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Employment Laws: Disability and Discrimination

Office of Disability Employment Policy

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Employment Laws: Disability and Discrimination

Abstract
[Excerpt] There are five important federal laws that protect individuals with disabilities from discrimination in employment and the job application process:

- The Americans with Disabilities Act
- The Rehabilitation Act
- The Workforce Investment Act
- The Vietnam Era Veterans' Readjustment Assistance Act
- The Civil Service Reform Act

Although many employers and individuals have a basic understanding of the ADA, the nondiscrimination policies of the other laws may be less familiar. Below is a short summary of each law and information on where employers can access additional information and compliance resources.

Keywords
disability, employment, employers, Americans with Disabilities Act, Rehabilitation Act, Workforce Investment Act, Vietnam Era Veterans' Readjustment Assistance Act, Civil Service Reform Act

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EMPLOYMENT LAWS: DISABILITY AND DISCRIMINATION

ODEP
Office of Disability Employment Policy

There are five important federal laws that protect individuals with disabilities from discrimination in employment and the job application process:

- The Americans with Disabilities Act
- The Rehabilitation Act
- The Workforce Investment Act
- The Vietnam Era Veterans' Readjustment Assistance Act
- The Civil Service Reform Act

Although many employers and individuals have a basic understanding of the ADA, the nondiscrimination policies of the other laws may be less familiar. Below is a short summary of each law and information on where employers can access additional information and compliance resources.

The **Americans with Disabilities Act (ADA)** prohibits discrimination against people with disabilities and guarantees equal opportunities for individuals with disabilities in employment, transportation, public accommodations, state and local government services, and telecommunications. Two sections of the ADA relate to employment:

- **Title I: Employment** prohibits covered employers from discriminating against people with disabilities in all employment-related activities, including hiring, pay, benefits, firing and promotions. Covered employers include private businesses, educational institutions, employment agencies, labor organizations, and state and local government entities with 15 or more employees.

  Additional Information: *The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title I of the ADA. The EEOC Web site has a section dedicated to disability discrimination, located at* ***www.eeoc.gov/types/ada.html****, that summarizes the ADA provisions it enforces and provides access to related publications and resources.*

- **Title II: State and Local Governments** protects people with disabilities from discrimination in state and local government services, programs and activities. It prohibits all state and local government entities, regardless of how many people they employ or whether they receive federal financial assistance, from discriminating against qualified individuals with disabilities in employment.

  Additional Information: *The U.S. Department of Justice (DOJ) enforces Title II of the ADA. DOJ's ADA Home Page,* ***www.ada.gov****, offers resources on all aspects of the ADA, including those addressing state and local government employment-related responsibilities under Title II.*

The **Rehabilitation Act** authorizes funding for various disability-related purposes and activities, including state vocational rehabilitation (VR) programs, independent living programs, training and research, and the work of the National Council on Disability. It also includes three sections that prohibit discrimination against individuals with disabilities by specific types of employers: federal agencies, employers/businesses contracting with federal agencies and programs receiving federal financial assistance.

- **Section 501** of the Rehabilitation Act prohibits federal employers from discriminating against qualified individuals with disabilities and requires them to take affirmative action to employ and advance in employment qualified individuals with disabilities.

  Additional Information: *Each federal agency enforces Section 501 for its own job applicants and/or employees. For additional information on specific Section 501 policies, contact the relevant agency's Equal Employment Opportunity (EEO) office.*

- **Section 503** of the Rehabilitation Act prohibits employment discrimination based on disability and requires affirmative action in the hiring, placement and advancement of people with disabilities by federal contractors or subcontractors who have federal contracts or subcontracts in excess of $10,000.

  Additional Information: *The Office of Federal Contract Compliance Programs (OFCCP) of the U.S. Department of Labor's Employment Standards Administration enforces Section 503. Compliance assistance information is available on OFCCP's Web site at* ***www.dol.gov/esa/ofccp****.*

- **Section 504** of the Rehabilitation Act prohibits discrimination against qualified individuals with disabilities by federal agencies, or by programs or activities that receive federal financial assistance or are conducted by a federal agency.

  Additional Information: *The federal agency providing the financial assistance or conducting the program/activity enforces Section 504. For additional information on specific Section 504 policies, contact the relevant agency's EEO office.*

The **Workforce Investment Act (WIA)** consolidates federal job training and employment programs, bringing together a wide range of employment services, vocational rehabilitation, adult education, welfare-to-work and vocational education activities into a nationwide system of One-Stop Career Centers. WIA's Section 188 prohibits discrimination against individuals with disabilities who apply for, participate in or are employees of any program or organization that receives federal financial assistance under WIA or that provides programs/activities as part of the One-Stop system.

