

# Key Definitions

This factsheet explains some of the most commonly used terms and concepts when applying equitable opportunities for all members of the community.

## Anti-Discrimination Laws

Discrimination occurs when someone is treated unfairly because they belong to a particular group of people. It is against the law to discriminate against people or treat them unfairly in various areas of public life. These 'groups of people' are defined under both federal and NSW laws\* to include:

- \* Sex (including pregnancy and breastfeeding)
- \* Race, colour, ethnic or ethno-religious background descent or nationality
- \* Marital or domestic status
- \* Disability (including physical, intellectual, psychiatric learning or cognitive disabilities, and any virus or bacteria that can cause disease, such as HIV)
- \* Homosexuality (male or female, actual or presumed)
- \* Age
- \* Transgender (transsexual) status; and
- \* Carers' responsibilities.

\*These laws are the NSW Anti-Discrimination Act 1977, and five Commonwealth Acts, the Racial Discrimination Act 1975, the Sex Discrimination Act 1984, the Human Rights and Equal Opportunity Commission Act 1987, the Disability Act 1992, and the Age Discrimination Act 2004.

*Excerpt taken from ADB factsheet 'Discrimination, EEO & affirmative action', [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)*

## White Privilege

White privilege (or white skin privilege) can be defined as a set of societal privileges that white people benefit from beyond those commonly experienced by people of colour in the same social, political, or economic spaces (nation, community, workplace, income, etc.). The term denotes both obvious and less obvious unspoken advantages that white persons may not recognise they have, which distinguishes it from overt bias or prejudice. These include cultural affirmations of one's own worth; presumed greater social status; and freedom to move, buy, work, play, and speak freely.

*Definition taken from Wikipedia, [http://en.wikipedia.org/wiki/White\\_privilege](http://en.wikipedia.org/wiki/White_privilege)*

# Reverse or Positive Discrimination

Reverse discrimination, or positive discrimination, is a reaction to the discrimination of certain groups in society on the grounds of ethnicity, skin colour, religion, sex, gender or age. Based on the preferential treatment of members of a minority group over a majority group, positive discrimination seeks to address social inequalities, to improve the status of minority groups and to eliminate the dominance of the majority group.

**Reverse discrimination** is a highly controversial issue. While making efforts to eliminate discrimination, both governments and the international community have made efforts to avoid positive discrimination. Generally, reverse discrimination is considered illegal as it contradicts the "selection on merit principle". Although it ensures the favorable treatment of members of traditionally underprivileged groups, this attitude is still regarded as unfair as privileges are granted on the ground of ethnicity, marital status and sexual orientation.

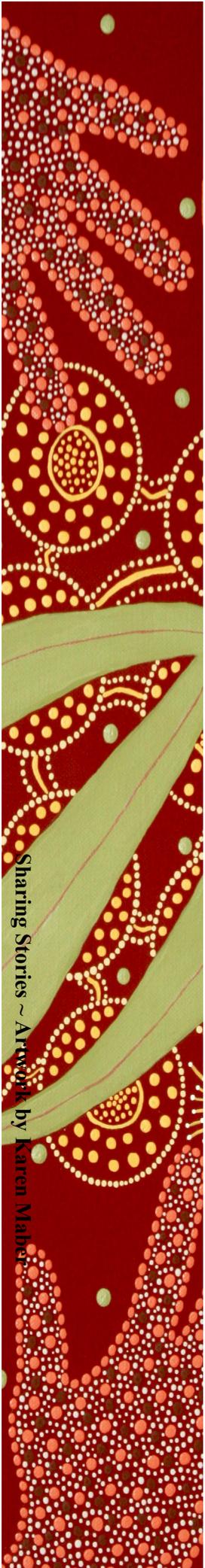
**Positive discrimination** is tolerated by the law if it is presented as a **genuine occupational requirement (GOR)** or a **genuine occupational qualification (GOQ)**. This occurs in situations where certain jobs are unsuitable for people with particular personal characteristics. In order to resort to the use of GOR and GOQ, the employer has to meet a number of strict requirements.

