has received outstanding ratings by her supervisor in her performance reviews. The office manager, however, feels that Ellen has been giving the office a "bad name" because of her sexual orientation. The office manager met with Ellen several times and warned her to keep her sexual orientation under cover. After several warnings, Ellen was let go due to "continued insubordination."

C

Renee's Predicament: Martha's conduct toward Renee, a co-worker, has sexual overtones. Renee is uncomfortable with Martha's conduct but does not report her discomfort to management. Renee thinks that since she and Martha are both female, she does not have grounds to file a complaint.

- A. Discrimination based on sex
- B. Discrimination based on sexual orientation
- C. Sexual harassment discrimination
- D. Pregnancy





Lesson B

Prohibited Discrimination in Employment
Topic 5: Religion, Age, Disability and Equal Pay

Discrimination Based on Religion (Title VII, Civil Rights Act of 1964): The denial of employment opportunity on the basis of an individual's religious belief is prohibited. The Equal Employment Opportunity Commission (EEOC) considers religion to include any sincere ethical or moral beliefs about what is right or wrong and which are sincerely held; it gives these beliefs the same recognition as traditional religious views, observances or practices.

Age Discrimination (Age Discrimination Employment Act of 1967): The denial of employment opportunity on the basis of an individual's age (40 and older) is prohibited.

Disability Discrimination (Section 501 of the Rehabilitation Act of 1973): The denial of employment opportunity to any "qualified" individual who has a physical or mental disability, a history of disability or is regarded as being disabled is prohibited. To be protected under law, the individual must have a disability, as defined by the EEOC, and be qualified at his or her job.

Sex Discrimination - Unequal Pay (Equal Pay Act of 1963): The denial of equal pay on the basis of sex is prohibited. Men and women must receive equal pay for equal work.





Lesson B

Prohibited Discrimination in Employment
Topic 5: Religion, Age, Disability and Equal Pay

Example

Disability Discrimination #2

Marcia is a 33-year-old female who is blind. She thought she did well at her first round interview for a middle management opportunity in a customer service department.

John, Marcia's interviewer, felt that even though Marcia was qualified, she might be considered high maintenance (someone who would always need extra help) by **Cynthia**, the Customer Service department head.

John mentioned this to Cynthia in passing and added, "There is another person a little better suited for the job who I am bringing in for the second round before we even need to consider Marcia..."





Lesson B

Prohibited Discrimination in Employment Topic 5: Religion, Age, Disability and Equal Pay

Exercise

Employment Discrimination

Complete the following exercise on employment discrimination. Match the scenario with the type of discrimination.

- _____ Sam was passed over out of fear that he might be a "religious fanatic" because he wore a religious necklace outside of his collar at both his first- and second-round interviews.
- _____ Joe was not offered a position or a promotion as a creative director even though he was best qualified for the position. The fear was that he might no longer be able to "keep up with cutting-edge technology" because of his age.
- _____ Marcia was denied a second round interview for a customer service position because there was fear of how "high maintenance" she might be because of her blindness. Marcia has successfully held two previous similar positions with no problems or complaints.
- _____ Mary was chosen over Tom for a management position because upper management assumed that Mary would settle for a lesser salary than Tom. Both individuals are about the same age with very similar experience and qualifications.

- A. Disability discrimination
- B. Discrimination based on religion
- C. Sex discrimination
- D. Age discrimination





Lesson B

Prohibited Discrimination in Employment
Topic 5: Religion, Age, Disability and Equal Pay

Exercise Answers

Complete the following exercise on discrimination of employment. Match the scenario with the type of discrimination.

B Sam was passed over out of the fear that he might be a "religious fanatic" because he wore a religious necklace outside of his collar at both his first- and second-round interviews.

D Joe was not offered a position or a promotion as a creative director even though he was best qualified for the position. The fear was that he might no longer be able to "keep up with cutting-edge technology" because of his age.

A Marcia was denied a second round interview for a customer service position because there was fear of how "high maintenance" she might be because of her blindness. Marcia has successfully held two previous positions similar to this with no problems or complaints.

C Mary was chosen over Tom for a management position because upper management assumed that Mary would settle for a lesser salary than Tom. Both individuals are about the same age with very similar experience and qualifications.

- A. Disability discrimination
- B. Discrimination based on religion
- C. Sex discrimination
- D. Age discrimination





Lesson B

Prohibited Discrimination in Employment

Lesson Summary

1. The key components of discrimination are:

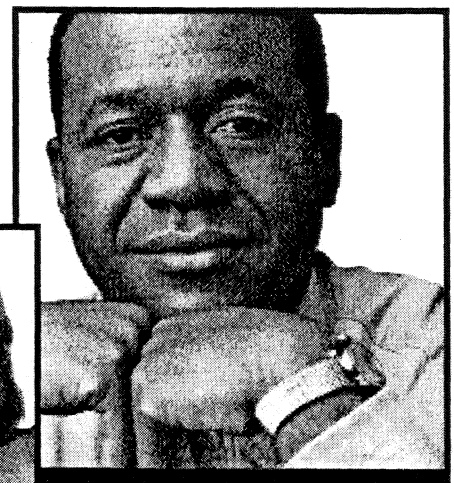
- A. Cause, effect, motive and affected person
- B. Cause, result, basis, motive and affected person
- C. Motive, result, effect and affected person
- D. Basis, motive, cause and result

2. An applicant for employment and an employee can request an accommodation on the basis of: (Select all that apply.)

- A. Religion
- B. Race
- C. Sex
- D. Disability

3. Discrimination based on color refers to the individual's: (Select all that apply.)

- A. Complexion
- B. Shade
- C. Skin color
- D. Tone





Lesson B

Prohibited Discrimination in Employment

Lesson Summary (continued)

4. True or False? USDA employees or applicants for employment cannot be denied an employment opportunity on the basis of their gender or sexual orientation. The law and USDA nondiscrimination policies protect both males and females.

