

The Institutionalization of the Equal Employment Opportunity Commission

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With a budget of \$2.25 million, and approximately 100 employees located at its central headquarters in Washington DC, the Equal Employment Opportunity Commission (EEOC) emerged in May of 1965 to oversee the implementation of Title VII of the 1964 Civil Rights Act. Though the EEOC began with the charge of enforcing federal laws designed to end workforce discrimination based on race, sex, color, religion and national origin, the Commission has seen significant increases in size and scope. By 2002, the EEOC's budget increased to \$310.406 million and its workforce grew to 2,782 employees in over 50 field offices nationwide. In addition to Title VII, the scope of the EEOC has grown to include federal laws addressing discrimination against individuals over the age of 40 (1967 Age Discrimination in Employment Act); discrimination on the basis of gender in compensation (1963 Equal Pay Act); and discrimination on the basis of disability (1990 Americans with Disabilities Act, 1973 Rehabilitation Act); in addition to the enforcement of the 1991 Civil Rights Act, which provides monetary damages in cases of intentional discrimination. Today, the EEOC is responsible for coordinating all federal equal employment opportunity (EEO) regulations, practices, and policies; interpreting employment discrimination laws and monitoring federal sector employment discrimination program; providing funding and support to state and local Fair Employment Practices Agencies (FEPAs); and sponsoring outreach and technical assistance programs (EEOC, www.eeoc.gov/welcome.html).

Considering the growth in the size and scope of the EEOC from its inception in 1965, one would expect to uncover literature surrounding the institutionalization of the Commission. Instead, one finds research focused on the institutionalization of race in public administration theory and practice (Alexander, 1997) and the institutionalization of EEO policy (Skrentny, 1994). In addition, other EEOC literature has examined the establishment of diversity and organizational inclusion in the workforce (e.g. Bond & Pyle, 1998; Giscombe & Sims, 1998); the impact of representative bureaucracy on workforce diversification (e.g. Kerr & Mladenka, 1994; Lawton, 2000); the economics of workforce diversification (e.g. Cohn, 1996; Landes, 1968); the establishment of guidelines for the proper implementation of EEO laws (e.g. Dodge, 1997; Wheeler, 1999); and the impact of social movements on EEO policy (e.g. Burstein, 1991). Neglected in the literature is a discussion of the institutionalization of the EEOC itself and a broader understanding of how bureaucracies may transform from organizations that handle specific tasks for clients to institutions with size, stability, rules, and value beyond the tasks at hand.

This project, then, offers the first attempt to address the transformation of the EEOC from the 1965 legislative-created organization to the fully entrenched institution seen today. To examine the process of EEOC institutionalization, this study relies on Huntington's four dimensions of institutionalization (adaptability: chronology, generation age, institutional functions; complexity; autonomy; and coherence) and Squire's professionalization model (which permits the examination of how bureaucrats provide services for their clients). The study examines multiple indicators of the development of the EEOC from 1965 to 2002, including budget changes; structural changes in the commission's organization across the country, employee growth; changes in leadership; and fluctuations in charges filed and resolved. The paper also provides a multivariate analysis of the impact of congressional, presidential, and judicial decisions on the institutional development of the EEOC. The study concludes that the EEOC became a stable institution as early as the 1970s.

With a budget of \$2.25 million, and approximately 100 employees located at its central headquarters in Washington DC, the Equal Employment Opportunity Commission (EEOC) emerged in May of 1965 to oversee the implementation of Title VII of the 1964 Civil Rights Act. Though the EEOC began with the charge of enforcing federal laws designed to end workforce discrimination based on race, sex, color, religion and national origin, the Commission has seen significant increases in size and scope. By 2002, the EEOC's budget increased to \$310.406 million and its workforce grew to 2,782 employees in over 50 field offices nationwide. In addition to Title VII, the scope of the EEOC has grown to include federal laws addressing discrimination against individuals over the age of 40 (1967 Age Discrimination in Employment Act); discrimination on the basis of gender in compensation (1963 Equal Pay Act); and discrimination on the basis of disability (1990 Americans with Disabilities Act, 1973 Rehabilitation Act); in addition to the enforcement of the 1991 Civil Rights Act, which provides monetary damages in cases of intentional discrimination. Today, the EEOC is responsible for coordinating all federal equal employment opportunity (EEO) regulations, practices, and policies; interpreting employment discrimination laws and monitoring federal sector employment discrimination program; providing funding and support to state and local Fair Employment Practices Agencies (FEPAs); and sponsoring outreach and technical assistance programs (EEOC, www.eeoc.gov/welcome.html).

In view of its growth in size and scope, this project offers the first attempt to address the transformation of the EEOC from the 1965 legislative-created organization to the fully entrenched institution seen today. To examine the process of EEOC institutionalization, this study relies on Huntington's four dimensions of institutionalization (adaptability: chronology, generation age, institutional functions; complexity; autonomy; and coherence) and Squire's

professionalization model (which permits the examination of how bureaucrats provide services for their clients). The study examines multiple indicators of the development of the EEOC from 1965 to 2002, including budget changes; structural changes in the commission's organization across the country, employee growth; changes in leadership; and fluctuations in charges filed and resolved. The paper also provides a multivariate analysis of the impact of congressional, presidential, and judicial decisions on the institutional development of the EEOC. The study concludes that the EEOC became a stable institution as early as the 1970s.

The Development of an Institutionalization Model

Considering the growth in the size and scope of the EEOC from its inception in 1965, one would expect to find literature addressing the institutionalization of the Commission. However, what one finds is literature surrounding the establishment of diversity and organizational inclusion in the workforce (Mor Barak, 2000; Bond & Pyle, 1998; Evans & Oh, 1996; Giscombe & Sims, 1998; Joinson, 2000; Konrad & Pfeffer, 1991; Sisneros, 1996; Whitaker, 1998; Williams, 2001); the impact of representative bureaucracy on workforce diversification (Coleman, Brudney & Kellough, 1998; Burns, 1999; Mladenka, 1989; Kerr & Mladenka, 1994; Lawton, 2000; Naff, 1995; Stein, 1986; Wood, 1990); the economics of workforce diversification (Cohn, 1996; Johnson, 1995; Landes, 1968); the establishment of guidelines for the proper implementation of equal employment opportunity laws (Burstein & MacLeod, 1980; Bryner, 1981; Wheeler, 1999); and the impact of social movements on equal employment opportunity (Burstein, 1991). In addition, when institutionalization is examined in the literature, it is studied in terms of the institutionalization of race in public administration theory and practice (Alexander, 1997) and the institutionalization of EEO policy (Skrentny, 1994). This lack of attention to the process of institutionalization is also prevalent in bureaucratic literature.

When examining bureaucratic literature, it is evident that bureaucracies tend to be studied in terms of management and public policy (Dresang, 2002), public personnel management and administration (Ban & Riccucci, 1997; Sylvia, 1994), and human resources (Kettner, 2002). Bureaucracies have also been studied in terms of distinct leadership styles (Yukl, 1981; Adler, 1996; Bass, 1996; Baliga & Hunt, 1988; Barling, Weber & Kelloway, 1996); social interactions (Berger, Cohen & Zelditch, 1972); decision-making (Bragg & Andrews, 1973); and organizational behavior (Hammer & Turk, 1987; Hamner & Organ, 1978). Neglected in the literature is a discussion of the institutionalization of the EEOC itself and a broader understanding of how bureaucracies may transform from organizations that handle specific tasks for clients to institutions with size, stability, rules, and value beyond the tasks at hand. To help fill this void in the literature, this study employs Huntington's four dimensions of institutionalization and Squire's professionalization model to determine the level of institutionalization achieved by the EEOC.

Bureaucracies as Institutions: EEOC Institutionalization Model

In 1957, Sociologist Philip Selznick began to unravel the distinctions between administrative management and institutional leadership. In doing so, Selznick determined that the term 'organization' referred to an *expendable tool*; in other words, "a rational instrument engineered to do a job" (5). On the other hand, the term 'institution' referred to "a natural product of social needs and pressures – a responsive, adaptive organism" (5). Building upon Selznick's work, in 1965, Samuel P. Huntington became the first political scientist to employ this sociological approach to the study of institutionalization and apply it to the field of political science. Through his work, Huntington described institutionalization as "the process by which organizations and procedures acquire value and stability." He also noted that this is a process,

which can be measured by the adaptability, complexity, autonomy, and coherence of an organization (246). When values are acquired and stability is achieved, institutionalization has taken place.

In reviewing subsequent literature related to institutionalization, it is evident that many scholars were influenced by Huntington's work. Furthermore, this dialogue has even been extended to provide an area for which one can include an examination of how bureaucrats provide services to their clientele. As demonstrated by Peverill Squire (1992) the discussion of institutionalization can also be extended to include the concept of professionalization. Through professionalization, one is able to measure changes in institutional attributes associated with clientele services. By combining Huntington's four dimensions of institutionalization (adaptability, complexity, autonomy, and coherence), with Squire's professionalization model, one can begin to study the degree of institutionalization exhibited by the EEOC. One can also determine the point in time when these five dimensions converged and established the EEOC as an institution.

In order to illustrate the process of institutionalization, this work employs a multivariate analysis, using quantitative and qualitative data obtained from the U.S. Equal Employment Opportunity Commission, the U.S. Commission on Civil Rights, the U.S. Department of Labor, and the U.S. Office of Management and Budgets. For the purposes of this study, institutionalization will be determined along five dimensions: adaptability, complexity, professionalization, autonomy, and coherence.

The first measure of institutionalization is **adaptability**. As defined by Huntington, adaptability is an acquired organizational characteristic, which is a function of environmental challenge and age (246). In order to determine the level of adaptability of the EEOC, three

measures were examined: *chronology*, *generation age*, and *institution functions*. For the purposes of this paper, *chronology* is examined in terms of procedural longevity. In other words, the longer an organization or procedure is in place, the higher the institutionalization level (246). In the case of the EEOC, chronology is examined through the evolution of EEO enforcement policies and guidelines. The second measure of adaptability is *generational age*. As noted by Huntington, so long as an organization has its first set of leaders and procedure are still performed by these individuals, organizational adaptability is still in doubt. “The more often the organization has surmounted the problem of peaceful succession and replaced one set of leaders with another, the more highly institutionalized it is” (247-248). For the purposes of this study, generational age is examined in terms of leadership changes in the EEOC’s five-member bipartisan commission (composed of one Chairman and four Commissions). The final measure of adaptability addresses *functions*, meaning that an organization that has adapted itself to changes in its environment and has survived one or more changes in its principal functions is more highly institutionalized than one which has not. In this case, functional specificity is not the true measure of adaptability; instead, functional adaptability is the true measure of a highly developed organization (Huntington, 248). For the purposes of this study, functions are examined in terms of the broadening scope of EEO policy through legislative influence.

