

Recent EEOC Discrimination Charge Data

The Equal Employment Opportunity Commission (EEOC) has released statistics for charges filed by individuals in 2009 alleging discrimination. The EEOC is the federal agency responsible for enforcing all federal statutes prohibiting employment discrimination. Before a lawsuit under these laws can be filed, an employee must present the discrimination charges to the EEOC for its review. Occasionally, the EEOC will itself seek a remedy through litigation against an employer, but most often it will, after its review, authorize the employee to proceed with litigation.

The number of charges filed with the EEOC has increased sharply in recent years. The period from 2007 to 2008 saw the biggest jump in this number in EEOC history (from 82,792 to 95,402). While the number of claims last year was down slightly (93,277), it still represented the second highest level of activity. Some commentators have predicted that the number of claims this year will exceed 100,000.

For the first time, retaliation became the most popular claim (33,613, or 33%), followed closely by race discrimination claims (33,579, or 33%). This reflects the growing practice of a charging party who alleges a discrimination claim based on race, sex, age, etc., to add a retaliation claim as well. After race discrimination claims, the most numerous were sex-based claims (28,028, or 30%), age-based claims (24,582, or 24%), and disability-based claims (21,451, or 23%). Claims based on national origin discrimination (11,134, or 11.9%) and on religion (3,386, or 3.6%) remain comparatively low in number. Since a complainant may list several forms of alleged discrimination in a single charge, the percentages add up to more than 100%.

The most dramatic growth in claims has occurred in the area of age discrimination, which has seen an increase of 23% since 2006. With the recent amendment to the Americans with Disabilities Act, which became effective in January 2009 and which significantly liberalized the definition of “disability,” employers may also see more disability discrimination claims in the future. Also, the EEOC has reported that the number of sexual harassment claims filed by men is showing a steady increase. Last year, one out of every six such claims was brought by men. These trends and changes show clearly that employers generally can expect to be a more frequent target of discrimination claims now than in the past and that individual employers, such as the University, will need to exercise even more care in making employment decisions so as to avoid such claims.