- A. True
- B. False

5. It is illegal to discriminate against an employee's ethical, moral or religious beliefs, which are:

- A. In line with traditional religion.
- B. Sincerely held with the strength of traditional religious views, observances or practices.
- C. Based on Christianity or Judaism.





Lesson B

Prohibited Discrimination in Employment

Lesson Summary Answers

1. The key components of discrimination are:

The correct answer is B. Cause, result, basis, motive and affected person are the five key components of discrimination.

2. An applicant for employment and an employee can request an accommodation on the basis of: (Select all that apply.)

The correct answers are A and D. Federal agencies are required to make reasonable accommodations for a qualified individual with a disability and for the religious beliefs or practices of an individual.

3. Discrimination based on color refers to the individuals: (Select all that apply.)

The correct answers are A, B, C and D. Discrimination based on color refers to the individual's complexion, shade, skin color and tone.





Lesson B

Prohibited Discrimination in Employment

Lesson Summary Answers (continued)

4. True or False? USDA employees or applicants cannot be denied an employment opportunity on the basis of their gender or sexual orientation. The law and USDA nondiscrimination policies protect both males and females.

The answer is true. Title VII of the Civil Rights Act of 1964 protects individuals on the basis of sex, both men and women. Executive Order 13087 prohibits discrimination on the basis of sexual orientation.

5. It is illegal to discriminate against an employee's ethical, moral or religious beliefs, which are:

The correct answer is B. The Equal Employment Opportunity Commission considers religion as any sincere ethical or moral belief about what is right or wrong. In addition, the religion must be sincerely held with the strength of traditional religious views, observances or practices.





Module 1

Course: USDA Civil Rights Overview
Module I: Equal Employment Opportunity

Lesson C

Alternative Dispute Resolution

Description: In this lesson, you will look at the concepts, principles and activities of alternative dispute resolution (ADR).

Objectives: Upon completion of this lesson, you will:

- Become aware of ADR and its role in Equal Employment Opportunity conflict resolution.
- Identify mediation principles and procedures.

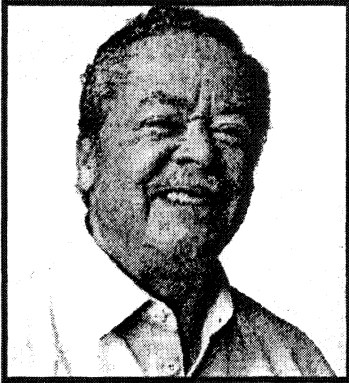
Listed below are the **topics** associated with this lesson.

Topic 1 Introduction to Alternative Dispute Resolution

Topic 2 Mediation

Topic 3 Informal Resolution Procedures





Lesson C

Alternative Dispute Resolution (ADR)

Topic 1: Introduction to ADR

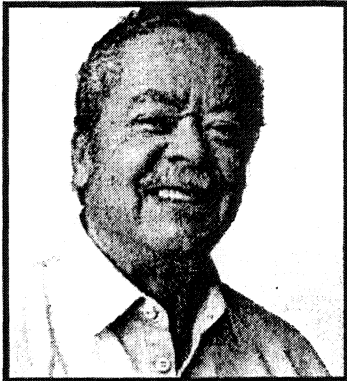
If someone believes that he or she has been discriminated against at work, he or she should immediately **contact an Equal Employment Opportunity (EEO) counselor** within 45 days of the alleged discriminatory conduct to discuss the matter. As of January 1, 2000, one of the many ways that the USDA attempts to resolve discrimination complaints is through the Alternative Dispute Resolution (ADR) process.

ADR is a voluntary mediation process available both during the **pre-complaint** (counseling) and the **formal complaint** stages. ADR uses a variety of dispute resolution techniques that involve an impartial, trained third party. The goal of ADR is to help people reach a resolution to their dispute, informally and quickly.