**Both Australian Federal and NSW anti – discrimination laws allow employers to apply positive discrimination**, that is to discriminate in favour of some groups in certain circumstances. Employers can employ people of one sex rather than another, people of particular ethnic groups, and people of particular ages when it is a GOR or GOQ for the job. For example, it is generally accepted to employ a male actor for a male role in a play, or a woman to clean female toilets. In these kinds of cases, employers can go ahead and employ a person with specific characteristics as a GOQ or GOR respectively.

In other cases, employers need to get a specific exemption from the anti-discrimination laws before they can discriminate in favour of particular groups. Exemptions are generally granted when targeting the job to a particular group is aimed at redressing disadvantages that that group faces. Exemptions are usually only granted where the employer intends to run what is effectively an 'affirmative action strategy'.

*More information about exemptions refer to Exemption Guidelines on the Anti-Discrimination Board's website or Enquiry Service.*

*[www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)*



# Affirmative or Positive Action

The United Nations Human Rights Committee states that "the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant".

**Affirmative action** aims to overcome the effects of past societal discrimination by allocating jobs and resources to members of specific groups, such as minorities and women to give them equal access to that of the privileged majority population. It is often instituted for government and educational settings to ensure that certain designated minority groups within a society are included in all programs.

In some countries that have laws on racial equality, affirmative action is rendered illegal because it does not treat all races equally. This approach of equal treatment is sometimes described as being 'colour blind', in hopes that it is effective against discrimination without engaging in reverse discrimination. In such countries, the focus tends to be on ensuring equal opportunity and, for example, targeted advertising campaigns to encourage ethnic minority candidates to join the police force. This is sometimes described as '**positive action**'.

Like positive discrimination, positive action aims to deal with discrimination and to promote the better treatment of disadvantaged groups. Unlike reverse discrimination, however, positive action is permitted by the law. **Positive action enables the employer to provide disadvantaged members of society with access to training and to encourage them to apply for a job.** However, the employer is not simply allowed to select job applicants because they belong to an under-represented group.

Affirmative action strategies provide special training or recruitment programs to help give previously disadvantaged groups the skills and confidence to compete on equal terms with everyone else. **An affirmative action program is a structured approach to addressing disadvantages experienced by a particular group, and ensuring that they can compete equally for employment, training and promotion opportunities.**

For further information go to the Anti-Discrimination Board of NSW website, and ADB factsheet *Discrimination, EEO & affirmative action*, [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)

# Equal Employment Opportunity (EEO)

EEO means equal access to jobs and benefits and services for all employees and prospective employees in the workplace. EEO aims to ensure **fair and equitable outcomes in all areas of employment** which relate to recruitment, selection, access to information, supervision and management.

Equal Employment Opportunity is about:

- \* fair practices in the workplace;
- \* management decisions being made without bias;
- \* recognition and respect for the social and cultural backgrounds of all staff and customers;
- \* employment practices which produce staff satisfaction, commitment to the job and the delivery of quality services to customers;
- \* improving productivity by guaranteeing that:
  - \* the best person is recruited and/or promoted;
  - \* skilled staff are retained;
- \* training and development are linked to employee needs and customer needs; and
- \* the workplace is efficient and free of harassment and discrimination.

EEO addresses the issue of discrimination which can have a detrimental effect on people's conditions of employment. It is a policy which promotes selection by merit. EEO means that all people have the right to be considered for any job for which they are skilled and qualified, and that they will be judged for the job on the basis of merit.

Equal Employment Opportunity aims to redress past disadvantage by improving employment outcomes for EEO groups (women, Aboriginal and Torres Strait Islander people, people from racial, ethnic or ethno-religious minority groups and people with a disability).

For further information go to the Anti-Discrimination Board of NSW website, and ADB factsheet *Discrimination, EEO & affirmative action*, [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)