

# Essential Federal Laws That You Should Know

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Eventually most managers will deal with Federal employment law. Therefore, it is crucial for managers to know about this laws, and how to comply with them. This information should not replace legal advice, or other information as updated the any of the resources mentioned in the article.

## JOB DISCRIMINATION

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered.

The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

(Resource: <http://www.eeoc.gov/eeoc/index.cfm>)

### Authority & Role

The EEOC has the authority to investigate charges of discrimination against employers who are covered by the law. Our role in an investigation is to fairly and accurately assess the allegations in the charge and then make a finding. If we find that discrimination has occurred, we will try to settle the charge. If we aren't successful, we have the authority to file a lawsuit to protect the rights of individuals and the interests of the public. We do not, however, file lawsuits in all cases where we find discrimination.

We also work to prevent discrimination before it occurs through outreach, education and technical assistance programs.

The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. EEOC assures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials and conducts training for stakeholders, provides guidance and assistance to our Administrative Judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

Title VII of the Civil Rights Act of 1964 prohibits you from discriminating in hiring, firing or pay based on a person's race, religion, sex or national origin. It also prohibits sexual harassment. (Resource: [www.eeoc.gov](http://www.eeoc.gov))

The U.S. Equal Employment Opportunity Commission enforces **Federal laws prohibiting employment discrimination**. These laws protect employees and job applicants against employment discrimination when it involves:

- Unfair treatment because of **race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information**.
- Harassment by managers, co-workers, or others in the workplace, because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.
- Denial of a reasonable workplace accommodation that the employee needs because of religious beliefs or disability.
- Retaliation because the employee complained about job discrimination, or assisted with a job discrimination investigation or lawsuit.

## OVERTIME/MINIMUM WAGE

The Fair Labor Standards Act (FLSA) is the nation's main wage law. It sets the federal minimum wage (many states have higher minimums) and requires time-and-a-half overtime pay for hourly employees who work more than 40 hours in a workweek. The FLSA also limits the hours and type of duties that teens can work.

The Department of Labor enforces **the Fair Labor Standards Act (FLSA)**, which sets basic minimum wage and overtime pay standards. These standards are enforced by the Department's Wage and Hour Division. (Resource: [www.dol.gov/dol/topic/wages](http://www.dol.gov/dol/topic/wages))

### Minimum Wage

#### **Current Minimum Wage: \$7.25 per hour as of 10.13.2013**

- Applies to workers covered by the FLSA
- Effective as of July 24, 2009

#### **Overtime Pay: Not less than one and one-half times regular rate of pay**

- Required after 40 hours of work in a workweek.
- Certain exemptions apply to specific types of businesses or specific types of work.

#### **Minimum Wage by State** (refer to resource page)

### Fair Labor Standards Act

While the FLSA does set the minimum wage for certain workers, it does not, however, require any of the following:

- Severance pay
- Sick leave
- Vacations
- Holidays

## FAMILY LEAVE

The Family and Medical Leave Act (FMLA) says eligible employees – those with at least a year of service – can take up to 12 weeks per year of unpaid, job-protected time off for the birth of a child or adoption of a child or to care for themselves or a sick child, spouse or parent who has a "serious" health condition. The FMLA applies to organizations with 50 or more employees. (Resource: [www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla))

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or** twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

## AGE DISCRIMINATION

The Age Discrimination in Employment Act says you can't discriminate in any way against applicants or employees older than 40 because of their age. (Resource: [www.eeoc.gov/laws/types/age.cfm](http://www.eeoc.gov/laws/types/age.cfm))

Age discrimination involves treating someone (an applicant or employee) less favorably because of his age.

The Age Discrimination in Employment Act (ADEA) only forbids age discrimination against people who are age 40 or older. It does not protect workers under the age of 40, although some states do have laws that protect younger workers from age discrimination.

It is not illegal for an **employer or other covered entity** to favor an older worker over a younger one, even if both workers are age 40 or older.

Discrimination can occur when the victim and the person who inflicted the discrimination are both over 40.

- [Age Discrimination & Work Situations](#)

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

- [Age Discrimination & Harassment](#)

It is unlawful to harass a person because of his or her age.

Harassment can include, for example, offensive remarks about a person's age. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

## DISABILITY DISCRIMINATION

The Americans with Disabilities Act (ADA) prohibits job discrimination against qualified people with disabilities (i.e., those who can perform the job's essential functions with or without a reasonable accommodation).

(Resource: [www.eeoc.gov/laws/types/disability.cfm](http://www.eeoc.gov/laws/types/disability.cfm))

Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act, as amended, or the Rehabilitation Act, as amended, treats a qualified individual with a disability who is an employee or applicant unfavorably because she has a disability.

Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because she has a history of a disability (such as cancer that is controlled or in remission) or because she is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if she does not have such an impairment).

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer ("undue hardship").

The law also protects people from discrimination based on their relationship with a person with a disability (even if they do not themselves have a disability). For example, it is illegal to discriminate against an employee because her husband has a disability.