The second measure of institutionalization is **complexity**. As noted by Huntington, the more complex an organization, the more institutionalized it becomes. “Complexity may involve both multiplication of organizational subunits, hierarchically and functionally, and differentiation of separate types of organization subunits” (249). In other words, the greater the number and variety of subunits, the greater the loyalty of the members. For the purpose of this study, subunit complexity is measured in terms of the growth in state EEOC offices, Fair Employment Practice

Agencies (FEPA's), and the number of Memorandums of Understanding (MOUs) between the EEOC and federal agencies and departments.

The third measure of institutionalization is **autonomy**. At its most basic level, autonomy involves the relationship between social forces and political organizations. On the one hand, social forces include the groupings of men for social and economic activities: families, clans, work groups, churches, ethnic and linguistic groups. On the other hand, political organizations involve the autonomy of political institutions, which is measured by the extent to which they have their own interests and values distinguishable from those of other social forces (Huntington, 250-251). In terms of the EEOC, autonomy is measured in terms of Presidential Executive Orders and legislative acts that increase the authority and independence of the EEOC.

The fourth measure of institutionalization is **coherence**. As noted by Huntington,

...the more unified and coherent an organization is, the more highly institutionalized it is; the greater the disunity of an organization, the less its institutionalization. ... An effective organization requires, at a minimum, substantial consensus on the functional boundaries of the group and on the procedures for resolving disputes on issues which come up within those boundaries. The consensus must extend to those active in the system. Non-participant or those only sporadically and marginally participant in the system do not have to share consensus and usually, in fact, do not share it to their same extent as the participants. (252).

For the purposes of this study, coherence is measured in terms of EEO-related Supreme Court cases outcomes, and their consequent impact on EEO policy. Monetary benefits from race-based charges are also examined to further illustrate instances of EEOC consensus.

The final measure of institutionalization is **professionalization**. Professionalization permits an examination of how bureaucrats provide services for their clients. Institutional attributes of professionalization include: member re-numeration levels, staff support and facilities, and service time demands (Squire, 1027-1028). In this study, professionalization is

measured in terms of the total number of charges filed to the EEOC, and the total number of charges resolved by the EEOC. Two OLS models will also be employed to measure the level of professionalization achieved by the EEOC. The first model is posed to determine the impact of EEOC outlays, and the proportions of white women, African Americans, and Hispanics in the total labor workforce, on the total number of discrimination charge filed to the EEOC. The second model is posed to determine the impact of EEOC outlays, and the proportions of white women, African Americans, and Hispanics in the total labor workforce, on the total number discrimination charge resolved by the EEOC.

The Institutionalization Road

The first measure of institutionalization is **adaptability**, which can be examined through *chronology*, *generation age*, and *institutional functions*. In the case of the EEOC, **chronology** is evident through the evolution of EEO enforcement policies and guidelines. As indicated in *Table 1: The Evolution of EEO Policy: Bureaucratic Influence (EEOC Institutional Revisions)* (tables located at the end of the paper), the EEOC has been able to adapt its enforcement policies and guidelines to match changes in EEO policy. For example, to gauge the impact of EEO policy in terms of workforce composition, the EEOC began to require employee data in 1966. That year, the EEOC required “employers with at least 100 employees or government contractors with 50 employees to fill out the EEO-1 Private Sector Report annually. This report is a snapshot of how many racial and ethnic minorities and women are working in the company” (EEOC, 2001b, Milestone: 1966). The following year, the EEOC applied this procedure to local referral unions with a 100 or more members. Through these EEO-3 Reports, unions were required to submit membership/referral and applicant information (i.e. race / ethnicity, gender, and trade) to the EEOC every two years. In 1973, the EEOC applied this procedure to state and local governments

with a 100 or more employees. Though they designated eight broad job categories, the basic format this EEOC-4 Report remained consistent with the previous employee tracking reports (EEOC, 2001a). As a result of this successful tracking and reporting process, the EEOC continues to use these procedures when tracking the impact of EEO policy on workforce compositions.

Chronology is even evident in the evolution of guidelines addressing the processing of discrimination claims. For example, in 1979, the EEOC established Rapid Charge Processing as a new method of processing thousands of backlog discrimination charges. In 1986, the EEOC adopted the Investigative Compliance Policy which address situations where respondents would not cooperate during investigations. In 1993, the EEOC established the Alternative Dispute Resolution Program to facilitate mediation in discrimination charges. A final modification to the processing of discrimination claims was made in 1995, through the Priority Charge Process which changed the processing system from one of full investigation to a more strategic approach. These illustrations of the maturation of EEOC procedures and guidelines demonstrate a high level of the institutionalization in terms of adaptability and chronology. Procedures and guidelines tend to last throughout the years, grown in application, and evolve through gradual modifications.

The second measure of adaptability is *generational age*. When examining the generation age of the EEOC in terms of leadership shifts, it is evident that the EEOC has had numerous leaders. This leadership diversity stems from the guidelines established through the 1964 Civil Rights Act. Moreover, through Title VII of the 1964 Civil Rights Act, the EEOC's leadership was defined as a "five-member, bipartisan commission whose mission is to eliminate unlawful employment discrimination. The law provides that the Commission, no more than three of whom

may be from the same political party, are appointed to five-year terms by the President and confirmed by the Senate. The Chairman of the agency appoints the General Counsel” (EEOC, 2001b, Milestone: 1964). As indicated in *Table 2: EEOC Chairman: Terms and Years as Chairman and Appointing President*, there have twelve different Chairmen since 1965, each appointed by different Presidents (eight in total), representing both major parties (Democrats and Republicans). To address the mission of the EEOC, many of the individuals appointed to serve as Chairman have also come from diverse backgrounds. For example, in 1967, Clifford L. Alexander Jr. became the first African American Chairman; in 1977, Eleanor Holmes Norton became the first African American female to be appointed Chairman; in 1994, Gilbert F. Casellas became the first Latino Chairman; and, in 1998, Ida L. Castro became the first Latina Chairman. This growing diversity in the leadership of the EEOC reflects the changing nature of EEO policy. As the policy grows to incorporate newly protected classes, the leadership of the Commission also evolves to reflect these changes. Through the term limits of Chairman and Commissioners, the bi-partisan constraints of the Commission, and Senate confirmation of political appointments, EEOC leadership has displayed a significant level of diversity. It has also displayed a high degree of institutionalization in terms of adaptability and generational age. New and diverse leaders come and come, but the mission and procedures of the EEOC remain constant. Though protected classes, procedures, and guidelines are modified and adjusted, the mission of the EEOC continues to be the prohibition of discrimination.

The final measure of adaptability addresses *functions*. For the purposes of this study, functions are examined in terms of the broadening scope of EEO policy through legislative influence. As noted in *Table 3: The Evolution of EEO Policy: Legislative Influence*, EEO policy has grown in scope. This increase in the boundaries of the policy has also resulted in increases in

the functions of the EEOC. For example, the EEOC was established in 1965 to prevent discrimination in the hiring, promotion, and firing of minorities and women. However, in 1967, employment discrimination was broadened to include individuals over the age of 40; and in 1990, protected classes were expanded yet again to include Americans with disabilities (EEOC, 2001b). Currently, the EEOC mission has grown to enforces laws that prohibit discrimination based on race, color, religion, sex, national origin, disability, or age in hiring, promotion, firing, setting wages, testing, training, apprenticeships, and other terms and conditions of employment; race, color, sex, creed, and age are now protected classes. As the category of protected classes grew, so did the power of the EEOC. Today, the Commission has investigatory authority, conciliation programs, litigation power, and monetary damage provisions (NARA, 2001; EEOC, 2001b). Despite efforts to eliminate EEO policy from interest groups for colorblind policies (i.e. Linda Chavez, Latina, founder of Center for Equal Opportunity and Ward Connerly, African American, founder of American Civil Rights Institute), the EEOC has continued to thrive and grow. Though opponents argue for colorblind policies, the EEOC demonstrates the need to protect individuals who continue to be discriminated against in the workplace. By adapting its functions to match its changing environment, the EEOC has demonstrated a significant level of institutionalization in terms of adaptability and functions. By broadening their “protected class” definition and increasing their control over the regulation of EEO policy, the EEOC has continued to dominate the enforcement of EEO policy.

The second measure of institutionalization is **complexity**. For the purpose of this study, subunit complexity is measured in terms of the growth in staff size and Fair Employment Practice Agencies (FEPA’s), budget and outlays, and workflow activity. Differences between the EEO actors are also evident in Memorandums of Understanding between the EEOC and federal

agencies and departments. As noted in *Table 4: EEOC Personnel Summary: Fiscal Year 1965-2003*, the size of the allotted EEOC personnel positions has grown throughout the years (though this growth has fluctuated from time to time¹).

