



# EEOC COMPLIANCE CHECKLIST

Equal Employment Opportunity Commission Compliance Manual Checklist

# IS YOUR COMPANY EEOC COMPLIANT?

The average American only hears about the Equal Employment Opportunity Commission (EEOC) when major lawsuits enter the news cycle. They aren't hearing about the EEOC alone, however. Major EEOC news stories also include the company at the other end of the court case in every headline—every business owner and HR manager's worst nightmare.

At KRESS Employment Screening, our background-screening, credentialing, and drug-screening policies help ensure that you're one step closer to 100-percent compliance with the law when hiring applicants. A fool-proof EEO policy requires planning on your part, too. Review this checklist to find out if you're taking all the necessary precautions and executing EEOC requirements.

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- Have employee selection procedures been reviewed to ensure that women, minorities, and older workers are not adversely affected by non-job-related selection criteria or procedures? For example, this includes tests, interview questions, etc.
  - Does the company use a job-posting procedure to ensure nondiscriminatory access to promotions and transfers?
  - Have interviewers been trained to avoid unlawful inquiries and to use formal checklists of relevant subject areas?
  - If subcontractors or recruiting agencies are used, do contracts prohibit discrimination and avoid joint-employer status?
  - If credit reports or other investigative services/ background checks are used, are state and federal Fair Credit Reporting laws followed?
  - If written or performance tests are used to select applicants for employment or employees for promotion, does the company monitor the results of these tests and consider whether minorities or women have been adversely affected? Has the test been validated to establish job relatedness?
  - If you require post-offer physicals, do you pay the cost of the examination and is the examination used solely to ensure that the applicant is physically, mentally, and/or medically able to perform the essential functions of the job applied for with or without a reasonable accommodation?
- Note: To comply with the Americans With Disabilities Act, any physical must be given after an offer of employment has been extended.
- Are reasonable accommodations made for applicants' and employees' religious practices or disabilities to ensure consistent treatment with respect to job application procedures, hiring, advancement, discharge compensation, job training, and other terms, conditions, and privileges of employment in accordance with Title VII of the Civil Rights Act and the Americans with Disabilities Act?

### Are new employees informed of the following:

- a. Benefits eligibility
- b. Procedures for seeking resolution of work-related problems, including harassment and discrimination complaints
- c. The company is an equal opportunity employer
- d. The employment relationship is employment-at-will, permitted by state law. To avoid violations of the Equal Pay Act, are wage differentials based upon non-sex-related factors, for example, productivity, quality of performance, seniority, etc.? Are wages paid according to the salary administration plan? Are wage increases determined based on objective job-related factors and monitored to ensure nondiscrimination?
- Do the company's group health insurance policies provide coverage equally for all illnesses and disabilities without regard to sex or pregnancy? Do they also provide for equal coverage for the employees' spouses?
- Are dress and grooming standards consistently and reasonably enforced? Does the company reasonably accommodate employees' religious and ethnic dress and grooming practices?

- If bonuses are paid, are eligibility requirements and the amount of the bonus based on nondiscriminatory factors? Does the company monitor the effect of its bonus program to ensure that it is administered without regard to race, sex, color, religion, national origin, age, disability, or any other protected class at the federal, state, or local level?
- Since administration of leave-of-absence policies may result in unintended discrimination, does the company:
  - a. Post or publish a policy as necessary to be in compliance with applicable federal law (Federal Family and Medical Leave Act) and state laws?
  - b. Record each employee who requests leave, the reason for the leave, and the disposition thereof (granted or denied)?
  - c. And following leave, record if they resigned, got reinstated, or were replaced?
- If the company maintains a pension or retirement plan:
  - a. Does the plan comply with the requirements of the Employee Retirement Income Security Act (ERISA)?
  - b. Is it consistently administered without regard to race, sex, color, religion, national origin, age, disability, or any other protected class at the federal, state, or local level?
- Are supervisors evaluated, in part, on their efforts and success in managing and complying with federal and state equal-employment and affirmative-action laws?
- Are supervisors evaluated, in part, on their ability to document violations of work rules and any personnel actions taken against employees?
- Do the employee handbook, personnel policy manual, and other procedural manuals contain a statement of the company's equal employment opportunity policy?
- Have the company's operating procedures and policies been reviewed to eliminate discrimination on the basis of sex or pregnancy or other violations of the company's work rules or personnel policies?
- Were adequate and documented warnings given to employees discharged for poor performance, excessive absenteeism, or other violations of the company's work rules or personnel policies?
- Prior to terminating employees, are managers and supervisors required to follow consistent procedures to ensure there has been an investigation of the alleged violation of the company's work rules and that discharge decisions are supported by thorough documentation?
- Are exit interviews conducted to ensure that discharged employees were not victims of unlawful discrimination or sexual harassment?
- If applicable, is the EEO-1 statistical-information form filed with the Equal Employment Opportunity Commission annually by September 30? EEO-1 filing requirements apply to private employers with more than 100 employees and federal contractors with 50 or more employees and \$50,000 in contracts or subcontracts.
- If applicable, does a review of the company's five most recent EEO-1 forms indicate that the representation of women and minorities in each EEO-1 category is increasing or decreasing?
- Are personnel records retained for at least the minimum periods required by federal and state statutes?
- In the event of an investigation by an EEO compliance agency, have supervisors been trained to:
  - a. Not disclose information to the investigator without the advice of counsel or the administrator?
  - b. Obtain a statement of the investigator's purpose and identity?
  - c. Immediately report the agency contact to the appropriate company official?
  - d. Assist the company in defending itself during the compliance audit or investigation?

Note: Employers with federal contracts or subcontracts may have specific requirements under certain laws, such as Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act, or the Vocational Rehabilitation Act. Contact the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) for more information.

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