Some ADR core principles are:

- | | |
|----------------------------------|---|
| Self-determination | Mediation is based on the voluntary participation of all parties. |
| Impartiality | ADR proceedings are mediated by an impartial third party. |
| No Conflicts of Interests | All actual and potential conflicts of interests reasonably known must be disclosed. |
| Confidentiality | Reasonable expectations of the parties with regard to confidentiality of the matters discussed are to always be maintained. |
| Representation | All parties may have a representative present during an ADR process. |
| Quality of the Process | Mediation is conducted fairly and diligently and the mediator should have the necessary qualifications to satisfy the reasonable expectations of the parties. |





Lesson C

Alternative Dispute Resolution (ADR)

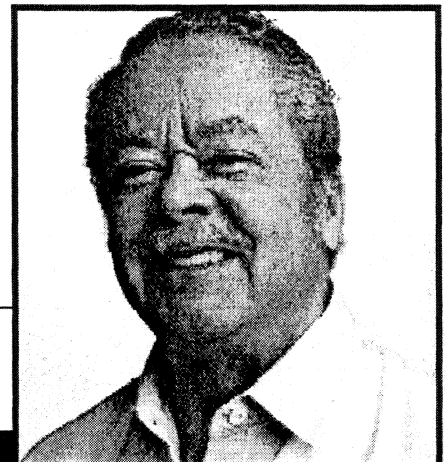
Topic 1: Introduction to ADR

Example

The APHIS ADR Program

The Animal and Plant Health Inspection Service (APHIS) agency has an Alternative Dispute Resolution (ADR) program. By using ADR, the parties themselves voluntarily develop the agreement. As a result, compliance with the terms of the agreement are much higher than with other forms of resolution. This process does not declare a winner or a loser, instead, ADR assists the parties in resolving their conflict in a mutually beneficial manner. To date most mediations that have taken place have resulted in a win-win resolution for all parties.

When an individual contacts the ADR office and indicates a willingness to engage in mediation, the other party is contacted. If both parties are willing to participate in mediation, the ADR office arranges for an impartial mediator and for a facility. Mediations are held away from the general workplace to ensure confidentiality. No records are kept other than the agreement. No records are put in an employee or other party's personnel file.





Lesson C

Alternative Dispute Resolution (ADR)

Topic 1: Introduction to ADR

Exercise

Mr. Gonzalez's EEO Complaint

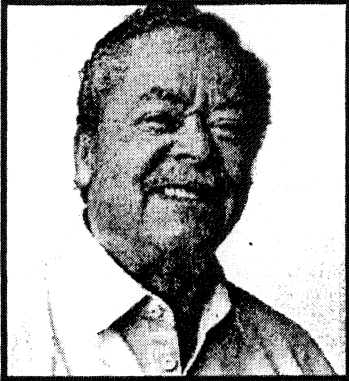
Read the following complaint and then select all the correct statements regarding Alternative Dispute Resolution.

Mr. Gonzalez, an Animal Health Technician, claims that he has been discriminated against by his supervisor, Mr. Johnson, because Mr. Gonzalez is Hispanic. Mr. Gonzalez has been passed over for promotion each of the last three years. Mr. Gonzalez asserts that he has more years' experience as an Animal Health Technician than his White co-workers who have been promoted ahead of him. So he decides to contact his agency's EEO counselor.

Select ALL of the CORRECT statements:

- Statement A:** At both the informal and formal stages of his complaint, Mr. Gonzalez may elect to participate in the Alternative Dispute Resolution program.
- Statement B:** The appointed mediator is an unbiased professional with no stake in the outcome of the mediation process.
- Statement C:** During the mediation session, tape recorders and transcription devices are not used, and all notes taken during the mediation are destroyed. However, if there is no resolution to the dispute, the information obtained from the session can be used in later EEOC investigative activities.
- Statement D:** Mr. Gonzalez can bring a representative to help him during the mediation session.





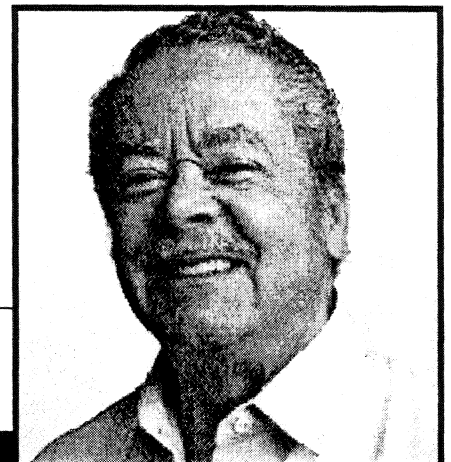
Lesson C

Alternative Dispute Resolution (ADR)

Topic 1: Introduction to ADR

Exercise Answers

- If **A** is selected **That's right!** The whole mediation process is entirely voluntary for both parties.
- If **B** is selected **Correct.** This is a true statement. The mediator is a neutral, unbiased third party.
- If **C** is selected **Incorrect.** No information, record or document supplied during the mediation proceedings can be used outside of those meetings.
- If **D** is selected **Correct.** This is a true statement. Both parties may have a representative present during the ADR process.





Lesson C

Alternative Dispute Resolution (ADR)

Topic 2: Mediation

Mediation is the most popular form of ADR used in employment-related disputes. Mediation is an intervention in a dispute or negotiation using an approved and **impartial third party** who has no decision-making authority.

The mediator makes primarily procedural suggestions about how the parties can reach an agreement. The mediator **may suggest options** to encourage the parties to expand the range of possible solutions under consideration. The mediator will work with the parties individually, or together, to explore acceptable resolutions or to develop proposals that might move the parties closer to resolution.





