

The Equal Employment Opportunity Responsibilities of Multinational Employers

The globalization of business activity has resulted in employers from around the world assigning increasing numbers of personnel internationally. The following general guidance is intended to help multinational employers determine their obligations under U.S. equal employment opportunity laws (EEO laws).

Operations in the United States or U.S. Territories

Multinational employers that operate in the United States or its territories -- American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands -- are subject to EEO laws to the same extent as U.S. employers, unless the employer is covered by a treaty or other binding international agreement that limits the full applicability of U.S. anti-discrimination laws, such as one that permits the company to prefer its own nationals for certain positions.

Operations Outside the United States and U.S. Territories

Companies Based in the U.S.

[Employers](#) that are incorporated or based in the U.S. or are controlled by U.S. companies and that employ U.S. citizens outside the United States or its territories are subject to Title VII, the ADEA, and the ADA with respect to those employees. U.S. EEO laws do not apply to non-U.S. citizens outside the U.S. or its territories.

How to Determine Who is a U.S. Employer

An employer will be considered to be a U.S. employer if it is incorporated or based in the United States or if it has [sufficient connections with the United States](#). This is an individualized factual determination that will be based on the following relevant factors:

- the employer's principal place of business, i.e., the primary place where factories, offices, and other facilities are located;
- the nationality of dominant shareholders and/or those holding voting control; and
- the nationality and location of management (the officers and directors of the company).

How to Determine Whether a Company is "Controlled" By a U.S. Employer

- Employers operating outside the United States are covered by Title VII, the ADEA, and the ADA only if they are [controlled by a U.S. employer](#). Whether a company is controlled by a U.S. employer is also an individualized determination, which will be based on the following relevant factors:
 - whether the operations of the employers are interrelated;
 - whether there is common management;
 - whether there is centralized control of labor relations; and
 - whether there is common ownership or financial control.

Foreign Laws Defense

U.S. employers are not required to comply with the requirements of Title VII, the ADEA, or the ADA, if adherence to that requirement would violate a law of the country where the workplace is located. For example, an employer would have a "[Foreign Laws Defense](#)" for a mandatory retirement policy if the law of the country in which the company is located requires mandatory retirement.

A U.S. employer may not transfer an employee to another country in order to disadvantage the employee because of his/her race, color, sex, religion, national origin, age, or disability. For example, an employer may not transfer an older worker to a country with a mandatory retirement age for the purpose of forcing the employee's retirement.

What U.S. EEO Laws Cover

The federal EEO laws enforced by the EEOC are [Title VII of the Civil Rights Act of 1964](#) (Title VII), the [Age Discrimination in Employment Act](#) (ADEA), the [Americans with Disabilities Act](#) (ADA), and the [Equal Pay Act](#) (EPA). These laws prohibit covered employers from discriminating on the bases of race, color, sex, national origin, religion, age, and disability. Examples of conduct prohibited include:

- **Discriminatory Employment Decisions**

Title VII, the ADEA, and the ADA prohibit discrimination in [all aspects of the employment relationship](#), including recruitment, hiring, assignment, transfer, firing, layoffs, and other conditions or privileges of employment.

- **Discrimination in [Compensation](#) and [Benefits](#)**

Title VII, the ADEA, and the ADA prohibit discrimination in compensation based on race, color, sex, national origin, religion, age, and disability. In addition, the EPA prohibits pay discrimination between men and women who are performing substantially equal work. Although the EPA does not apply outside the United States, such claims are covered by Title VII, which also prohibits discrimination in compensation on the basis of sex.

- **[Harassment](#)**

Title VII, the ADEA, and the ADA also prohibit offensive conduct that creates a hostile work environment based on race, color, sex, national origin, religion, age, and disability. Employers are required to take appropriate steps to [prevent and correct unlawful harassment](#) and employees are responsible for reporting harassment at an early stage to prevent its escalation.

- **[Retaliation](#)**

Title VII, the ADEA, the ADA, and the EPA prohibit employers from retaliating against employees because they have opposed unlawful discrimination or participated in a discrimination related proceeding.

Need More Information?