When examining the complexity of the EEOC in relation to increases in subunits, it is also evident that the EEOC displays a significant level of institutionalization. For example, in 1966, the EEOC employed 190 individuals, in four regional offices, with a budget of approximately \$3.2 million. In 1968, the EEOC grew to employ 389 individuals, in 13 regional offices, with a budget of approximately \$6.5 million. By 1971, the EEOC employed 910 individuals, in 27 districts and 7 regions, with a budget of approximately \$16 million. In 1977, the EEOC dramatically increased in size to 2,487 employees, throughout its newly consolidated 22 districts, with a budget of approximately \$70 million. By 1989, the EEOC had over 3,170 employees, contracts with over 53 Tribal Employment Rights Offices (TERO's), and a budget of approximately \$180 million. Though the EEOC underwent decreases in the size of their staff in 2000 (down to 2,852 employees), it had established "contracts with 93 state and local Fair Employment Practice Agencies (FEPAs) that resolved approximately 53,000 dual filed ...charges. The EEOC also contracts with 63 Tribal Employment Rights Offices (TEROs) to secure Indian preference agreements with employers operating on or near reservations and for the TEROs to process charges filed against employers on reservations" (EEOC, 2001b,

¹ During the 1980s, the EEOC came under heavy scrutiny and challenge. As a result of President Ronald Reagan's Reorganization Plan No. 1 of 1981, the EEOC's workforce was reduced, and employees from the Civil Service Commission and the Department of Labor were transferred to the EEOC. Between 1981 and 1985, the EEOC's allocated permanent positions were also decreased from 3,412 to 3,107. In 1986, their budget was decreased for the first time in history by \$5,750,000. Between 1986 and 1989, the EEOC underwent a decrease in their workflow from 68,822 discrimination claims, to 55,952 claims. Conservative Supreme Court appointments have also had an adverse effect on the outcomes of many EEO cases beginning in 1987. In *Johnson v. Transportation Agency, Santa Clara County* (1987), the Supreme Court ruled that affirmative action plans had to be defended by evidence of segregation. Though EEOC had made affirmative action plans mandatory, the Courts overturned this mandate by requiring proof of segregation. Despite the scrutiny and challenges during the 1980s, the EEOC has continued to grow in scope, size, budget, authority, and autonomy. It has adapted and grown in complexity; indicators of institutionalization.

Milestones: 2000). Throughout the years, the size and structure of the EEOC has continued to evolve and grow in complexity to incorporate new EEO enforcement agencies.

This growth in staff and subunits has also had a subsequently impact on the budget and outlays of the EEOC. As noted in *Table 5: EEOC Budget Authority and Outlays: Fiscal Year 1965-2003*, with the exception of 1986, the EEOC's budget authority has displayed a consistent increase (though at different monetary levels) since the Commissions creation in 1965. In addition to increases in budget authority, the EEOC has also seen an increase in their outlays (expenditures and spending), paralleling the expenses associated with the growth in staff and subunit size.

In addition to a steady growth in the staff and subunits, and budget and outlays, the EEOC has also seen an increase in EEOC discrimination charges throughout the years. As noted in *Table 6: EEOC Workforce Analysis: 1966-1970 & 1977-2000*, in 1977, 79,800 Title VII discrimination charges had been filed with the EEOC; by 2000, 92,882 Title VII, Age Discrimination in Employment Act, Equal Pay Act, American with Disabilities Act, and other combinations of discrimination charges had been filed with the Commission. Though this increase in discrimination charges has fluctuated throughout the years, the scope of protected classes has continuously grown. In addition, there are many cases of discrimination which continue to go unresolved because it has become increasingly difficult to defend cases of discrimination. As a result of Supreme Court rulings beginning in the 1980s, and attempts to speed up the handling of discrimination charges by the EEOC, the burden of proof lies with the individual claiming discrimination; they not only have to prove purposeful discrimination, but they also have to provide evidence. This not only deters individuals from filing claims, but also helps to explain increases in the number of claims which go unresolved each year. Through this

examination of the EEOC's staff and subunits, budget authority and outlays, and workforce activities, it is evident that the EEOC displays a significant level of institutionalization in terms of complexity. However, complexity can also be measured by the differences between the subunit functions.

As noted in *Table 7: Equal Employment Opportunity Commission Memorandum of Understandings (MOU)*, not only does the EEOC have contracts with FEPAs and TEROs, the EEOC has also established MOU's with federal agencies and departments. For example, the first MOU was established in 1970 between the EEOC and the US Department of Labor Office of Federal Contract Compliance to address the processing of employment discrimination complaints between the two agencies. More recently (1999), the EEOC established an MOU with the Office of Federal Contract Compliance Programs to address the processing of Title VII charges under the updated charge process (Executive Order 11246 revisions). Through these, and other similar MOU's throughout the decades, the EEOC addresses the processing of employment discrimination complaints, procedures for sharing information, overlaps in discrimination charge filings, and even cross-training, referral and information sharing programs. Complexity in terms of the differences between these EEO actors is evident in these MOUS, in that different guidelines have been designated for these subunits. This growth in complexity further highlighting the institutionalization of the EEOC.

The third measure of institutionalization is **autonomy**. In this case, autonomy was measured through an examination of legislative acts and Presidential Executive Orders intended to increase the enforcement power of EEO policy. As illustrated in *Table 3: the Evolution of EEO Policy: Legislative Influences* and *Table 8: The Evolution of EEO Policy: Executive Influence*, in 1972, the EEOC was given judicial enforcement powers through the Equal

Employment Opportunity Act. In 1978, it was given authority to enforce anti-discrimination laws and coordinate federal program, along with the ability to develop uniform enforcement standards through the Civil Service Reform Act and Executive Order 12067, respectively. In addition, the administration of the Equal Pay and Age Discrimination Acts was transferred from the Department of Labor to the EEOC through the Reorganization Plan No. 1. In 1988, the EEOC was given further autonomy to process backlogged Age Discrimination in Employment Act charges through the Age Discrimination Claims Assistance Act. In 1991, the EEOC was given the ability to provide monetary retribution in cases of blatant discrimination, through the 1991 Civil Rights Act. In addition to these increases in autonomy, the EEOC was established as the provider of stakeholder technical assistance and material in 1992 (EEOC, 2001a, Milestones: 2000). While this growing autonomy of the EEOC demonstrates its institutionalization, this institutionalization is further solidified by the EEOC's continued commitment to its protected classes and overall mission and goals.

The fourth measure of institutionalization is **coherence**. For the purposes of this study, coherence was measured in terms of EEO-related Supreme Court cases outcomes, and their consequent impact on EEO policy. As indicated in *Table 9: The Evolution of EEO Policy: Judicial Influence*, of EEO policy related cases, 73% of the cases (35 of 48) had a positive impact on EEO policy, while 27% (13 of 48) represented a negative impact. Though the majority of the outcomes increased the scope and reach of EEO policy, some of these outcomes challenged the existence and mission of the EEOC. For example, in *General Electric Co. v. Gilbert* (1976), the Supreme Court ruled that it was acceptable to practice insurance discriminate against pregnant females because men cannot get pregnant. This ruling overturned Title VII provisions to include pregnant women in its protected classes (1972). Though the Supreme Court

has made it difficult to prove cases of intentional discrimination, it has also increased the power and scope of the EEOC. For example in *Gibson v. West* (1999), the Supreme Court ruled that the EEOC had the legal authority to force federal agencies to pay compensatory backpay when the Commission ruled that the agency acted unlawfully by practicing discrimination. Discrimination charged processed and monetary benefits obtained for race based charges further illustrate instances of EEOC coherence despite opposition.

By the time the 1964 Civil Rights Act resurfaced on the political agenda in 1991, the national mood towards EEO policy was in transition. One of the main contributors of this shift in national mood was the US Supreme Court case *Regents of the University of California v. Bakke* (1978).² As a result of the elimination of special programs for minorities in admissions standards (affirmative action), EEO policy also came under attack. Opponents³ argued that if race could not be used in university admission policies because it was unconstitutional, then the EEOC's Title VII protected classes were also unconstitutional because they favored certain groups in society and excluded others.

² Allan Bakke was a white male of Scandinavian descent. He graduated with honors in engineering from the University of Minnesota and was a Vietnam veteran. While working for NASA, he was also pursuing a master's degree in engineering from Stanford. Bakke developing an interest in medicine and began volunteering at hospitals, while taking extra sciences courses. He sought admission to the University of California medical school on two separate occasions; but was denied twice. Bakke sued for admission after discovering that a special admissions program was letting in economically and educationally disadvantaged blacks, Chicanos, Asians, and Native Americans who were less qualified than he was. The Supreme Court ruled that special admissions program violated the Equal Protection Clause and forced the school to admit Bakke and eliminate their race based programs (Epstein & Walker, pp. 728-729).

³ In terms of EEO opposition, Linda Chavez and Ward Connerly emerged as the most outspoken advocates. Both Chavez and Connerly are minorities who favor colorblind policies. Chavez was appointed Staff Director of the Civil Rights Commission in 1983, beginning a long career as an EEO "advocate." Through her vocal support for a colorblind policy, Chavez was able to establish the only political think tank devoted to exclusively promoting colorblind equal opportunity and racial harmony: the Center for Equal Opportunity (CEO, 2001). Connerly was also working toward the creation of a colorblind policy. He first gained national attention and respect as an outspoken advocate of EEO for all Americans, regardless of race, sex, or ethnicity. He was also a member of the University of California Board of Regents, and was a major leading force in elimination of racial preferences in admission policies. In 1995, Connerly accepted chairmanship of the California Civil Rights Initiative Proposition 209 to bring an end to racial preferences (ACRI, 2001).

To thwart efforts to establish a colorblind policy, the EEOC maintained a unified front and countered these propositions by processing more discrimination claims. For example, between 1980 and 1990, the EEOC processed 19,434 racial and gender discrimination charges; and by the 1990s, this number had increased to 109,472 (1999 figure) (EEOC, 2001d). As illustrated in *Table 10: Monetary Benefits for Race Based Charges: FY1992-FY2000 (Post 1991 Civil Right Act Monetary Provisions for Intentional Discrimination)*, between 1992 and 2000, the monetary benefits for intentional discrimination also saw an increase from \$31.9 million to \$61.7 million. *Table 11: EEOC Litigation Statistics: Fiscal Year 1973-2002*, also notes that a result of the 1972 changes to the 1964 Civil Rights Act, the EEOC was given authority to bring civil action in Federal district courts to enforce Title VII provisions. Consequently, in 1973, 116 direct employment discrimination suits were filed by the EEOC. By 2002, this number increased to 364 direct suits. Paralleling this trend, is the increase in resolutions from the EEOC charges filed. For instance, in 1974, 35 resolutions from 118 direct suits were resolved. By 2002, the number of charges resolved increased to 373 resolutions from 364 direct suits (difference due to multiple claims in direct suits). These increases in harassment cases and monetary benefits for intentional discrimination further illustrates the growing role of the EEOC over the continuation of equal employment opportunity. By demonstrating a unified front against colorblind policies, and by reinforcing the coherence of the institution by increasing litigation efforts and monetary benefits, the EEOC has demonstrated institutionalization in terms of coherence.