*Note: Federal employees and applicants are covered by the Rehabilitation Act of 1973, instead of the Americans with Disabilities Act. The protections are mostly the same.*

- **Disability Discrimination & Work Situations**

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

- **Disability Discrimination & Harassment**

It is illegal to harass an applicant or employee because he has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

Harassment can include, for example, offensive remarks about a person's disability. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

## **MILITARY LEAVE**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) makes it illegal to discriminate against employees who volunteer or are called to military duty. When reservists return from active duty tours of less than five years, you must reemploy them to their old jobs or to equal jobs.

(Resource: <http://www.esgr.mil/USERRA/Frequently-Asked-Questions.aspx>)

## **GENDER-PAY DIFFERENCES**

The Equal Pay Act (EPA) says employers can't pay female employees less than male employees for equal work on jobs that require equal skill, effort and responsibility. (Resource:

[www.eeoc.gov/laws/types/sex.cfm](http://www.eeoc.gov/laws/types/sex.cfm).)

Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex.

Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex.

Discrimination against an individual because that person is transgender is discrimination because of sex in violation of Title VII. This is also known as gender identity discrimination. In addition, lesbian, gay, and bisexual individuals may bring sex discrimination claims. These may include, for example, allegations of sexual harassment or other kinds of sex discrimination, such as adverse actions taken because of the person's non-conformance with sex-stereotypes.

- **Sex Discrimination & Work Situations**

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

- **Sex Discrimination Harassment**

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

- **Sex Discrimination & Employment Policies/Practices**

An employment policy or practice that applies to everyone, regardless of sex, can be illegal if it has a negative impact on the employment of people of a certain sex and is not job-related or necessary to the operation of the business.

## **WORKPLACE SAFETY**

The Occupational Safety and Health Act (OSHA) requires employers to run a business free from recognized hazards. (Resource: [www.osha.gov](http://www.osha.gov))

The OSH Act covers most private sector employers and their workers, in addition to some public sector employers and workers in the 50 states and certain territories and jurisdictions under federal authority. Those jurisdictions include the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Wake Island, Johnston Island, and the Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act.

## PREGNANCY DISCRIMINATION

Pregnancy discrimination involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. (Resource: [www.eeoc.gov/laws/types/pregnancy.cfm](http://www.eeoc.gov/laws/types/pregnancy.cfm))

- [Pregnancy Discrimination & Work Situations](#)

The Pregnancy Discrimination Act (PDA) forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.

- [Pregnancy Discrimination & Temporary Disability](#)

If a woman is temporarily unable to perform her job due to a medical condition related to pregnancy or childbirth, the employer or other covered entity must treat her in the same way as it treats any other temporarily disabled employee. For example, the employer may have to provide light duty, alternative assignments, disability leave, or unpaid leave to pregnant employees if it does so for other temporarily disabled employees.

Additionally, impairments resulting from pregnancy (for example, gestational diabetes or preeclampsia, a condition characterized by pregnancy-induced hypertension and protein in the urine) may be disabilities under the Americans with Disabilities Act (ADA). An employer may have to provide a reasonable accommodation (such as leave or modifications that enable an employee to perform her job) for a disability related to pregnancy, absent undue hardship (significant difficulty or expense). The ADA Amendments Act of 2008 makes it much easier to show that a medical condition is a covered disability. For more information about the ADA, see <http://www.eeoc.gov/laws/types/disability.cfm>. For information about the ADA Amendments Act, see [http://www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).

- [Pregnancy Discrimination & Harassment](#)

It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

- [Pregnancy, Maternity & Parental Leave](#)

Under the PDA, an employer that allows temporarily disabled employees to take disability leave or leave without pay, must allow an employee who is temporarily disabled due to pregnancy to do the same.

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their ability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

Further, under the Family and Medical Leave Act (FMLA) of 1993, a new parent (including foster and adoptive parents) may be eligible for 12 weeks of leave (unpaid or paid if the employee has earned or accrued it) that may be used for care of the new child. To be eligible, the employee must have worked

for the employer for 12 months prior to taking the leave and the employer must have a specified number of employees. See <http://www.dol.gov/whd/regs/compliance/whdfs28.htm>

- **Pregnancy & Workplace Laws**

Pregnant employees may have additional rights under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. Nursing mothers may also have the right to express milk in the workplace under a provision of the Fair Labor Standards Act enforced by the U.S. Department of Labor's Wage and Hour Division. See <http://www.dol.gov/whd/regs/compliance/whdfs73.htm>.

## **IMMIGRATION**

The Immigration Reform and Control Act (IRCA) makes it illegal to hire and employ illegal aliens. Employers must verify identification and workplace eligibility for all hires by completing I-9 Forms. (Resource: [www.uscis.gov](http://www.uscis.gov))

U.S. Citizenship and Immigration Services (USCIS) is the government agency that oversees lawful immigration to the United States.