

All of us do not have equal talent, but all of us should have an equal opportunity to develop our talents.

John F. Kennedy,
1963, 35th US
President

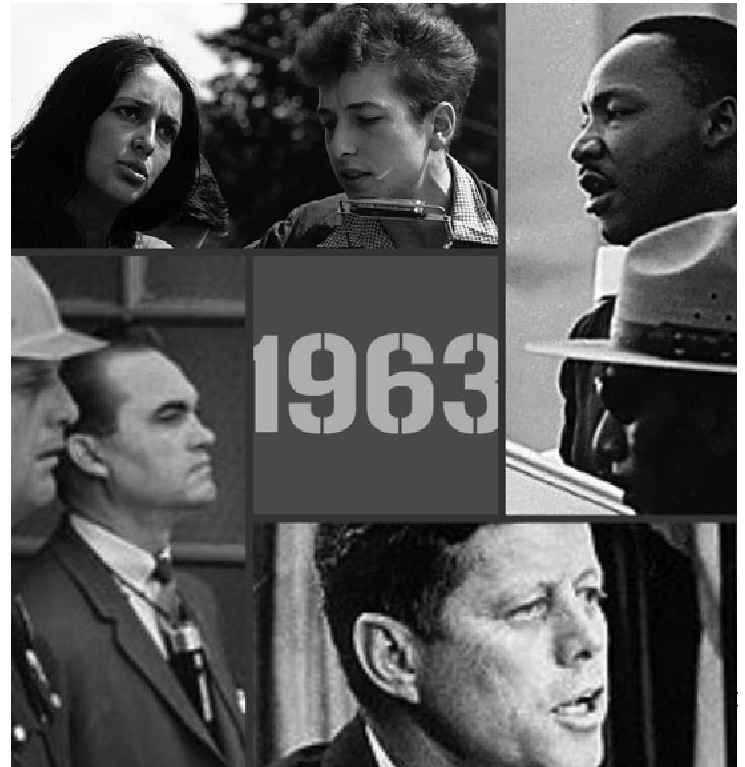
Equal Opportunity Laws

As we discussed in Unit One, one of the primary reasons for the evolution of the Personnel Department to the Human Resource Management Department was the passage of numerous laws to bring equal opportunity to all regardless of color, race, religion, sex, national origin, age, pregnancy, disability or sexual orientation.

The struggle to bring an end to discrimination goes back generations, and the first significant Act was signed in 1941 when President Roosevelt signed Executive Order 8802. As per the Equal Employment Opportunities Commission

in June 1941, on the eve of World War II, President Franklin

D. Roosevelt signed Executive Order 8802 prohibiting government contractors from engaging in employment discrimination based on race, color or national origin. This order is the first presidential action ever taken to prevent employment discrimination by private employers holding government contracts. The Executive Order applied to all defense contractors but contained no enforcement authority. President Roosevelt signed the Executive Order primarily to ensure that there were no strikes or demonstrations disrupting the manufacture of military supplies as the country prepared for war. (Pre 1965: Events Leading to the Creation of EEOC. n.d.).



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The problem is that the Executive Orders only apply to Federal agencies and to companies who have contracts with the Federal government more than 10K. Private companies not doing business with the U.S. Government are not affected.

President John F. Kennedy signed the next Executive Order, 10925, dealing with discrimination in March 1961. This Order prohibited federal government contractors from discriminating on account of race and established the President's Committee on Equal Employment Opportunity. President Kennedy stated this enforcement authority signals a new "determination to end job discrimination once and for all." (Pre 1965: Events Leading to the Creation of EEOC. n.d.) Again this ACT only affected the Federal government and companies doing business with the Federal government. This ACT was not effective.

Finally, President Johnson in 1965 signed the current Affirmative Action Law, Executive Order 11246, which has stood the test of time. Affirmative Action has varying definitions depending on whether you are referring to education, companies who have government contracts or employment. Executive Order 11246 relates to a process that requires a government contractor to examine and evaluate the

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scope of its personnel practices for identifying and correcting barriers to equal employment opportunities.

The first major law passed to end discrimination was the Equal Pay Act signed by President Kennedy in 1963. This Act required that a woman doing the same job as a man in the same company receive equal pay for equal work. Despite this law, there is still a discrepancy between men and women – as of 2015, it is estimated that a woman makes 78 cents for every dollar a man makes. President Obama took the action of an Executive Order in 2014 after he tried and failed to have Congress pass a “Fair Paycheck Law.”

In 1965 the Civil Rights Act of 1965 was passed. The Civil Rights Act is a result of the civil rights movement during the 1950s and 1960s which motivated the government to pass an effective civil rights law. After President Kennedy was assassinated in 1963, President Johnson, a Southerner, pushed the law through Congress. As a former Speaker of the House Johnson was able to negotiate his way through the federal bureaucracy.