The final measure of institutionalization is **professionalization**. Institutional attributes of professionalization include “member remuneration levels, staff support and facilities, and service time demands” (Squire, 1027-1028). In this study, two OLS models measure the level of professionalization achieved by the EEOC. The dependent variables employed in these models

include the total number of discrimination charges filed to the EEOC and the total number of discrimination charges resolved by the EEOC between 1966 and 2002. In terms of total charged filed, the average is 60,201 charges (minimum: 8,854; maximum: 91,189), with a 24,265 standard deviation; in terms of total charges resolved, the average is 60,054 resolutions (minimum: 5,424; maximum: 106,312), with a 30,667 standard deviation.

Four independent variables are employed in these models. The first variable is EEOC outlays between 1965 and 2003, which cover expenditures and spending for federal law enforcement activities, including salary and expenses, in addition to expenses associated with education, technology, and training. In this case, the average outlay was \$208,771 (minimum: \$166; maximum: \$316,000), with a \$95,619 standard deviation (dollar figures in millions and in 2002 constant dollars). The remaining three variables represent the proportion of white women, African Americans, and Hispanics in the total labor workforce between 1966 and 2003. In terms the proportion of white women in the total labor force, the average is 33% (minimum: 28%; maximum: 36%), with a 3% standard deviation. For the proportion of African Americans in the total labor force, the average is 11% (minimum: 8%; maximum: 12%), with a 0.7% standard deviation. For the proportion of Hispanics in the total labor force, the average is 7% (minimum: 3%; maximum: 12%), with a 3% standard deviation.

To determine the impact of EEOC outlays, and the proportions of white women, African Americans, and Hispanics in the total labor workforce, on the total number discrimination charge filed to the EEOC, the following regression model is posed:

$$\text{total charges filed} = B_0 + B_1(\text{outlays}) + B_2(\text{total labor force proportion: white women}) + B_3(\text{total labor force proportion: African Americans}) + B_4(\text{total labor force proportion: Hispanics}) + u_i$$

As indicated in *Table 12: OLS Model: Total Charges Filed*, the AdjR2 is (0.6753): indicating that 68% of the variation in the total number of discrimination charges filed to the EEOC is

jointly explained by EEOC outlays, and the proportions of white women, African Americans, and Hispanics in the total labor workforce. The F-Statistic was also employed to test the hypothesis that:

$$\begin{aligned} H_0: B_1 = B_2 = B_3 = B_4 &= 0 \\ H_A: B_1 = B_2 = B_3 = B_4 &\neq 0 \end{aligned}$$

As noted in Table 12, the Calculated F (4,29) is 18.16; the Critical F value for (4,29) at a 0.05 level of significance is 2.70. Because the Calculated F value exceeds the Critical F value, we reject the null hypothesis that the total number of discrimination charges filed is statistically independent of outlays, and the total proportions of the workforce which are either female and white, Hispanics or African Americans. In terms of statistically significant variables, only outlays is statistically significant at a 0.05 level. Holding all other independent variables constant, the effect of a single dollar increase in outlays, increases the total number of discrimination charges filed by .26 (for an actual value of 39753.91).

To determine the impact of EEOC outlays, and proportions of white women, African Americans, and Hispanics in the total labor workforce, on the total number discrimination charge resolved by the EEOC, a second regression model is posed:

$$\text{total charges resolved} = B_0 + B_1(\text{outlays}) + B_2(\text{total labor force proportion: white women}) + B_3(\text{total labor force proportion: African Americans}) + B_4(\text{total labor force proportion: Hispanics}) + u_i$$

As indicated in *Table 13: OLS Model: Total Charges Resolved*, the AdjR2 is (0.7534): indicating that 75% of the variation in the total number of discrimination charges resolved by the EEOC is jointly explained by EEOC outlays, and proportions of white women, African Americans, and Hispanics in the total labor workforce. The F-Statistic was also employed to test the hypothesis that:

$$\begin{aligned} H_0: B_1 = B_2 = B_3 = B_4 &= 0 \\ H_A: B_1 = B_2 = B_3 = B_4 &\neq 0 \end{aligned}$$

As noted in Table 13, the Calculated F (4,29) is 26.20; the Critical F value for (4,29) at a 0.05 level of significance is 2.70. Because the Calculated F value exceeds the Critical F value, we reject the null hypothesis that the total number of discrimination charges resolved by the EEOC is statistically independent of outlays, and the total proportions of the workforce which are either female and white, Hispanics or African Americans. In terms of statistically significant variables, only outlays is statistically significant at a 0.05 level. Holding all other independent variables constant, the effect of a single dollar increase in outlays, increases the total number of discrimination charges resolved by .27 (for an actual value of 43444.64).

Professionalization seeks to measure clientele services. In this case, as a result of the statistically significant positive relationships between outlays and the total charges filed and resolved by the EEOC, respectively, it is evident that the with every dollar spent by the EEOC, there is a subsequent increase in the total number of charges filed and resolved by their staff. Therefore, as more money is spent to cover expenditures and spending for federal law enforcement activities, protected classes are becoming more familiar with EEO law and bring to light cases of discrimination. In addition, for every increase in outlays, there is also an increase in the total number of charges resolved by the EEOC.

Equal Employment Opportunity Commission: Organization or Institution?

Is the Equal Employment Opportunity Commission (EEOC) an organization or an institution? As defined by Philip Selznick (1957), an organization “is a technical instrument for mobilizing human energies and directing them toward set aims. We allocate tasks, delegate authority, channel communication, and find some way of co-ordinating all that has been divided up and parceled out” (5). From this perspective, the EEOC gives the appearance of an

organization in that it mobilizes people to work towards proportional workforce representation by outlining and prohibiting discriminatory practices, requiring the tracking of employees, and coordinating efforts between national and state EEOC offices. Though this argument may be somewhat convincing, the adaptability, complexity, professionalization, autonomy, and coherence of the EEOC make it difficult to accept the representation of the EEOC as an organization.

On the other hand, the definition of an institution provides a more realistic reflection of the EEOC. As defined by Selznick, institutions, “whether conceived as groups or practices, may be partly engineered, but they have also a ‘natural’ dimension. They are products of interactions and adaptation; they become receptacles of group idealism; they are less readily expendable” (21-22). In other words, institutions are “natural products of social needs and pressures- a responsive, adaptive organism” (5). In order to determine if the EEOC had indeed undergone the process of institutionalization, a combination of Huntington and Squire’s work was developed to create an institutionalization model that measured adaptability, complexity, professionalization, autonomy, and coherence.

Based on this model, it is evident that these five-dimensions converged between 1977 and 1978, leading to the emergence of the EEOC as an institution. Between these years, EEOC Chairman Norton restructured the EEOC hierarchy, subunits, and functions to facilitate the implementation of EEO policy (evidence of adaptability, complexity, and professionalization). In 1978, the Civil Service Reform Act abolished the Civil Service Commission, and designates the EEOC as the enforcer and coordinator of anti-discrimination law and EEO federal programs. President Carter’s Reorganization Plan No. 1 of 1978, and Executive Order 12067 and 12106, also designated the EEOC as the principle coordinator of EEO policy among different actors

(evidence of autonomy). During this period, Supreme Court outcomes also favored EEO policy by extending the period to file a discrimination charge (*Occidental Life Insurance Co., v. EEOC*, 1977), requiring employers to accommodate religious needs (*Trans World Airlines, Inc. v. Hardison*, 1977), and protecting women against health care discrimination because they “live longer than men” (*LA Department of Water and Power v. Manhart*, 1978) (evidence of coherence).

Though the EEOC emerged as an institution between 1977 and 1978, it has continued to evolve to solidify this role and deflect opposition. For example, as previously noted, the EEOC came under challenge and scrutiny during the 1980s. Supreme Court outcomes made it increasingly difficult to prove discrimination charges, in addition to negatively impacting the number of EEOC discrimination charged. The staff of the EEOC also decreased during this period, and the budget underwent its first and only budgetary cut in history.

Despite these challenges, the EEOC was also undergoing numerous bureaucratic modifications in the 1980s to combat these attacks and enhance the role of the EEOC as an institution. For example, in 1980, the Commission established their first EEO contracts with Tribal Employment Rights Offices. In 1983, the Commission voted to change the investigation process from a rapid process to full investigations. In 1985, the Commission adopted an Investigative Compliance Policy to address cases where cooperation is lacking (further illustrations are evident in Table 1).

Legislative influence strengthening the necessity of EEO policy also helped to combat challenges and obstacles encountered by the EEOC during the 1980s. For example, in 1986, the Age Discrimination in Employment Amendments eliminate the cap of 70 years of age from the Act increasing access to senior citizens who are discriminated against because of age. In 1986,

the Immigration Reform and Control Act prohibited employers from discriminating on the basis of national origin or citizenship status. Through this Act, Title VII was applied to immigrants; further increasing the size and scope of EEO protected classes (further illustrations are evident in Table 4). Through these bureaucratic institutional revisions and legislative influences, the EEOC illustrated its role as an institution by thriving and growing despite challenges to its mission. By growing in adaptability, complexity, professionalization, autonomy, and coherence (i.e. undergoing institutionalization), it makes it difficult to refute the legitimacy of the EEOC as an institution.

The Institutionalization of the Equal Employment Opportunity Commission

This purpose of this study was twofold. First, this work sought to determine whether the Equal Employment Opportunity Commission (EEOC) had undergone the process of institutionalization as defined by a combination of Samuel P. Huntington's (1965) four-dimensional institutionalization model (adaptability, complexity, autonomy, and coherence) and Peverill Squire's (1992) professionalization model. Second, this work sought to determine whether the EEOC had indeed emerged as an institution, and when this transition took place.

By employing Huntington and Squire's model of institutionalization, evidence of adaptability, complexity, professionalization, autonomy, and coherence indicates significant levels of institutionalization. In terms of adaptability, institutionalization is evident in the fact that procedures tend to last throughout the years, grow in application, and evolve with minor changes; leaders come and come, but the mission and procedures of the EEOC remain constant; and, EEO policy broadens in scope, as the EEOC broadens in power. Institutionalization is also evident in the complexity of the EEOC, in that hundreds of sub-units (i.e. district offices, regional offices, FEPAs...), thousands of workers, and millions of dollars go into the

implementation of EEO policies. The fact that the EEOC has been able to adjust to changes in staff, subunits, and leaders also indicates a level of professionalization which also impact the institutionalization of the EEOC. The high level of autonomy also indicates the institutionalization of the EEOC, in that the institution has been able to maintain its values and interests despite increases in regulatory and enforcement powers. The final evidence of institutionalization is coherence. By demonstrating a unified front against colorblind policies through increases in their litigation efforts, the EEOC was able reinforcing the consensus and support for EEO policy.