Lesson C

Alternative Dispute Resolution (ADR)

Topic 2: Mediation

Example

The Mediator

*Andrea Sharp, a 34-year-old White female, the alternative dispute mediator
Janice Lawrence, a 29-year-old White female, the aggrieved person
Cheryl Sachs, a White female in her late twenties, Janice's representative
Tonia Overlay, a Black female in her early thirties, Janice's supervisor*

Andrea says, "Good morning. My name is Andrea Sharp and I am a certified mediator. Ms. Lawrence has chosen the USDA's Alternative Dispute Resolution process as the forum to informally resolve her allegation of discrimination. Our purpose here today is to attempt to achieve a settlement of Ms. Lawrence's complaint."

"I am here, as a neutral party, to help facilitate this attempt. I do not have the authority to make this decision for you and this is not a legal proceeding. Each party will have a chance to speak and what is said in this room will be kept confidential. Thank you all for agreeing to participate and after we have dealt with any questions you have, we will begin."





Lesson C

Alternative Dispute Resolution (ADR)

Topic 2: Mediation

Exercise

Working Toward a Solution

Andrea says, "Janice, am I correct in understanding that you would consider this issue resolved if Ms. Overlay would apologize to you and agree to assign you to the next two audit teams?"

Janice responds, "Yes, that's right. I don't want what I'm not qualified for; I just want an equal chance for promotion by being assigned to future detail assignments."

Andrea asks the supervisor, "Ms. Overlay, what do you think about Andrea's request--is it acceptable to you?"

Is Ms. Overlay required to accept the proposed solution if the mediator feels that the solution is fair and reasonable?

Yes

No





Lesson C

Alternative Dispute Resolution (ADR)

Topic 2: Mediation

Exercise Answers

Is Ms. Overlay required to accept the proposed solution if the mediator feels that the solution is fair and reasonable?

The correct answer is No.

The mediator in an Alternative Dispute Resolution has NO decision-making authority. The mediator can only make recommendations to encourage both parties to come to a mutually acceptable solution.





Lesson C

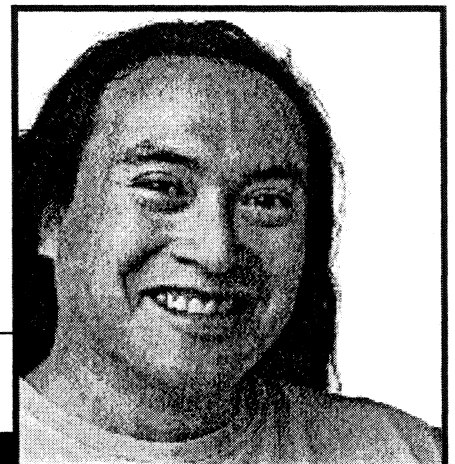
Alternative Dispute Resolution (ADR)

Topic 3: Informal Resolution Procedures

There is a range of informal resolution procedures. Two of the most common are:

Fact Finding: This procedure uses an impartial expert (or group) with the authority to appoint a fact finder to determine the facts in the dispute. The fact finder is authorized only to investigate or evaluate the matter presented and to file a report establishing the facts in the matter. The fact finder provides a recommendation of the most likely outcome of the dispute.

Ombuds: These are individuals who rely on a number of techniques to resolve disputes. These techniques include counseling, mediating, conciliating and fact finding. When a complaint is received, an ombud interviews the parties, reviews files and makes recommendations to the individuals.





Lesson C

Alternative Dispute Resolution (ADR)

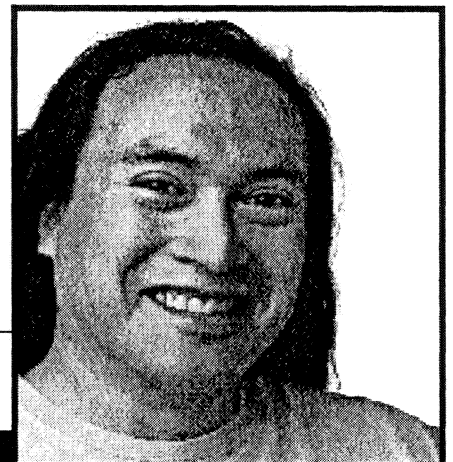
Topic 3: Informal Resolution Procedures

Example

Getting To the Heart Of the Issue

The USDA Conflict Prevention and Resolution Center handles employment discrimination complaints within the USDA using Alternative Dispute Resolution. For example, some USDA employees have complained of intimidation, threats and retaliation by managers when employees complain of discrimination. By using ADR principles, the employee and his or her supervisor can try to resolve work-related issues in a timely and informal manner using a trained mediator.

The mediator or fact finder will conduct an inquiry into the matter by looking at relevant records and files, and by talking to people who might have additional facts about the case. The fact finder will then evaluate the matter and file a report establishing the facts in the case. The most important benefit of fact finding is the expectation that the opinion of a trusted and impartial professional will carry weight with the parties involved.





Lesson C

Alternative Dispute Resolution (ADR)

Topic 3: Informal Resolution Procedures

Exercise

Some ADR Procedures

Match the term below with the correct definition.

_____ The person authorized to investigate or evaluate a dispute and file a report establishing the facts in the case.

_____ A person using a number of techniques to resolve a dispute. These techniques can include counseling, mediating, conciliating and fact finding.