For more detailed information, including a comprehensive discussion of these and other issues, please see:

- EEOC's website at www.eeoc.gov for detailed information on EEO laws. Go to "[Laws, Regulations and Policy Guidance](#)" for [Compliance Manual Sections](#) and [Enforcement Guidance](#).
 - EEOC Enforcement Guidance, "[Application of Title VII and the Americans with Disabilities Act to Conduct Overseas and to Foreign Employers Discriminating in the United States](#)" (1993).
 - EEOC Policy Guidance, "[Application of the Age Discrimination in Employment Act of 1967 and the Equal Pay Act of 1963 to American Firms Overseas, Their Overseas Subsidiaries, and Foreign Firms](#)" (1989).
 - EEOC Policy Guidance: "[Analysis of the sec. 4\(f\)\(1\) 'foreign laws' defense of the Age Discrimination in Employment Act of 1967.](#)"
- To be automatically connected to an EEOC field office, call: 1-800-669-4000 or TTY 1-800-669-6820
- For more information on EEO law in other countries, see *e.g.*,
 - Directorate General for Employment and Social Affairs for the European Union, http://www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm;
 - Canadian Human Rights Commission <http://www.chrc-ccdp.ca>;
 - UK Equal Opportunities Commission <http://www.eoc.org.uk>;
 - UK Disability Rights Commission, <http://www.drc-gb.org>;
 - UK Commission on Racial Equality, <http://www.cre.gov.uk>; and
 - Hong Kong Equal Opportunity Commission <http://www.eoc.org.hk>

Employee Rights When Working for Multinational Employers

As the workplace grows more global and mobile, increased numbers of employers have international operations, resulting in more international assignments of their employees. The following provides general guidance concerning employees' rights under the United States' equal employment opportunity laws (U.S. EEO laws) when working for multinational employers.

Work in the United States and U.S. Territories

All [employees](#) who work in the U.S. or its territories -- American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands -- for [covered employers](#) are protected by EEO laws, regardless of their citizenship or work authorization status. Employees who work in the U.S. or its territories are protected whether they work for a U.S. or foreign employer.

Example: Kim is a Chinese citizen working in the Commonwealth of the Northern Mariana Islands for a Chinese manufacturer of women's attire. Kim's manager threatens Kim with losing her job if she does not comply with his sexual demands. Kim is protected by U.S. EEO laws because she works in a U.S. territory. The employer can be held liable for sexual harassment.

Working for Non-U.S. Employers in the U.S

The only exception to the rule that employees working in the U.S. are covered by federal EEO laws occurs when the employer is not a U.S. employer and is subject to a [treaty or other binding international agreement](#) that permits the company to prefer its own nationals for certain positions.

Example: ABC Communications is an Egyptian Company doing business in the U.S. Under a "friendship, commerce and navigation treaty" ("FCN") between the U.S. and Egypt, Egyptian companies operating in the U.S. are authorized to hire Egyptian citizens for executive positions. Thomas, a U.S. citizen, alleges that he was subjected to national origin discrimination when he was denied a position as Vice President of Legislative Affairs in favor of Menkure, who is an Egyptian citizen. ABC Communications admits that it favored Menkure because he is an Egyptian citizen and can successfully assert the FCN treaty as a defense.

However, if Menkure were not an Egyptian citizen but a citizen of the U.S. or a third country, ABC would not have the treaty as a defense because the treaty authorizes a preference only for Egyptian citizens.

Work Outside the United States

Individuals who are not U.S. citizens are not protected by U.S. EEO laws when employed outside the U.S. or its territories. Consult your embassy to determine whether EEO laws for other countries exist and whether they apply to your situation.

[U.S. citizens who are employed outside the U.S.](#) by a U.S. employer - or a foreign company controlled by an U.S. employer - are protected by Title VII, the ADEA, and the ADA.

Example: Isaac is an African-American U.S. citizen working in Africa for a U.S. employer as a customer service manager. Isaac alleges race discrimination after he was transferred to a less desirable and less public position. The new position involved a loss of pay and lack of upward career mobility opportunities. The employer admitted that it transferred Isaac because its predominantly white customers did not want to deal directly with non-whites. Customer preference is never a defense to violations of U.S. EEO law. The transfer violates Title VII.