By employing a five-dimensional model of institutionalization, it is evident that the EEOC emerged as an institution, in 1977 and 1978, but has continued to undergo institutionalization to combat policy challenges and scrutiny. Significant evidence indicates the institutionalization of the EEOC through its ability to: adapt to social pressures and institutional restructuring; manage its complex organizational structure; undergo professionalization; enforce and regulate EEO policy; and commit to the mission of EEO ideals. In other words, the EEOC has succeeded in establishing values and stability.

Table 1: The Evolution of EEO Policy: Bureaucratic Influence (EEOC Institutional Revisions)

Year	Contribution to the Evolution of EEO Policy
1966	The EEOC opened its first field offices in Dallas, Atlanta, Chicago, and Cleveland. To encourage employers to establish objective standards, EEOC issues its first Guidelines on Employment Testing Procedures for Religion .
	EEOC requires employers with at least 100 employees or government contractors with 50 employees to fill out annual EEO-1 Private Sector Reports designed to provide a snapshot of how many racial and ethnic minorities and women are working in a company.
	EEOC issues its first Guidelines on Discrimination Because of Religion
1967	EEOC institutes EEO-3 Reports , requiring local referral unions with 100 or more members to report every two years on membership/referral and applicants by race/ethnic group, gender and trade.
1968	EEOC issues revised guidelines on sex discrimination, making it clear that the widespread practice of publishing "help wanted" advertisements that use "male" and "female" column headings violates Title VII.
1969	EEOC publishes revised Guidelines on Employee Selection Procedures , which interpret Title VII to permit only professionally developed ability and aptitude tests that are job related and consistent with business necessity.
	EEOC issues Guidelines on Discrimination Because of National Origin . EEOC declares that the ban on national origin discrimination extends to characteristics generally associated with a particular national origin. Employers are prohibited from discriminating on the basis of language requirements, height and weight standards, or ethnic stereotypes.
1972	EEOC amends its sex discrimination guidelines to prohibit employers from imposing mandatory leaves of absence on pregnant women or terminating women because they become pregnant.
1973	EEOC establishes the National Programs Division in Headquarters (D.C.) using a task force approach to investigate systemic patterns and practices of discrimination.
	EEOC requires EEO-4 Reports of state and local governments with 100 or more employees, excluding school districts. The reports cover government function by race/ethnic category and gender for eight broad job categories.
1979	EEOC issues Affirmative Action Guidelines providing employers information on how to undertake voluntary affirmative action.
	EEOC implements a new method for processing discrimination charges filed by members of the public -- Rapid Charge Processing .
1980	Interim Guidelines on Sexual Harassment declares that sex-related intimidation on the job or the creation of a sexually charged work environment is unlawful under Title VII.
	EEOC revises its Guidelines on Discrimination Because of National Origin , stating that bilingual employees have the right to use their native language at the workplace unless the employer has a business necessity for an English only rule.
	EEOC contracts for the first time with Tribal Employment Rights Offices (TEROs) and the Council for Tribal Employment Rights to provide technical assistance to Native Americans residing on reservations on their rights under Title VII.
1982	EEOC implements an Expanded Presence Program designed to bring information on fair employment laws to under-served communities.
1983	The Commission votes to change how it investigates charges of discrimination filed with the agency. The Commission states it intends to move away from the rapid charge philosophy with its emphasis on securing quick settlements to a full investigation approach.
1985	The Commission issues an administrative decision that polygamy is not a religious practice protected by Title VII.
1986	EEOC adopts the Investigative Compliance Policy which addresses situations where respondents have been uncooperative in providing information during an investigation of a charge.
1989	EEOC contracts with 53 Tribal Employment Rights Offices (TEROs) to protect the employment rights of Native Americans working for private employers on or near an Indian reservation.
1992	EEOC issues enforcement guidance on how to assess compensatory and punitive damages available as result of the Civil Rights Act of 1991.
	EEOC issues guidance stating that "testers" have standing to file charges under Title VII and therefore EEOC will investigate charges filed by "testers." Testers are individuals who pose as applicants for employment for the purpose of collecting evidence of unlawful employment discrimination. They "test" the possibility of securing a job although they have no intention of obtaining employment.
1993	EEOC publishes proposed guidance on workplace harassment under all bases covered by Title VII, including harassment based on religion.
	EEOC pilots an Alternative Dispute Resolution (ADR) Program featuring mediation in four field offices.
1994	EEOC issues comprehensive guidance on disability-related pre-employment inquiries and medical exams explaining what is lawful to ask applicants seeking employment.
1995	The Commission approves changing the agency's private sector charge processing system from the one on one full investigation approach to a more strategic approach -- Priority Charge Processing .
1996	The Commission adopts a National Enforcement Plan (NEP) which articulates a three pronged approach to enforcing federal anti-discrimination laws
1997	EEOC issues a policy guidance stating that employer-employee agreements that mandate binding arbitration of discrimination claims as a condition of employment violate federal fair employment laws.
	EEOC issues guidance stating that an individual's right to file a charge with EEOC cannot be waived.
1999	EEOC adopts a Comprehensive Enforcement Program (CEP) to maximize the effective implementation of the National Enforcement Plan policies.
	Enforcement Guidelines on Remedies Available to Undocumented Workers declares that undocumented workers are entitled to the same remedies available to all other workers in violation of laws enforced by the EEOC except in the limited circumstances where the award would conflict with the purpose of immigration laws.
2000	EEOC contracts with 93 state and local Fair Employment Practice Agencies (FEPAs) and with 63 Tribal Employment Rights Offices (TEROs) .

Sources: EEOC, 35th Anniversary: History, Milestones, The Law, Voices, and Visions (2001), <http://www.eeoc.gov/35th/>.

Table 2: EEOC Chairmen: Term and Years as Chairman & Appointing President

Term¹	Year	EEOC Chairmen	Appointing President²
1st	1965	Franklin D. Roosevelt Jr.	Lyndon B. Johnson (D)
2nd	1966	Stephen N. Shulman	Lyndon B. Johnson (D)
3rd	1967 1968	Clifford L. Alexander, Jr. ³	Lyndon B. Johnson (D)
4th	1969 1970 1971 1972	William H. Brown III	Richard M. Nixon (R)
5th	1973 1974	John H. Powell	Richard M. Nixon (R)
6th	1975 1976	Lowell W. Perry	Gerald R. Ford (R)
7th	1977 1978 1979 1980 1981	Eleanor Holmes Norton ⁴	Jimmy Carter (D)
8th	1982 1983 1984 1985 1986 1987 1988 1989	Clarence Thomas	Ronald Reagan (R)
9th	1990 1991 1992 1993	Evan J. Kemp Jr.	George Bush (R)
10th	1994 1995 1996 1997	Gilbert F. Casellas ⁵	Bill Clinton (D)
11th	1998 1999 2000	Ida L. Castro ⁶	Bill Clinton (D)
12th	2001 2002	Cari M. Dominguez	George W. Bush (R)

¹Term: refers to the period in which an individual acts as Chairman of the EEOC. ²Appointing President: President and their political party (R – Republican; D – Democrat). ³Alexander is the first African American chairman. ⁴Norton is the first African American female chairman. ⁵Casellas is the first Latino chairman. ⁶Castro is the first Latina chairman.

Source: EEOC, “Milestones in the History of the U.S. Equal Employment Opportunity Commission: Commissioners of the EEOC,” <http://www.eeoc.gov/35th/history/commissioners/html>, Nov. 26, 2002.

Table 3: The Evolution of EEO Policy: Legislative Influence

Congressional Act	Contribution to the Evolution of EEO Policy
1963 Equal Pay Act	Equal wages for equal work regardless of gender.
1964 Civil Rights Act	After the longest debate in history (534 hours), and over 500 amendments to the bill, Congress passed the 1964 Civil Rights Act. Title VII of this Act prohibits employment discrimination on the basis of race, sex, color, religion, and national origin. Discrimination in recruitment, hiring, wages, assignments, promotions, benefits, discipline, discharge, layoffs, and almost every aspect of employment.
1964 Civil Rights Act: Title VII	Title VII of the 1964 Civil Rights Act established the Equal Employment Opportunity Commission (EEOC) in 1965 to enforce unlawful employment discrimination based on race, sex, color, religion, and national origin.
1967 Age Discrimination in Employment Act	Individuals between the ages of 40 and 65 cannot be discrimination against in employment practices because of age.
1972 Equal Employment Opportunity Act	As noted in the report accompanying the bill, “the time has come for Congress to correct the defects in its own legislation. The promise of equal job opportunity must [now] be made a reality” (EEOC, 2001, p. 2). Through this Act, the EEOC is given authority to “back up” administrative findings and increase its jurisdiction & reach. The EEOC now has litigation authority, extensions are provided on the filing a discrimination charge, and Title VII has been extended to apply to educational institutions, state and local governments, the federal government, and employers with 15 or more employees.
1973 Rehabilitation Act	Prohibits federal government from discrimination against qualified individuals with disabilities.
1978 Rehabilitation Act Amendments	Made the process and remedies of disability discrimination-complaints identical to Title VII guidelines.
1978 Pregnancy Discrimination Act	Amends Title VII by making it clear that discrimination based on pregnancy is unlawful gender discrimination. This legislation reverses the Supreme Court ruling in <i>General Electric Co. v. Gilbert</i> (1976). In this case, the Court ruled that pregnancy discrimination in health insurance plans did not constitute Title VII sex discrimination.
1978 Civil Service Reform Act	Abolished the U. S. Civil Service Commission, and distributed its primary functions. The EEOC assumes responsibility for enforcing anti-discrimination laws and coordinating federal EEO programs.
1984 Deficit Reduction Act	Amends Age Discrimination in Employment Act by requiring that employee spouses between the ages of 65-69 receive the same treatment under group health plans as employee spouses below the age of 65.
1986 Age Discrimination in Employment Amendments	Eliminates upper age cap of 70 from the Age Discrimination in Employment Act. However, this Act exempts colleges from involuntarily retiring professors over 70 if they have unlimited tenure, and state and local governments when hiring and retiring firefighters and law enforcement officers until 12/31/1993.
1986 Immigration Reform and Control Act	Compliments Title VII by prohibiting employers with 4 to 14 employees from discriminating on the basis of national origin or citizenship status. The Act also states that employers cannot be sanctioned and fined for hiring illegal aliens.
1988 Age Discrimination Claims Assistance Act	Congressional extensions permit the EEOC to complete the administrative processing of backlogged Age Discrimination in Employment Act charges.
1990 Older Workers Benefit Protection Act	Prohibits age discrimination in employment benefits.
1990 Age Discrimination Assistance Claims Amendments	Gives individuals who have suffered age discrimination an 18-month extension to file lawsuits.
1990 American with Disabilities Act	“The Emancipation Act of Disability Community” – The world’s first comprehensive civil rights act for people with disabilities. The Act prohibits discrimination against people with disabilities in employment (Title I, enforced by EEOC), public accommodations (Title II), and telecommunications (Title IV).
1991 Civil Rights Act	Provides monetary restitution in cases of intentional discrimination, as well as increases the classification of protected classes to include: minorities (Hispanics, African Americans, Asian Americans, and American Indians), women, disabled, elderly, national origin and religious classifications.
1992 EEOC Education, Technical Assistance & Training Revolving Funds	Established EEOC as the provider of technical assistance and materials to stakeholders.
1996 Age Discrimination in Employment Amendments	Permanently reinstates an exemption that permits state and local governments to use age as a basis for hiring and retiring firefighters and law enforcement officers.
1998 Higher Education Amendments	Permits colleges and universities to offer special age-based retirement incentives for tenured faculty members. Replaces mandatory retirement of faculty members between the ages of 65 to 70.