- A. Arbitrator
- B. Fact Finder
- C. Ombuds
- D. Representative





Lesson C

Alternative Dispute Resolution (ADR)

Topic 3: Informal Resolution Procedures

Exercise Answers

- B. Fact Finder The person authorized to investigate or evaluate a dispute and file a report establishing the facts in the case.
- C. Ombuds A person using a number of techniques to resolve a dispute. These techniques can include counseling, mediating, conciliating and fact finding.





Lesson C

Alternative Dispute Resolution (ADR)

Lesson Summary

1. Alternative Dispute Resolution (ADR) refers to a variety of dispute resolution techniques that involve: (Select one.)

- A. Courtroom appearances
- B. Public disclosure of the proceedings
- C. An impartial third party
- D. Mandatory participation

2. During the mediation process, a mediator works with:

- A. Outside personnel to resolve the matter
- B. Other mediators to reach an agreement
- C. The parties individually or together to explore acceptable resolution options
- D. Management personnel only, in attempting to resolve the matter

3. The two most common informal resolution procedures are: (Select all that apply.)

- A. Arbitration
- B. Fact finding
- C. Hearings
- D. Ombuds





Lesson C

Alternative Dispute Resolution (ADR)

Lesson Summary Answers

1. Alternative Dispute Resolution (ADR) refers to a variety of dispute resolution techniques that involve:

The correct answer is C. ADR is an informal process that is confidential and voluntary involving an impartial third party.

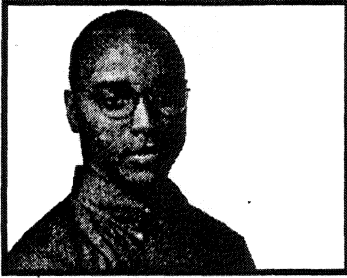
2. During the mediation process, a mediator works with:

The correct answer is C. During mediation, the parties are encouraged to expand the range of possible solutions under consideration or to develop proposals that might move the parties closer to resolution.

3. The two most common informal resolution procedures are: (Select all that apply.)

The correct answers are B and D. Although both arbitration and hearings may be used as methods of Alternative Dispute Resolution, the two most common informal resolution procedures are fact finding and use of an ombuds. Since arbitration and hearings involve a third party making the decision, they are not considered as informal as fact finding and the use of an ombuds.





Course: USDA Civil Rights Overview
Module 1: Equal Employment Opportunity

Lesson D

Compliance Requirements

Description: In this lesson, you will examine some of the compliance requirements for implementing effective Equal Employment Opportunity (EEO) programs.

Objectives: Upon completion of this lesson, you will be able to:

- Identify some of the regulatory requirements for implementing effective EEO programs.
- Identify some of the ways to ensure compliance.

Listed below are the **topics** associated with this lesson.

Topic 1 Regulatory Requirements

Topic 2 Ensuring Compliance





Lesson D

Compliance Requirements

Topic 1: Regulatory Requirements

The following are some examples of regulatory requirements derived from Equal Employment Opportunity (EEO) laws and Executive Order 13087:

It is illegal to **hire, fire**, or in any other way discriminate against an applicant or employee because of the individual's race, color, national origin, sex, age, religion, disability or sexual orientation. This prohibition applies to compensation and any terms, conditions or privileges of employment.

It is illegal to **limit, segregate or classify** an employee or applicant in any way that might deprive the person of employment opportunities because of his or her race, color, national origin, religion, sex, age, disability or sexual orientation.

It is illegal to discriminate against someone because he or she has a **relationship with an individual with a known disability**. This can be a family, business, or social relationship or any other type of association.

It is illegal to **retaliate** against someone because he or she has:

- Filed or stated an intent to file an EEO complaint or lawsuit.
- Participated in or stated an intent to participate in any stage of an EEO complaint or lawsuit as a representative, witness, counselor or in any other capacity.
- Opposed discriminatory conduct in the workplace.





Lesson D

Compliance Requirements Topic 1: Regulatory Requirements

Example

Examples of Retaliation

- Directly or indirectly discouraging employees from using the Discrimination Complaint Process
- Retaliatory harassment, intimidation or surveillance
- Retaliatory work assignments
- Undeserved discipline, demotion, reassignment or discharge
- Allowing others to retaliate against an employee for participating in the EEO complaint process.

Retaliation is any adverse treatment, or the actual or implied threat of adverse treatment directed toward a person who participates in the EEO complaint process or who opposes illegal discriminatory practices.

An employee, former employee or applicant does not have to have actually filed a previous charge of discrimination to have grounds for a charge of retaliation. The individual may have expressed opposition to discriminatory conduct in the workplace. The EEOC considers "retaliation" a very serious charge because of its potential "chilling" effect on the willingness of individuals to speak out against employment discrimination.





Lesson D

Compliance Requirements

Topic 1: Regulatory Requirements

Exercise

What Makes a Situation Retaliatory

Monique, a Black female, has been summoned as a witness in a local EEOC hearing involving a charge of religious discrimination by one of her co-workers. Upon hearing of Monique's summons, her supervisor informed Monique that her participation in the hearing will not be possible because of a new emergency project requiring her to work at the regional office, which is 900 miles away.

Why is the supervisor's denial of Monique's attendance at the hearing an example of retaliation? (Circle correct answer.)

