

The Civil Rights Act of 1964

Title I. Voting Rights [text omitted]

Title II. Injunctive Relief Against Discrimination in Place of Public Accommodation [text omitted]

Title III. Desegregation of Public Facilities [text omitted]

Title IV. Desegregation of Public Education [text omitted]

Title V. Commission on Civil Rights [text omitted]

Title VI. Nondiscrimination in Federally Assisted Programs [text omitted]

Title VII – Equal Employment Opportunity

Section 701. Definitions [42 U.S.C. § 2000e]

For the purposes of this title –

- (a) The term “person” includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.
- (b) The term “employer” means a person engaged in an industry affecting commerce who has twenty-five¹ or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian Tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) ...
- (c) – (e) omitted
- (d) The term “employee” means an individual employed by an employer.
- (e) – (i) omitted

Section 702. Exemption [42 U.S.C. § 2000e-1]

This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities

Section 703. Discrimination because of Race, Color, Religion, Sex, or National Origin [42 U.S.C. § 2000e-2]

¹ This provision has since been amended, and the current statute applies to employers with fifteen or more employees.

- (a) It shall be an unlawful employment practice for an employer –
 - (1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
 - (2) To limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

[Sections (b)- (d) forbid discrimination by employment agencies and unions, and forbid discrimination by employers and unions in training programs

- (e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.
- (f) and (g) omitted
- (h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system ... provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, or national origin....
- (i) Omitted
- (j) Nothing contained in this title shall be interpreted to require any employer ... to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by an employer In comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section or other area, or in the available work force in any community, State, section, or other area.

Section 704. Omitted

Section 705. Equal Employment Opportunity Commission [42 U.S.C. § 2000e-4]

- (a) There is hereby created a Commission to be known as the Equal Opportunity Commission....
- (g) The Commission shall have the power – ...
 - (3) to furnish persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;
 - (4) upon the request of (i) any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;
 - (5) ...
 - (6) To refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706 or for the institutional of a civil action by the Attorney General

Section 706. Prevention of Unlawful Employment Practices [42 U.S.C. § 2000e-5]

- (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved that an employer has engaged in an unlawful employment practice, the Commission shall furnish such employer ... with a copy of such charge and shall make an investigation of such charge.... If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion....
- (b) Omitted
- (c) Omitted
- (d) A charge under subsection (a) shall be filed within ninety days² after the alleged unlawful employment practice occurred...
- (e) If within thirty days after a charge is filed with the Commission the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent [employer] named in the charge (1) by the person claiming to be claiming to be aggrieved....
- (f) Omitted
- (g) If the court finds that the respondent [employer] has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay....

² This provision has been changed, and an employee now has 180 days to file a charge.

Sections 707-711. Omitted

Section 712. Veterans' Preference [42 U.S.C. § 2000e-11]

Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preferences for veterans.

Titles VII-XI. Omitted

Questions on the Text of Title VII

For the questions below, make the best arguments you can based on the text of Title VII. Be sure to identify which section(s) and/or subsection(s) of Title VII support your argument, and quote the most relevant phrases. Where possible, make arguments for and against the view you think is most persuasive. Do you think the textual argument you think is most persuasive reaches a just result?

1. A producer is making a movie about Fredrick Douglass and his role in the struggle for Civil Rights. A white man applies for the role of Frederick Douglass. The producer refuses to hire him and tells him (truthfully), "I am only considering African Americans for this role." Has the producer violated Title VII?
2. What does the term "affirmative action" mean in Section 706(g)?
3. Suppose an employer asks all job candidates to take an IQ test and uses the IQ test in selecting applicants. Has the employer violated Title VII? Would it matter if some racial and ethnic groups, on average, did better on IQ tests than others? Would it matter if the employer was hiring low skilled workers (such as janitors) or high skilled workers (such as teachers)?
4. Suppose, before the passage of Title VII, an employer hired only whites. Suppose the employer also paid and promoted workers based on how long they had worked for the employer. After the passage of Title VII, the employer started hiring non-whites on a non-discriminatory basis. Because they have been employed for a shorter period of time, however, the non-whites are paid less, on average, than the whites, and there are no non-whites in the positions that require the most experience and therefore pay the most. Has the employer violated Title VII?
5. Suppose that a hospital is hiring doctors shortly after the passage of Title VII. They had actively discriminated against women before 1964. Its hires after 1964 were strictly gender-blind and based on merit only. Unfortunately, because medical schools also discriminated against women, there were very few female doctors to hire. As a result, only 10% of the hospital's newly hired doctors are female, and less than 1% of all its doctors are female. Has the hospital violated Title VII?
6. Same facts as Question 5, but, in addition, the hospital's Board of Directors is ashamed that the hospital discriminated for so long against female doctors and is embarrassed by the fact that such a small number of its doctors are female. To rectify the situation, the Board of Directors instructs those in charge of hiring to make sure that 50% of all newly

hired doctors are female and to promote female doctors more quickly in order to ensure that female doctors are in senior positions as well as entry-level positions. Does the new hiring policy violate Title VII?

7. Same facts as Question 6, except the hospital continued to discriminate until 1970, and the Board of Directors' instructions on hiring 50% female doctors and promoting female doctors more quickly was made in 1970. Does the instruction to hire 50% female doctors and to promote female doctors more quickly violate Title VII?
8. A factory hires male and female workers on a non-discriminatory basis. One of the supervisors has told several women that he will give them better performance evaluations and recommend them for promotion if they sleep with him. He has a habit of hugging all employees, male and female, when they arrive. He also enjoys watching pornography during his lunch break, and he invites all employees, male and female, to join him. Has the company violated Title VII?