Sources: EEOC, 35th Anniversary: History, Milestones, The Law, Voices, and Visions (2001) and Milestones in the History of the US EEOC (2001), <http://www.eeoc.gov>.

Table 4: EEOC Personnel Summary: Fiscal Year 1965-2003

Fiscal	Personnel¹	% Change²	Total Obligations³	Personnel Compensation⁴
1965	190	- - -	\$2,326	\$74
1966	314	65.26%	\$17,211	\$6,667
1967	314	0.00%	\$26,812	\$13,833
1968	389	23.89%	\$33,948	\$17,850
1969	579	48.84%	\$44,275	\$25,804
1970	780	34.72%	\$61,241	\$32,505
1971	910	16.67%	\$71,280	\$41,244
1972	1,325	45.60%	\$98,203	\$56,397
1973	1,909	44.08%	\$127,976	\$75,866
1974	2,416	26.56%	\$161,051	\$91,732
1975	2,384	-1.32%	\$183,916	\$112,261
1976	2,584	8.39%	\$191,032	\$114,718
1977	2,487	-3.75%	\$206,181	\$126,024
1978	2,837	14.07%	\$229,710	\$123,605
1979	3,627	27.85%	\$261,374	\$133,448
1980	3,433	-5.35%	\$271,426	\$167,192
1981	3,412	-0.61%	\$273,020	\$167,230
1982	3,137	-8.06%	\$262,993	\$162,582
1983	3,127	-0.32%	\$264,054	\$160,430
1984	3,125	-0.06%	\$264,479	\$158,374
1985	3,107	-0.58%	\$273,371	\$159,629
1986	3,125	0.58%	\$258,915	\$166,721
1987	3,052	-2.34%	\$268,986	\$151,155
1988	3,062	0.33%	\$273,521	\$158,321
1989	3,170	3.53%	\$261,940	\$149,052
1990	2,853	-10.00%	\$253,836	\$142,352
1991	2,796	-2.00%	\$261,041	\$143,367
1992	2,791	-0.18%	\$271,990	\$147,944
1993	2,831	1.43%	\$276,534	\$152,899
1994	2,832	0.04%	\$278,778	\$153,983
1995	2,813	-0.67%	\$275,089	\$155,144
1996	2,676	-4.87%	\$267,202	\$143,349
1997	2,586	-3.36%	\$269,058	\$140,135
1998	2,544	-1.62%	\$267,108	\$140,177
1999	2,593	1.93%	\$301,296	\$144,708
2000	2,852	9.99%	\$293,626	\$153,605
2001	2,704	-5.19%	\$322,154	\$147,358
2002	2,850	5.40%	\$326,000	\$157,000
2003	2,800	-1.75%	\$316,716	\$151,515

¹ Permanent Positions – number of full-time allotted to the EEOC each fiscal year.

² % Increase: Percentage change from the previous year.

³ Total Obligations & Personnel Compensation: in thousands; figures converted to 2002 dollars via Consumer Price Index.

⁴ Estimated permanent full-time positions from Fiscal Year 2002 & 2003.

Source: Office of Management and Budget, "Budget of the United States Government: Appendix – Equal Employment Opportunity Commission" (Fiscal Years: 1965-2003).

"Consumer Price Index Conversion Factors 1800 to 2013 to Convert to Dollars of 2002"

Table 5: EEOC Budget Authority and Outlays, Fiscal Year 1965-2003

Fiscal Year	EEOC Budget Authority¹	% Change²	EEOC Outlays³	% Change²
1965	\$12,857	--	\$166	--
1966	\$18,056	40.44%	\$14,389	8568.07%
1967	\$26,844	48.67%	\$24,898	73.03%
1968	\$34,332	27.89%	\$32,135	29.07%
1969	\$44,275	28.96%	\$41,887	30.35%
1970	\$61,329	38.52%	\$53,826	28.50%
1971	\$71,311	16.28%	\$69,996	30.04%
1972	\$98,358	37.93%	\$89,638	28.06%
1973	\$128,575	30.72%	\$114,615	27.86%
1974	\$161,095	25.29%	\$153,661	34.07%
1975	\$184,221	14.36%	\$187,729	22.17%
1976	\$201,453	9.35%	\$186,924	-0.43%
1977	\$209,237	3.86%	\$213,220	14.07%
1978	\$233,564	11.63%	\$205,011	-3.85%
1979	\$275,785	18.08%	\$228,936	11.67%
1980	\$271,969	-1.38%	\$285,679	24.79%
1981	\$279,604	2.81%	\$265,853	-6.94%
1982	\$270,035	-3.42%	\$265,849	0.00%
1983	\$266,103	-1.46%	\$257,884	-3.00%
1984	\$266,503	0.15%	\$262,988	1.98%
1985	\$273,671	2.69%	\$264,560	0.60%
1986	\$259,286	-5.26%	\$261,479	-1.16%
1987	\$268,667	3.62%	\$250,434	-4.22%
1988	\$273,271	1.71%	\$268,233	7.11%
1989	\$262,282	-4.02%	\$264,115	-1.54%
1990	\$254,369	-3.02%	\$248,754	-5.82%
1991	\$266,746	4.87%	\$253,794	2.03%
1992	\$270,860	1.54%	\$267,751	5.50%
1993	\$276,463	2.07%	\$271,437	1.38%
1994	\$279,126	0.96%	\$278,273	2.52%
1995	\$275,089	-1.45%	\$276,269	-0.72%
1996	\$267,202	-2.87%	\$258,028	-6.60%
1997	\$269,058	0.69%	\$260,090	0.80%
1998	\$267,108	-0.72%	\$269,316	3.55%
1999	\$301,296	12.80%	\$276,458	2.65%
2000	\$293,626	-2.55%	\$303,030	9.61%
2001	\$307,927	4.87%	\$296,748	-2.07%
2002	\$311,000	1.00%	\$316,000	6.49%
2003	\$302,053	-2.88%	\$302,053	-4.41%

¹ EEOC Budget Authority; in thousands; figures converted to 2002 dollars via the Consumer Price Index (CPI).

² Change indicates the increase or decrease (-) in budget authority and outlays from one year to the next.

³ Outlays: EEOC expenditure & spending: Federal Law Enforcement Activities (salary and expenses, expenses associated with education, technology, and training); in thousands; figures converted to 2002 dollars via the CPI.

⁴ 1969, 2002 & 2003: budget authority and outlay estimates.

Source: Office of Management and Budget, "Budget of the United States Government: Appendix – Equal Employment Opportunity Commission" (Fiscal Years: 1965-2003).

"Consumer Price Index (CPI) Conversion Factors 1800 to 2013 to Convert to Dollars of 2002"

R.C. Sahr, Oregon State University Political Science Department (www.orst.edu/Depts/pols_sci/fac/sahr/cfl66503.xls).

Table 6: EEOC Workflow Analysis, 1966-2002¹

Year	Total Charges Filed	Total Charges Resolved
1966²	8,854	6,400
1967	9,688	5,424
1968	10,095	6,930
1969³	12,148	6,504
1970	14,234	8,480
1971	22,920	11,500
1972	32,840	13,773
1973	48,900	20,657
1974	56,000	37,500
1975	71,000	62,300
1975	77,400	56,600
1977	79,800	62,973
1978	74,800	80,800
1979⁴	69,900	82,700
1980	55,900	56,850
1981	56,228	71,690
1982	54,145	67,052
1983	70,252	74,441
1984	68,874	55,550
1985	72,002	62,494
1986	68,822	63,446
1987	62,074	53,482
1988	58,853	70,749
1989⁷	55,952	66,209
1990⁸	59,426	67,415
1991⁹	62,806	64,342
1992¹⁰	70,399	68,366
1993	87,942	71,716
1994	91,189	71,563
1995	87,529	91,774
1996	77,990	103,467
1997	80,680	106,312
1998	79,591	101,470
1999	77,444	97,846
2000	79,896	93,672
2001¹¹	80,840	90,106
2002	80,027	89,456

¹Totals for all charges do not equal the sum of all statutes because many charge filings allege issues/bases under more than one statute. ²EEOC Workforce Data is used for the period of 1965-1970. ³The data employed for 1969 and 1970 is based on estimates. ⁴Between 1966 and 1978, the EEOC workload reflected Title VII charges. In 1979, the EEOC workload increased with the addition of Age and Equal Pay charges. ⁵The total charges filed under the Age and Equal Pay reflect the period of July 1 to Sep. 30, 1979. ⁶The total charges resolved under the Age and Equal Pay reflect the period of July 1 to Sep. 30, 1979. ⁷In 1989, EEOC workloads began to reflect Title VII, Age Discrimination in Employment Act, Equal Pay Act, and other charges. ⁸In 1990, EEOC workloads accounted for Title VII, Age Discrimination in Employment Act, Equal Pay Act, American with Disabilities Act and other combination of statutes. ⁹In 1991, EEOC workloads accounted for Title VII, Age Discrimination in Employment Act, Equal Pay Act, American with Disabilities Act, Civil Rights Act of 1991 and other combination of statutes. ¹⁰Between 1992 and 2000, EEOC workloads accounted for Title VII, Age Discrimination in Employment Act, Equal Pay Act, American with Disabilities Act and other combination of statutes. ¹¹2001 and 2002 figures are estimates.