- A. Because the agency attempted to prevent Monique from participating in the EEO process as a witness at an EEOC hearing by assigning Monique a last-minute detail.
- B. Because the agency did not "accommodate" Monique by assigning someone else the detail so that she could be a witness at an EEOC hearing.
- C. Because Monique was "treated unequally" by assigning her a detail at the last minute, thereby preventing her from participating in the EEO process as a witness at an EEOC hearing.





Lesson D

Compliance Requirements

Topic 1: Regulatory Requirements

Exercise Answers

If A is selected **You are correct!** The agency's attempt to prevent Monique from participating in the EEO process as a witness at an EEOC hearing is an example of unlawful retaliation.

If B is selected **Incorrect.** This situation is not an example of "nonaccommodation."

If C is selected: **Incorrect.** This situation is not an example of disparate (or unequal) treatment.



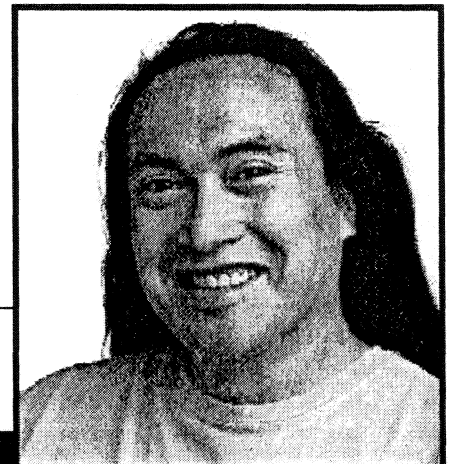


Lesson D

Compliance Requirements Topic 2: Ensuring Compliance

Equal Employment Opportunity (EEO) laws and regulations often require that certain activities occur in order to ensure compliance. Some examples of these activities are:

- An employer must post in open view EEO information that is important to applicants and employees. These notices must list the prohibitions against employment discrimination. These notices also must explain how to file a complaint if a person feels he or she is being discriminated against.
- An employer must carry out employment duties in a nondiscriminatory manner.
- An employer must provide suitable complaint procedures.
- An employer must follow all record-keeping requirements that apply to the organization.
- All employees in contact with the public must be trained in EEO policy and procedures.
- Employees must carry out all duties according to EEO laws and Executive Orders.
- Aids and services must be provided for good communication with all customers.
- Reasonable religious and disability-related accommodation must be provided to all qualified individuals applying for and employed by the organization.





Lesson D

Compliance Requirements
Topic 2: Ensuring Compliance

Example

The Complaint Process

The complaint process serves as a highway for employees or applicants to travel in their search for resolution of a complaint. The highway can ultimately lead all the way to the U.S. Supreme Court. But the goal of the journey is not to travel the highway to its end, but to discover a more attractive destination (or resolution) along the way.

To gain access to the highway, the person must first contact an agency Equal Employment Opportunity (EEO) counselor. The counselor will try to find out why the complainant wishes to take the journey and will explain the rules of the road. During the first leg (informal stage) of the journey, the complainant can travel "incognito," or anonymously. The counselor will travel with the complainant, looking for ways for the traveler and the agency to meet halfway and resolve their differences.

If the complainant and agency do not reach a resolution during the informal stage, the counselor will bid the complainant farewell, and the complainant will decide whether or not to continue the journey into the formal stage of the process. But as long as the complainant remains on the road, the real destination of the journey will always be **RESOLUTION**.





Lesson D

Compliance Requirements
Topic 2: Ensuring Compliance

Exercise

An Outcome of the Complaint Process

Which of the following outcomes illustrates the federal discrimination complaint process. (Check all that apply.)

- A. Following a visit by the Equal Employment Opportunity (EEO) counselor, a supervisor issues a written apology to a subordinate for insensitive remarks she made about that person's race. The apology is accepted and the informal complaint is quickly settled.

- B. Both the agency and the employee spend thousands of dollars in attorney fees and court costs to settle a lawsuit concerning insensitive remarks by the employee's supervisor.

- C. An agency experiences a very high and costly turnover rate as a result of unresolved EEO issues between employees and management.





Lesson D

Compliance Requirements

Topic 2: Ensuring Compliance

Exercise Answers

The correct answer is A.

This outcome illustrates the federal discrimination complaint process.





Lesson D

Compliance Requirements

Lesson Summary

1. It is illegal to discriminate against an employee or applicant on the basis of that individual's race, color, national origin, sex, religion, age, sexual orientation or disability in: (Select all that apply.)

- A. Job assignments
- B. Firing
- C. Hiring
- D. The terms, conditions or privileges of employment

2. An agency has an obligation to follow all record-keeping requirements that apply to its organization. This is a requirement that:

- A. Helps ensure compliance with Equal Employment Opportunity (EEO) laws and regulations
- B. Singles out chronic complainers
- C. Provides managers with information on employees who file complaints
- D. Costs the agency a substantial amount of its EEO budget





Lesson D

Compliance Requirements

Lesson Summary Answers

1. It is illegal to discriminate against an employee or applicant on the basis of that individual's race, color, national origin, sex, religion, age, sexual orientation or disability in: (Select all that apply.)

All the choices are right. An employee or applicant cannot be limited, segregated or classified in any way that can deprive the person of employment opportunities because of that individual's race, color, national origin, sex, religion, age, sexual orientation or disability.