Additional Information: *The Department of Labor's Civil Rights Center enforces Section 188. For additional information, including a self-assessment checklist for covered employers and programs, see* ***www.dol.gov/oasam/programs/crc/complianceassis.htm****.*

The **Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)** requires employers that have federal contracts or subcontracts entered into before December 1, 2003 of $25,000 or more and/or federal contracts or subcontracts entered into on or after December 1, 2003 of $100,000 or more to provide equal employment opportunities for certain veterans with disabilities. VEVRAA's Section 4212 specifically prohibits discrimination against covered veterans with disabilities in the full range of employment activities.

Additional Information: *OFCCP enforces VEVRAA. Compliance assistance information is available on OFCCP's Web site at* ***www.dol.gov/esa/ofccp****. For an overview of the nondiscrimination requirements affecting veterans with disabilities, see the Employment Law Guide at* ***www.dol.gov/asp/programs/guide/vietvets.htm****.*

The **Civil Service Reform Act (CSRA)**, which covers most federal agencies, contains several rules designed to promote fairness in federal personnel actions and prohibit discrimination against applicants and employees with disabilities.

> ***Additional Information:*** *The CSRA is enforced by both the U.S. Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB). Both agencies provide general guidance on their Web sites,* ***www.osc.gov*** *and* ***www.mspb.gov*** *respectively. In addition, the Office of Personnel Management has helpful information on the CSRA in Federal Employment of People with Disabilities in an online guide available at* ***www.opm.gov/disability/hrpro_8-03.asp****.*

DETERMINING WHICH LAWS APPLY: A CHECKLIST

The federal laws that prohibit employment discrimination based on disability all share the same fundamental goal: to remove the barriers to employment faced by individuals with disabilities. However, not all of these laws apply to all employers. Whether or not a law applies depends on several factors, such as whether employers are in the public or private sector, how many employees they have and whether they hold federal contracts or subcontracts. The checklist below is a starting point for employers.

If the employer is a private company that:

✓ ***Employs 15 or more people—***

The employer must comply with Title I of the ADA and its implementing regulations.

✓ ***Has contracts or subcontracts with the federal government in excess of $10,000—***

The employer must comply with Section 503 of the Rehabilitation Act and its implementing regulations.

✓ ***Has contracts or subcontracts entered into before December 1, 2003 of $25,000 or more and/or contracts or subcontracts entered into on or after December 1, 2003 of $100,000 or more with the federal government—***

The employer must comply with Section 4212 of VEVRAA and its implementing regulations.

✓ ***Receives federal financial assistance—***

The agency or entity must comply with Section 504 of the Rehabilitation Act and the agency's regulations implementing Section 504.

✓ ***Receives federal financial assistance under WIA or partners with or is part of a WIA-financed program with a One-Stop Career Center—***

The employer must comply with Section 188 of WIA and its implementing regulations.

If the employer is a state or local government agency or entity that:

✓ ***Employs 1-14 people—***

The agency or entity must comply with Title II of the ADA and its implementing regulations.

✓ ***Employs 15 or more people—***

The agency or entity must comply with Title I and Title II of the ADA and their implementing regulations.

✓ ***Receives federal financial assistance—***

The agency or entity must comply with Section 504 of the Rehabilitation Act and the agency's regulations implementing Section 504.

✓ ***Receives federal financial assistance under WIA or partners with or is part of a WIA-financed program with a One-Stop Career Center—***

The entity or agency must comply with Section 188 of WIA and its implementing regulations.

✓ ***Has a unit, section or subdivision with a federal contract or subcontract in excess of $10,000—***

The unit, section or subdivision with the covered contract must comply with Section 503 of the Rehabilitation Act and its implementing regulations.

If the employer is a federal government agency or entity that:

✓ ***Is not otherwise excluded from coverage of Section 501 of the Rehabilitation Act by law or order of the President—***

The agency or entity must comply with Section 501 of the Rehabilitation Act and the Civil Service Reform Act and their implementing regulations.

Employers need to remember to check for any relevant state and/or local nondiscrimination laws that may also apply. By understanding and fulfilling their responsibilities under the laws that prohibit discrimination based on disability, employers play an important part in delivering on America's promise of equal access to opportunity for all citizens.

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