To understand Johnson’s place in history remember he was a Southern Senate Majority Leader/Vice President and after the

death of President Kennedy many felt that all hopes for the passage of a civil rights were lost. For example, Condoleezza Rice in her book, “My Extraordinary Family” published in 2012, related how Southern blacks reacted with fear when LBJ became president. Rice said:

That Friday, Nov. 22, 1963, I was in Mrs. Riles’ geography class. She stopped and went to the door. I heard her wail. “The President’s dead,” she said, “and there’s a Southerner in the White House. What’s going to become of us now?” School was dismissed. We got in the car and headed to my grandmother’s house, [and when asked how I felt], I said I was very sad. “And scared,” I added. Mrs. Riles had given me a reason. I doubt if many children outside the South would have described their reaction to his death as fear. Fortunately, though Lyndon Johnson was a southerner, he carried through on Kennedy’s promise to end segregation. As a political scientist, I have read scores of academic papers on Johnson’s legislative approach. Some believe that Johnson was able to do what Kennedy could not have: assemble a coalition of northern Democrats and liberal Republicans to ram through landmark legislation. (Rice, C. 2012, p. 101-102)

Johnson’ commitment to civil rights was tested, but after the longest debate (534 hours) in the history of Congress, the Civil Rights Act of 1964 finally became a law. Because of Southern opposition to desegregation, Republicans and Democrats from the rest of the country needed to unite to have any success on civil rights. Along with the law an Equal Employment Opportunity Commission (EEOC) was appointed consisting of a five member, a bipartisan

The most recent Executive Order dealing with discrimination was

At 7:40 on the evening of June 19, after the longest debate in its nearly 180-year history, the U.S. Senate passes the Civil Rights Act of 1964. The vote in favor of the bill is 73 to 27. Thirteen days later, on July 2, the U.S. House of Representatives passes the bill, and President Lyndon B. Johnson signs the bill into law that same evening. Five hundred amendments were made to the bill, and Congress has debated the bill for 534 hours. (The Law, EEOC Homepage, n.d.)

The Civil Rights Act of 1964 prohibits discrimination in a broad array of private conduct including public accommodations,

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governmental services and education. Title VII of the Civil

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Rights Act prohibits employment discrimination based on race, sex, color, religion and national origin and applies to private employers, labor unions and employment agencies. The Act also prohibits discrimination in recruitment, hiring, wages, assignments, promotions, benefits, discipline, discharge, layoffs and almost every aspect of employment. (The Law, n.d.)

Title VII of the Civil Rights Act of 1964 also created the U.S. created the U.S. Equal Employment Opportunity Commission (EEOC), a five member, bipartisan commission whose mission is to eliminate unlawful employment discrimination.

The passage of this Act was slowly followed by such laws as the Age Discrimination in Employment Act of 1967, Executive Order 11246, Equal Opportunity Act of 1972, Rehabilitation Act of 1973, Pregnancy Discrimination Act of 1978, Americans with Disabilities Act of 1990, Civil Rights Act of 1991, the Genetic Information Nondiscrimination Act of 2008 (GINA) and the

Lilly Ledbetter Law of 2009. The most recent Executive Order dealing with discrimination was signed by President Obama on Monday, July 22, 2014 that prohibits companies who do business with the Federal government from discriminating against gay men, lesbians and bisexuals. The federal government already prohibits discrimination against gay men, lesbians and bisexuals in its own workforce. This order extends it to the many companies who have contracts with the Federal government.



Affirmative Action

President Johnson said in 1965, one year after the passing of the Civil Rights Act:

It is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates.

This is the next and the more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as

a result. To this end equal opportunity is essential, but not enough." (Lyndon Johnson, 36th President, 1965)

The resulting legislation was Affirmative Action, Executive Order 11246, which was signed by President Johnson on September 28, 1965. Section 101 states:

It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice. (Executive Order No. 11246, n.d.)

As mentioned above, Executive Order 11246 was passed to provide African Americans, women, people with disabilities and other groups facing discrimination the ability to be fairly represented. The intent was to correct the discrimination of the past.

The primary goal of Affirmative Action is to achieve real diversity. The Supreme Court has repeatedly reaffirmed the principle that universities have a compelling interest in diverse student populations and that they may use race-conscious admissions policies, but they cannot use racial quotas to achieve that diversity. Although private employers (those who do not have Federal contractors) are not mandated to follow Affirmative Action most do. It has now become an accepted practice in the workplace.

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Diversity - Interrelated But Different (*The Equal Employment Laws, Affirmative Action, And Diversity*)

It is important to recognize the differences between the EEO laws, Affirmative Action and Diversity.

Equal Employment Opportunity deals with a series of legislation and regulations in place at the Federal and State governments levels.

Affirmative Action policies attempt to mitigate past discrimination practices. There are only two specific cases in which Affirmative Action can be mandated: Executive Order 11246 and Federal Court Orders for Affirmative Action programs. All others are strictly voluntary.

Affirmative Action promotes **diversity** in the workplace and education.

Diversity is a result of the Federal Laws and Affirmative Action and is managed by an organization's policies, as opposed to EEO, which is regulated by Federal and State laws, And Affirmative Action which is through Executive Order, Federal court orders or voluntary reasons.

Diversity differs from EEO laws and Affirmative Action since it isn't backed by any Federal law or executive action. It comprises the variety of experiences and perspective which arise from differences in race, culture, religion, mental or physical abilities, personality, socioeconomic level, educational attainment, national origin, age, gender, sexual orientation, gender identity and other characteristics. ***Diversity is simply all of the characteristics that make individuals different from each other.***

Businesses consider diversity a strategic business practice. The current business focus on diversity is on managing and handling the diverse workforce to give the company a competitive advantage. Diverse workforces are a must for any company to survive in the 21st Century. People bring different cultures, background, and personalities to the workforce – and these differences shape how we think. Diversity is all about taking advantage of all aspects of human potential.

employee loyalty, better company image, along with a workforce that mirrors the customer base.

The importance of diversity in the workplace is summed up best by Johnna Torson, Chief Human Resources Officer at Pitney Bowes in the following quote:

You simply do better as a company when you recognize that people bring unique and multi-dimensional perspectives to the table and can engage diverse employees in a way that they feel comfortable sharing their perspectives.

Johnna Torson

The benefits of diversity in the workforce are many and include increased productivity, improved language skills, a better understanding of the global environment, creativity, innovation,

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