2. An agency has an obligation to follow all record-keeping requirements that apply to its organization. This is a requirement that:

The correct answer is A. Information contained in the record regarding EEO matters may not be used against employees or applicants. Record-keeping by the agency is an important function of the process, and cost does not amount to a substantial portion of the budget.





Course: USDA Civil Rights Overview
Module 1: Equal Employment Opportunity

Lesson E

Employment Outreach and Recruitment

Description: In this lesson, you will examine some principles and methods of employment outreach and recruitment.

Objectives: Upon completion of this lesson, you will:

- Consider different ways of reaching out to under-represented groups in the labor force.
- Consider how to develop a plan to recruit under-represented groups.

Listed below are the **topics** associated with this lesson.

Topic 1 Outreach

Topic 2 Recruitment





Lesson E

Employment Outreach and Recruitment

Topic 1: Outreach

Under-Served Communities

Outreach usually means reaching out to communities that are often overlooked or under-served. These communities are often untapped sources of employees including women, minorities and people with disabilities.

Outreach Strategies

Community newspapers and non-English-speaking radio stations are two of the most common means of letting people who have not traditionally applied for employment know that their applications are welcomed and encouraged.

Independent-living centers are a good source for seeking potential employees with disabilities. Women's organizations, shelters for women and children and other community organizations also provide excellent outreach sources to let people know about employment opportunities.

Hiring Practices

If an agency's applicants for jobs or its work force do not reflect the surrounding community makeup, the agency should determine why more local residents are not applying for jobs and being hired.

To achieve a balance, agencies develop what is called an **affirmative employment plan**. This plan will guide the agency in developing strategies to recruit under-represented groups.





Lesson E

Employment Outreach and Recruitment

Topic 1: Outreach

Example

Recruiting Minority College Graduates

The work force of a local agency of the federal government should generally reflect the community from which employees are drawn and/or which the agency serves. But sometimes, even inadvertently, not all qualified applicants are made aware of or given the opportunity to apply and be considered for job openings.

Caroline Grant, a 42-year-old White personnel officer, knocks on the door and enters Bob Fisher's office. Bob, the division director, has asked Caroline for a briefing on the planned fall college-recruitment visits.

Bob: "Well, Caroline, come on in and tell me what you folks have planned."

Caroline hands Bob a typed schedule to follow as she begins.

Caroline: "This year, our focus is on recruiting information systems positions. We're going to need additional programmers and systems analysts when we roll out SUMIT next year."

Bob: "Hmmm, I agree. But I think we must add some more schools to our list of those we visit. We should also be recruiting new employees from schools with high concentrations of minorities, women and students with disabilities."

Caroline looks surprised and blinks a few times before answering.

Caroline: "I never thought about it. We always recruit at the schools on that list and we do have very few minority applicants."

Bob: "Yes, I know, these are fine schools, but their student bodies are mostly White. Perhaps we have unintentionally created a segregated work force by letting stereotypes influence how and where we recruit for certain occupations. For a start, let's see if we can't change that by adding some schools with good computer science departments and a larger minority enrollment to that list."





Lesson E

Employment Outreach and Recruitment

Topic 1: Outreach

Exercise

Creating Awareness of New Government Jobs

Belinda is the new employment director for a federal department. She has been assigned the task of creating public awareness among potential employees for many new federal jobs that will become available in a midsize city. As part of her efforts, she has recruited applicants from several local ethnic communities.

From the following list, identify the BEST outreach activities for reaching under-represented groups. (Select all that apply.)

- Contact the largest newspaper with the largest circulation and place an advertisement in the want ads.
- Locate non-English and ethnic-oriented churches in the community, meet with their heads and organize news briefings and meetings through these churches.
- Figure out the proportion of each minority group that makes up the local communities.
- Find the radio station that has the largest listening audience and purchase a 30-second promotional spot.
- Locate non-English community newspapers and non-English-speaking radio stations to advertise the employment opportunities.





Lesson E

Employment Outreach and Recruitment

Topic 1: Outreach

Exercise Answers

- Contact the largest newspaper with the largest circulation and place an advertisement in the want ads.
- Locate non-English and ethnic-oriented churches in the community, meet with their heads and organize news briefings and meetings through these churches.
- Figure out the proportion of each minority group that makes up the local communities.
- Find the radio station that has the largest listening audience and purchase a 30-second promotional spot.
- Locate non-English community newspapers and non-English-speaking radio stations to advertise the employment opportunities.

Yes, by doing the items selected, Belinda will make these communities more aware of the new jobs and she will be able to increase the application percentage of several minority groups.





Lesson E

Employment Outreach and Recruitment

Topic 2: Recruitment

When outreach efforts succeed in identifying people who have not traditionally applied for USDA employment opportunities, USDA managers must then recruit new employees from these **new recruitment groups**.

USDA is required to develop and conduct a **comprehensive program** for the recruitment of minorities, women, individuals with disabilities and disabled veterans to further the federal government's efforts to eliminate the under-representation of these groups and to make equal employment opportunity possible.

Under-representation is a situation in which the percentage of minorities, women, people with disabilities or disabled veterans in any federal employment category is lower than the percentage of the same group in the civilian labor force.