Source: Office of Management and Budget, "Budget of the United States Government: Appendix – Equal Employment Opportunity Commission" (Fiscal Years: 1965-2003).

Table 7: Equal Employment Opportunity Commission Memorandum of Understandings (MOU)

Year	MOU Actors	MOU Description
1970	EEOC & U.S. Department of Labor Office of Federal Contract Compliance	Addresses the processing of employment discrimination complaints between the two agencies.
1974	Revised EEOC & U.S. Department of Labor Office of Federal Contract Compliance MOU	Agencies must share information and act as the agent for the other to accept charges of discrimination.
1978	EEOC & Federal Communications Commission (FCC)	Addresses the coordination of discrimination charges filed against radio and television broadcasters or cable system operators licensed by FCC.
1986	EEOC & Federal Communications Commission (FCC)	Promotes efficiency and eliminates potential conflict and duplication.
1989	EEOC & Department of Justice's Office of Special Counsel for Immigration Related Unfair Employment Practices	Addresses the coordination and processing of charges alleging national origin or citizenship discrimination.
1993	EEOC & National Labor Relations Board's (NLRB) General Counsel	Addresses issues arising under the Americans with Disabilities Act and the National Labor Relations Act.
1997	EEOC & National Association of Attorneys General	Established to develop effective and lasting mechanisms for communication and cooperation among state Attorneys General and the EEOC.
1998	EEOC & Office of Special Counsel for Immigration Related Unfair Employment Practices	Addresses overlaps in discrimination charges filing and promotes efficiency in administration and enforcement.
1999	EEOC & Employment Standards Administration (ESA)	Provides cross-training, referrals and information sharing on compensation discrimination cases to maximize the effectiveness of the laws they enforce that prohibit unlawful compensation discrimination.
1999	EEOC & Office of Federal Contract Compliance Programs (OFCCP)	Addresses the processing of charges under Title VII and Executive Order 11246 via an updated charge processing procedures intended to increase coordination and efficiency and minimize duplication in the agencies' overlapping EEO enforcement activities.

Sources: EEOC, 35th Anniversary: History, Milestones, The Law, Voices, and Visions (2001) Milestones in the History of the US EEOC (2001), and Memorandum of Understanding (2002), <http://www.eeoc.gov>.

Table 8: The Evolution of EEO Policy: Executive Influence

Year	Presidential Actor	Venue for Change	Contribution to the Evolution of EEO Policy
1961	John F. Kennedy (D)	Executive Order 10925	Established the Committee on Equal Employment Opportunity. As stated by President Kennedy, “this enforcement authority signals a new ‘determination to end job discrimination once and for all’” (EEOC, 2001, p. 2).
1965	Lyndon B. Johnson (D)	Executive Order 11246	Nondiscrimination and affirmative action programs are required to conduct business with the federal government. Department of Labor and EEOC share information and coordinate investigations.
1969	Richard M. Nixon (R)	Executive Order 11478	Requires equal opportunity in Federal employment for all persons; prohibits discrimination in employment because of race, color, religion, sex, national origin, handicap, or age; and promotes the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. Later amended by Executive Order 12106 (1978).
1978	Jimmy Carter (D)	Executive Order 12067	Abolished the Equal Employment Opportunity Coordinating Council, and transferred its power to the EEOC. The EEOC now has the ability to develop uniform enforcement standards to apply throughout government; examples include: standardized data collection and data sharing, joint training programs and investigations, and consistent policies.
1978	Jimmy Carter (D)	Executive Order 12106	The Equal Employment Opportunity Commission given the authority to transfer functions relating to the enforcement of equal employment programs, and to make certain technical amendments to reflect these transfers of functions.
1978	Jimmy Carter (D)	Reorganization Plan No. 1 of 1978	Due to the fact that 17 federal agencies and departments were enforcing 40 different non-discriminatory statutes and Executive Orders, there was a great deal of duplication and conflict. To provide a solution, President Carter signed the Reorganization Plan making the EEOC the principle coordinator of EEO policy among the different actors. The administration of the Equal Pay Act and the Age Discrimination Act are transferred from Department of Labor, to the EEOC.
1981	Ronald Reagan (R)	Reorganization Plan No. 1 of 1981	Transferred employees from the Civil Service Commission and the Department of Labor to EEOC. The EEOC’s workforce is reduced by 280 positions.
2000	Bill Clinton (D)	Executive Order 13036	Prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs
1998	Bill Clinton (D)	Executive Order 13087	Makes it illegal to discriminate against sexual orientation.
1999	Bill Clinton (D)	Executive Order 13125	Created to increase participation of Asian Americans and Pacific Islanders in federal programs.
2000	Bill Clinton (D)	Executive Order 13145	Prohibits federal departments and agencies from making employment decisions based on protected genetic information. As noted by President Clinton, “no employer should ever review your genetic records along with your resume” (EEOC, p. 6).
2000	Bill Clinton (D)	Executive Order 13152	Prohibits discrimination based on an individual's sexual orientation or status as a parent.
2000	Bill Clinton (D)	Executive Order 13160	Prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in Federally conducted education and training programs.
2001	Bill Clinton (D)	Executive Order 13164	Requires each federal agency to establish effective written procedures for processing requests for reasonable accommodation.

Sources: EEOC, 35th Anniversary: History, Milestones, The Law, Voices, and Visions (2001) and Milestones in the History of the US EEOC (2001), <http://www.eeoc.gov>.

Table 9: The Evolution of EEO Policy: Judicial Influence

Year	Supreme Court Case	Outcome
1971	<i>Phillips v. Martin Marietta Corp.</i> ¹	+
	<i>Griggs v. Duke Power Co.</i> ²	+
1973	<i>McDonnell Douglas Corp. v. Green</i> ³	+
	<i>Espinoza v. Farah Manufacturing Co.</i> ⁴	+
1974	<i>Alexander v. Gardner-Denver Co.</i> ⁵	+
	<i>Corning Glass Works v. Brennan</i> ⁶	-
1975	<i>Albermarle Paper Co. v. Moody</i> ⁷	+
1976	<i>General Electric Co. v. Gilbert</i> ⁸	-
	<i>Franks v. Bowman Transportation Co.</i> ⁹	+
1977	<i>McDonald v. Santa Fe Transportation Co.</i> ¹⁰	-
	<i>International Brotherhood of Teamsters v. U.S.</i> ¹¹	+
	<i>Hazelwood School District v. U.S.</i> ¹²	+
	<i>Trans World Airlines, Inc. v. Hardison</i> ¹³	+
	<i>Occidental Life Insurance Co. v. EEOC</i> ¹⁴	+
1978	<i>L.A. Department of Water and Power v. Manhart</i> ¹⁵	+
1979	<i>United Steel Workers of America v. Weber</i> ¹⁶	+
1980	<i>General Telephone Company of the Northwest v. EEOC</i> ¹⁷	+
1981	<i>County of Washington v. Gunther</i> ¹⁸	+
1982	<i>Connecticut v. Teal</i> ¹⁹	+
	<i>Zipes v. Trans World Airlines</i> ²⁰	+
1983	<i>EEOC v. Wyoming</i> ²¹	+
1984	<i>EEOC v. Shell Oil Co.</i> ²²	+
	<i>Ignacio v. U.S. Postal Service</i> ²³	+
1986	<i>Meritor Savings Bank v. Vinson</i> ²⁴	+

Positive Outcomes: 35 (73%)

Year	Supreme Court Case	Outcome
1987	<i>Johnson v. Trans. Agency, Santa Clara County</i> ²⁵	-
1988	<i>EEOC v. Commercial Office Products</i> ²⁶	+
	<i>Watson v. Fort Worth Bank & Trust</i> ²⁷	+
1989	<i>Price Waterhouse v. Hopkins</i> ²⁸	-
	<i>Wards Cove Packing Co. v. Antonio</i> ²⁹	-
	<i>Public Employees Retirement System of Ohio v. Betts</i> ³⁰	-
	<i>Lorance v. AT&T Technologies</i> ³¹	-
1991	<i>International Union, UAW v. Johnson Controls</i> ³²	+
	<i>Gilmer v. Interstate/Johnson Lane</i> ³³	-
1993	<i>St. Mary's Honor Center v. Hicks</i> ³⁴	-
	<i>Harris v. Forklift Systems, Inc.</i> ³⁵	+
1995	<i>McKennon v. Nashville Banner Publishing Co.</i> ³⁶	-
1996	<i>O'Connor v. Consolidated Coin Caterers Corp.</i> ³⁷	+
1997	<i>Robinson v. Shell Oil</i> ³⁸	+
	<i>Walters & EEOC v. Metropolitan Educ. Enterprises</i> ³⁹	+
1998	<i>Bragdon v. Abbott</i> ⁴⁰	+
	<i>Faragher v. City of Boca Raton & Burlington Industries, Inc. v. Ellerth</i> ⁴¹	+
	<i>Oncale v. Sundowner Offshore Services</i> ⁴²	-
	<i>Wright v. Universal Maritime Service Corp.</i> ⁴³	+
1999	<i>Sutton v. United Airlines, Inc. & Murphy v. UPS</i> ⁴⁴	-
	<i>Cleveland v. Policy Management Systems Corp.</i> ⁴⁵	+
	<i>Gibson v. West</i> ⁴⁶	+
2000	<i>Kimel v. State of Florida Board of Regents</i> ⁴⁷	+
	<i>Reeves v. Sanderson Plumbing Products, Inc.</i> ⁴⁸	+

Negative Outcomes: 13 (27%)

Note: Descriptions of Supreme Court cases (those numbered 1 through 48 within the table) are provided in Appendix A.