Whether a Company is a U.S. Employer or Controlled By a U.S. Employer

An employer will be considered a U.S. employer if it is incorporated or based in the United States or if it has sufficient connections with the United States. Several factors help determine whether a company has sufficient connections with the U.S., including the company's principal place of business and the nationality of its dominant shareholders and management. Whether a foreign company is controlled by a U.S. employer will depend on the interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control of the two entities. For more information, see <http://www.eeoc.gov/docs/threshold.html#2-III-B-3-c>

Foreign Laws Defense

U.S. employers are not required to comply with the requirements of Title VII, the ADEA, or the ADA if adherence to that requirement would violate a law of the country where the workplace is located.

Example: Sarah is a U.S. citizen. She works as an assistant manager for an U.S. employer located in a Middle Eastern Country. Sarah applies for the branch manager position. Although Sarah is the most qualified person for the position, the employer informs her that it cannot promote her because that country's laws forbid women from supervising men. Sarah files a charge alleging sex discrimination. The employer would have a "Foreign Laws" defense for its actions if the law does contain that prohibition.

An American employer cannot transfer an employee to another country in order to disadvantage the employee because of race, color, sex, religion, national origin, age, or disability. For example, an employer may not transfer an older worker to a country with a mandatory retirement age for the purpose of forcing the employee's retirement.

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- **[Harassment](#)**

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- **Retaliation**

Title VII, the ADEA, the ADA, and the EPA prohibit employers from retaliating against employees because they have opposed unlawful discrimination or participated in a discrimination related proceeding.

Filing a Charge

If you believe that you have been discriminated against, you may file a charge with the EEOC. An individual alleging an EEO violation outside the U.S. should file a charge with the district office closest to his or her employer's headquarters. However, if you are unsure where to file, you may file a charge with any EEOC office. For information on filing a charge of discrimination see [How To File A Charge of Employment Discrimination](#). Charges may be filed in person, or by phone, mail, or facsimile.

Example: Isaiah is a U.S. citizen working in Canada for a U.S. employer that is headquartered in New York and has an office in Detroit, Michigan. Isaiah alleges a failure to accommodate his religious beliefs. Although the charge will be processed by the New York District Office because it is closest to his employer's headquarters, Isaiah may file the charge in any convenient EEOC office.

Need More Information?

For more detailed information, including a comprehensive discussion of these and other issues, please see:

- EEOC's website at www.eeoc.gov for detailed information on EEO laws. Go to [Laws, Regulations and Policy Guidance](#) for Compliance Manual Sections and Enforcement Guidance.
- EEOC's Compliance Manual Section on [Threshold Issues](#).
- EEOC Enforcement Guidance, [Application of Title VII and the Americans with Disabilities Act to Conduct Overseas and to Foreign Employers Discriminating in the United States](#)(1993).
- EEOC Policy Guidance, [Application of the Age Discrimination in Employment Act of 1967 and the Equal Pay Act of 1963 to American Firms Overseas, Their Overseas Subsidiaries, and Foreign Firms](#) (1989)
- EEOC Policy Guidance: [Analysis of the sec. 4\(f\)\(1\) 'foreign laws' defense of the Age Discrimination in Employment Act of 1967](#).
- To be automatically connected to an EEOC field office, call: 1-800-669-4000; TTY 1-800-669-6820
- For more information on EEO law in other countries, see e.g.,:
 - Directorate General for Employment and Social Affairs for the European Union, http://www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm;
 - Canadian Human Rights Commission <http://www.chrc-ccdp.ca>;
 - UK Equal Opportunities Commission <http://www.eoc.org.uk>;
 - UK Disability Rights Commission, <http://www.drc-gb.org>;
 - UK Commission on Racial Equality, <http://www.cre.gov.uk>; and
 - Hong Kong Equal Opportunity Commission <http://www.eoc.org.hk>

Employers should also see:

- [The Equal Employment Opportunity Responsibilities of Multinational Employers](#).

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**877-234-1350 or info@andersondavis.com
Website: www.andersondavis.com**