

CHAPTER 6

Name Key Laws That Protect the Rights of the American Worker

(Learning Objective 4)

The agency of the federal government that enforces the federal employment discrimination laws is the U. S. Equal Employment Opportunity Commission (EEOC). This is a bipartisan commission started in 1964 when Title VII of the Civil Rights Act was passed. A number of specific types of discrimination are prohibited by the laws enforced by the EEOC, such as discrimination based on race or color, age, disability, unequal pay or compensation, national origin, pregnancy, religion, gender, and sexual harassment. In all the laws that have been passed, retaliation is also prohibited, making it illegal to discriminate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. As a CDF, it is important for you to have a working knowledge of the major laws that affect multicultural populations. This does not mean that you need detailed legal knowledge, but you should at least know if your client may need to be referred to the appropriate agency. This section will offer a basic understanding of the applicable laws. In client situations that seem uncertain or complex, you can discuss your questions or concerns with your CDF supervisor.

Sections 501 and 505 of the Rehabilitation Act of 1973. This law makes it illegal to discriminate against a qualified person with a disability in federal employment. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the private-sector employer's business.

Sections 102 and 103 of the Civil Rights Act of 1991. Among other things, this law amends Title VII and the Americans with Disabilities Act (ADA) to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.

The Pregnancy Discrimination Act of 1978. This law amends Title VII and the American Disabilities Act to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

The Equal Pay Act of 1963 (EPA). This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace.

The Age Discrimination in Employment Act of 1967 (ADEA). This law protects people who are 40 or older from discrimination because of age.

The Older Workers Benefit Protection Act of 1990 (OWBPA) amended the ADEA to specifically prohibit employers from denying benefits to older employees.

Title I of the Americans with Disabilities Act of 1990 (ADA). The ADA was the first comprehensive civil rights law for people with disabilities. It was passed in 1990 and is overseen by the U.S. Department of Justice. This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

The ADA applies to all qualifying private employers (employers with 15 or more employees) and all state and local government programs, including the public

schools, and all places of public accommodation, including nonreligiously controlled colleges and universities and assessment agencies.

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA). This law makes important changes to the definition of the term “disability.” This significant piece of legislation corrected what Congress considered to be a departure from the intent of the original ADA (passed in 1990) brought about by several narrow interpretations of the law through Supreme Court rulings. These rulings weakened the law and made it difficult for people with disabilities to receive the protection the law intended. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability that is protected by the ADA.

The Genetic Information Nondiscrimination Act of 2008 (GINA). This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes data about an individual’s family history, such as genetic tests of an individual and his or her family members as well as information about any disease, disorder, or condition of an individual and his or her family members. For example, knowledge that an employer’s father had lung cancer because of a request for Family Medical Leave Act (see below) or bereavement leave may be considered knowledge of genetic information about the employee as defined in GINA.

Many genetic tests now exist that can inform individuals whether they may be at risk for developing a specific disease or disorder. Just as the number of genetic tests increases, so do the concerns of the general public about whether they may be at risk of losing access to health coverage or employment if insurers or employers have access to their genetic information.

The Role of the EEOC

Because EEOC laws cover most employers who have at least 15 employees, many employees of small businesses have federal legal protection. For age discrimination cases, the laws apply when there are at least 20 employees. These laws also cover most labor unions and employment agencies. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits. The EEOC works to prevent discrimination before it occurs through outreach, education, and technical assistance programs.

Equal employment opportunity (EEO) laws help to ensure that race, sex, national origin, and other legally protected characteristics are not considered in employment decisions. EEO is derived from federal, state, and local laws that govern all employment-related actions. The affirmative action regulations help to identify and remove barriers to the hiring and advancement of minorities, women, individuals with disabilities, and veterans.

Many additional complaints do not reach the point of being reported because the complainant does not want to go through the formal EEOC process or other factors that come into play.

The Family and Medical Leave Act (FMLA) 1993. The FMLA (overseen by the U.S. Department of Labor) 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. Some recent changes have been made to accommodate the returning veterans from the conflict in the Middle East and recent wars.

Discrimination of Sexual Orientation. There is currently no federal law that protects against workplace discrimination based on sexual orientation in the private sector. However, federal employees are protected from this form of discrimination. **The Employment Non-Discrimination Act (ENDA)** of 2011 is intended to protect LGBT workers from employment discrimination and is under discussion in the House of Representatives. It has taken many years to win support for ENDA, and the struggle is not over. This legislation would address discrimination in the workplace by making it illegal to fire, refuse to hire, or refuse to promote an employee based on the person's sexual orientation or gender identity. Some protections extend to the state and city levels.

Since the first marriage lawsuit that involved same-sex couples in 1972, the American Civil Liberties Union (ACLU) has been at the forefront of both legal and educational efforts to secure marriage for same-sex couples and to win legal recognition for LGBT relationships. The ACLU works in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee to everyone in the U.S. (ACLU, 2011).

Second Chance Act (2008; reauthorized in 2010). The National Reentry Resource Center (NRRC) was established by the Second Chance Act and is administered by the Bureau of Justice Assistance, U.S. Department of Justice. It was designed to improve outcomes for people returning to communities from prisons and jails. This first-of-its-kind legislation authorizes federal grants to government agencies and non-profit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims' support, technology careers programs, and other services that can help reduce recidivism. The mission of the NRRC is to advance the reentry field through education and to promote evidence-based best practices and research to practitioners.

Veterans Post 9/11 GI Bill, Chapter 33 has introduced a new approach to benefits. Before August 2009, Chapter 30 provided fixed educational benefits. With the introduction of Chapter 33, there is more flexibility in benefits, but also some complications. As a CDF, it is best to work with the VA specialist in your area as there are many details within the benefits system. Some of the benefits of Chapter 33 are based on months of total active duty. For veterans going to college, the monthly payments are based on the college's zip code. The VA has committed to increase veteran enrollment at colleges. It will pay for college tuition and other fees as well as a maximum of \$1000 per year for books for all terms or semesters in attendance. The veteran has to enroll for more than half time for the term or semester. Benefits do not cover long-distance learning. This information is available on the VA website (see the Resources List for address).



Activities for Learning Objective 4

Name key laws that protect the rights of the American worker.

What law or laws would be relevant in the following scenarios? Think about how you can help these clients by informing them about their rights under the law. Know where to reference the appropriate laws and to whom to refer clients for further assistance.