Sources: EEOC, 35th Anniversary: History, Milestones, The Law, Voices, and Visions (2001) and Milestones in the History of the US EEOC (2001), <http://www.eeoc.gov>.

Descriptions of Supreme Court Cases for

Table 9: The Evolution of EEO Policy: Judicial Influence

¹Employers cannot discriminate on the basis of sex plus other factors such as having school age children.

²When neutral policies, rules or test, disproportionately affected minorities or women, employer must justify these practices as legitimate business necessities.

³The charging party can prove unlawful discrimination indirectly (i.e. prove they are member of a Title VII protected group, applied and were qualified for the position sought, were not offered the job, and the employer continued to seek applicants with similar qualifications). If these elements are evident, the employer must show a legitimate lawful reason for why the individual was not hired.

⁴Non-citizens are entitled to Title VII protection and citizenship requirement may violate Title VII if it has the purpose or effect of discriminating on the basis of national origin.

⁵Employees who submit discrimination claim to arbitration under a collective bargaining agreement are not precluded from suing his/her employer under Title VII.

⁶Under the Equal Pay Act the allocation of proof in a pay discrimination case requires the plaintiff to prove that an employer pays an employee of one sex more than an employee of the other sex for substantially equal work.

⁷After a court has found an employer guilty of discrimination, the "wronged" employee is presumed to be entitled to back pay.

⁸Pregnancy discrimination in health insurance plans do not constitute Title VII sex discrimination because only women can become pregnant.

⁹Requires employers to hire victims of unlawful discrimination with seniority starting from the date the individual was unlawfully denied the position.

¹⁰Title VII prohibits racial discrimination against whites as well as blacks.

¹¹In pattern/practice discrimination cases, once the plaintiff proves that the defendant systematically discriminated, all the affected class members are presumed to be entitled to relief (such as back pay, jobs) unless the defendant proves that the individuals were not the victims of the defendant's pattern or practice of discrimination.

¹²An employer's workforce should reflect the composition of the employer's applicant pool.

¹³Employers must reasonably accommodate an employee's religious needs unless to do so would create an undue hardship for the employer.

¹⁴EEOC lawsuits do not have to be filed in court within 180 days after the filing of a charge and EEOC lawsuits are not subject to state statutes of limitation.

¹⁵Employer cannot justify a policy requiring women employees to make larger contributions than men to a pension plan because women live longer than men.

¹⁶Employer and union do not violate collective bargaining plans by reserving 50% of training program slots (in traditionally segregated industry) for black employees.

¹⁷Upholds EEOC's authority to seek class wide relief for victims of discrimination, without being restricted by the class action rules applicable to private litigants.

¹⁸The Bennett Amendment does not limit Title VII pay discrimination claims to EPA claims.

¹⁹Even if the result of the hiring process is racially balanced, an employer is liable for racial discrimination charges if any part of their selection process has a disparate impact.

²⁰The timely filing of a charge is not a jurisdictional requirement but like a statute of limitations and therefore subject to equitable tolling and waivers.

²¹State and local governments cannot discriminate against employees and job applicants based on their age.

²²Affirms the authority of EEOC's Commissioners to initiate charges of discrimination through "Commissioners Charges."

²³A federal agency's duty to reasonably accommodate an individual with a disability includes considering the reassignment of the individual to a new job.

²⁴Recognizes that sexual harassment is a violation of Title VII.

²⁵In order for an affirmative action plan to be valid, an employer must show a conspicuous under representation of minorities or women in traditionally segregated job categories and that the plan does not unnecessarily restrict the rights of male or non-minority employees, or create an absolute barrier to their advancement.

²⁶Increases the federal filing period.

²⁷Disparate impact analysis can be applied to subjective or discretionary selection practices.

²⁸If discrimination played a motivating part in an employment decision, the employer must prove that the same employment decision would have been made even if discrimination were not a factor.

²⁹If a disparate impact claim is made, the employer has to produce evidence of a business justification for the practice, while the burden of proof remains with the employee.

³⁰ADEA's prohibition against age discrimination does not apply to employee fringe benefits in most circumstances.

³¹Court rejects EEOC's position that the limitation periods begin to run only when the employee is adversely affected by the seniority system.

³²Restriction against fertile women performing "dangerous jobs" constitutes sex discrimination under Title VII.

³³Individual who has signed an agreement to arbitrate employment disputes with his or her employer cannot proceed with an Age Discrimination in Employment Act (ADEA) lawsuit in court

³⁴Even if the plaintiff can prove the employer's asserted defense is pre-textual, finding of unlawful discrimination are not mandatory.

³⁵Concrete psychological harm does not have to be proved to establish a Title VII sexual harassment.

³⁶Employer is still liable for anti-discrimination violations, but employee is not entitled to reinstatement or back pay for the period after the employer learned of the misconduct.

³⁷A discharged employee does not have to show that they were replaced by someone outside the protected age group.

³⁸Title VII prohibition against retaliation protects former as well as current employees.

³⁹Approves EEOC's "payroll method" of counting employees to determine if an employer has the requisite number of employees to be subject to Title VII coverage.

⁴⁰Individuals with asymptomatic HIV are considered disabled and protected by the ADA.

⁴¹Employers are liable when sexual harassment has culminated in a tangible employment action directed against the harassed employee.

⁴²Though it must be proved that discrimination was based on sex and that the harassment was severe, sex discrimination consisting of same-sex sexual harassment is actionable under Title VII.

⁴³Collective bargaining agreements do not contain a clear and unmistakable waiver and therefore the charging party can pursue employment discrimination claim in court.

⁴⁴To be protected by the Americans with Disabilities Act (ADA), individuals must show that they are substantially limited in performing a major life activity even with the use of medications or assistive devices.

⁴⁵Americans with Disabilities Act cases can move forward despite having filed earlier claims for disability under the Social Security Act alleging they were unable to work.

⁴⁶EEOC has the legal authority to require that federal agencies pay compensatory damages when EEOC has ruled during the administrative process that the federal agency has unlawfully discriminated.

⁴⁷Provisions granting state employees or applicants the right to file a lawsuit against state employers is unconstitutional; only the EEOC can sue state employers for ADEA violations.

⁴⁸A plaintiff can win an employment discrimination case if they show that the employer's reason for a challenged action is not true.

Table 10: Monetary Benefits for Race Based Charges, FY1992-FY2000
(Post 1991 Civil Rights Act Monetary Provisions for Intentional Discrimination)

Year	Monetary Benefits (in millions)	Change*
1992	\$31.9	- - -
1993	\$33.3	+1.4
1993	\$39.7	+6.4
1995	\$30.1	-9.6
1996	\$37.2	+7.1
1997	\$41.8	+4.6
1998	\$32.2	-9.6
1999	\$53.2	+21.0
2000	\$61.7	+8.5

* Change indicates the increase or decrease (-) in race based monetary benefits from one year to the next (in millions).

Source: EEOC Office of Research, Information, and Planning, "Nationwide Charge Data System, 2001 Race Based Charges and Solutions: Race-Based Charges FY1992- FY2000" (www.eeoc.gov/stats/race.html).

Table 11: EEOC Litigation Statistics: Fiscal Year 1973-2002

Year	All Direct Suits Filed ¹	All Resolutions ²
1973	116	
1974	118	35
1975	228	90
1976	484	170
1977	241	219
1978	188	191
1979	208	147
1980	358	192
1981	444	237
1982	241	323
1983	195	282
1984	310	243
1985	411	289
1986	526	386
1987	527	460
1988	555	540
1989	598	536
1990	643	549
1991	593	640
1992	447	626
1993	481	427
1994	425	469
1995	373	338
1996	193	296
1997	330	245
1998	411	331
1999	464	349
2000	328	438
2001	430	360
2002	364	373

Note: In 1972, the 1964 Civil Rights Act was amended to give the EEOC authority to bring civil action in Federal district courts to enforce Title VII provisions. Only estimates are available for 1973-1975. In 1974, the EEOC's was given enforcement power to begin litigating for monetary benefits in the form of backpay for employment discrimination. In 1991, the Civil Rights Act was amended to include monetary benefits in intentional discrimination cases.

¹ Direct Suits: lawsuits filed by EEOC against an employer with an alleged employment discrimination claim.

Statutes covered: 1990 Americans with Disabilities Act, 1967 Age Discrimination in Employment Act, Title VII of the 1964 Civil Rights Act and the 1963 Equal Pay Act.

² Resolutions: total charges resolved from EEOC Direct Suits.

Source: EEOC Annual Report: Fiscal Year 1973-2001

FY 1992 - FY 2002, <http://www.eeoc.gov/stats/all.html> (6, October 2003).

"Consumer Price Index Conversion Factors 1800 to 2013 to Convert to Dollars of 2002"

R.C. Sahr, Oregon State University Political Science Dep. (www.orst.edu/Depts/pols_sci/fac/sahr/cf166503.xls).

Table 12. Estimates for 1st OLS Model: Total Charges Filed

Variables:	OLS Model
<i>Outlays</i>	.2598* (.06)
Total Labor Force Proportion: White Women	-4444.85 (2648.67)
Total Labor Force Proportion: African American	10716.68 (6952.32)
Total Labor Force Proportion: Hispanics	241.85 (1869.11)
intercept (Total Charges Filed)	39753.65 (77511.14)
	N= 34 F(4,29)=18.16 R2=0.7146 AdjR2=0.6753 RootMSE=11386

* Statistically significant coefficients at the 0.05 level. (Standard errors in parenthesis.)

Table 13. Estimates for 2nd OLS Model: Total Charges Resolved

Variables:	OLS Model
<i>Outlays</i>	.2688* (.07)
Total Labor Force Proportion: White Women	-3218.48 (3142.45)
Total Labor Force Proportion: African American	3992.80 (8248.42)
Total Labor Force Proportion: Hispanics	3689.67 (2217.56)
intercept (Total Charges Resolved)	43444.37 (91961.3)
	N= 34 F(4,29)=26.20 R2=0.7833 AdjR2=0.7534 RootMSE=13509

* Statistically significant coefficients at the 0.05 level. (Standard errors in parenthesis.)

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