Recruitment is the total process by which the federal government locates, identifies and assists in employing qualified applicants from under-represented groups for job openings. It includes creative activities designed to attract under-represented employees for career positions at varying levels. Recruitment also includes actions designed to promote the hiring of new employees from this group. Finally, recruitment encourages people who have not usually applied for jobs to do so.





Lesson E

Employment Outreach and Recruitment

Topic 2: Recruitment

Example

Recruitment Efforts

The agency head has assigned Gina a new project. It is an outreach effort to help develop awareness among people with disabilities in lower- and middle-income neighborhoods about employment opportunities the federal government offers in various job areas and at various job levels.

Gina learns that a colleague in another department was given a similar project last year that met with great success.

Gina makes an appointment with the colleague and not only learns a great deal about how to get in touch with different groups, but she is also given several references to contact in local churches, medical centers, rehabilitation centers and community groups.





Lesson E

Employment Outreach and Recruitment

Topic 2: Recruitment

Exercise

Recruitment Activities

Stan, a consultant working with the head of a local agency within the federal government, has been contracted to design a brochure that will be used to generate interest and supply information to possible job applicants at the high school level.

Match the "image" on the right to the "response" on the left to determine how you could help Stan get the best design to attract the attention of various ethnic and minority high school students.

_____ Music is one of the strongest points of attention to this age group.

_____ Travel is attractive to young people when they graduate.

_____ Sports are very important to some youth and less important to others... but this also portrays teamwork and could be a sign of an active and grown-up lifestyle.

_____ Continuing education can be a major advantage of taking a job with the government right out of high school.

_____ Meeting new people and having a good income are very attractive images for high school youth about to graduate.

_____ Youth with spending money and independence are attractive because it equates to having a good job for just being out of school.

_____ Being able to afford a nice car is a very desirable thing with youth.

_____ Being helpful and relating to people who are less fortunate is a meaningful way for youths to enhance their self-concept.

1 - Three young people in a mall shopping

2 - Black and White males playing basketball

3 - Two Black females working in an office environment

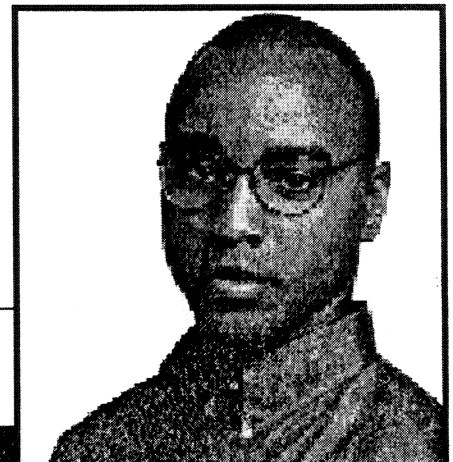
4 - A group of six or seven Black, Hispanic and White kids at a restaurant

5 - A boombox

6 - Two Hispanic looking kids, one male and one female, looking at a new car

7 - Two White males at an airport

8 - Several youths working with some older people.





Lesson E

Employment Outreach and Recruitment

Topic 2: Recruitment

Exercise Answers

5

7

2

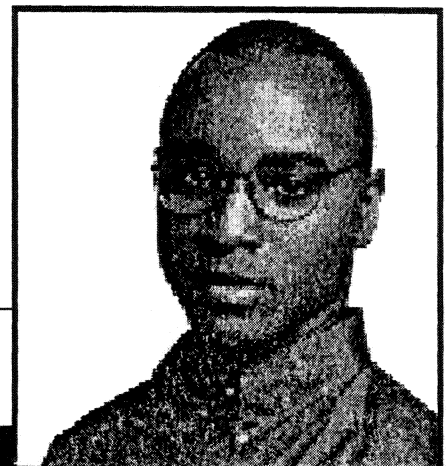
3

4

1

6

8





Lesson E

Employment Outreach and Recruitment

Lesson Summary

1. In order to ensure that an agency's applicants and employees reflect the community from which it is hiring, an agency can:

- A. Request that its employees recommend personnel for hire
- B. Reach out to communities that are under-represented and overlooked
- C. Designate that only certain people need apply
- D. Interview only those persons who are under-represented in the agency

2. The percentage of women in the civilian labor force in the city of Bloomfield is 25 percent. Women represent 2 percent of the work force of the agency in that city. That 2 percent representation of women in the agency:

- A. Is an adequate representation of women.
- B. Reflects an under-representation of women based on their population percentage in the civilian labor force.
- C. Represents the number of qualified women in the area.
- D. Represents the number of women who typically respond to agency announcements.





Lesson E

Employment Outreach and Recruitment

Lesson Summary Answers

1. In order to ensure that an agency's applicants and employees reflect the community from which it is hiring, an agency can:

The correct answer is B. These groups often include women, minorities, and persons with disabilities -- the groups of individuals most commonly under-represented and overlooked.

2. The percentage of women in the civilian labor force in the city of Bloomfield is 25 percent. Women represent 2 percent of the work force of the agency in that city. That 2 percent representation of women in the agency:

The correct answer is B. When the percentage of any group in the work place is lower than the percentage of the same group in the civilian labor force, you have under-representation. It is most common to find women, minorities, individuals with disabilities and disabled veterans as the most under-represented groups.



