

## Employment Law Summaries

There are many federal laws that have an impact on any business that has employees. Summaries of the laws are listed below:

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### ***Age Discrimination in Employment Act (ADEA) (1967)***

Generally, this act prohibits employers from engaging in age-based discrimination against workers or applicants who are 40 years of age or older. An employer is subject to ADEA requirements if they employed at least 20 persons (full time or part time) in each of 20 or more weeks in the current or preceding calendar year and they are engaged in an industry affecting commerce.

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing this law. State law may vary. Contact the EEOC office for requirements.

Covered employers must post the *Equal Employment Opportunity is the Law* poster which describes the provisions of the act

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### ***The Americans With Disabilities Act (ADA)***

The ADA protects qualified individuals with disabilities from discrimination in employment, hiring, transportation, access to public facilities and services, and telecommunications. This act applies to employers who have 15 or more employees for 20 or more calendar weeks in the current or preceding year.

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing this law. Contact the EEOC office for requirements.

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### ***Title VII of the Civil Rights Act of 1964***

This act applies to private-sector employers with 15 or more employees for each working day in each of 20 or more calendar workweeks in the current or preceding year, as well as employment agencies, educational institutions, unions, and government agencies.

This law bans all employment discrimination based on race, color, religion, sex, or national origin. All applicants and employees are protected by Title VII. Employers are held accountable for any work-related discriminatory actions or decisions made by managers or supervisors.

The Equal Employment Opportunity Commission is responsible for enforcing this law.

Covered employers must post the *Equal Employment Opportunity is the Law* poster.

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### ***Civil Rights Act of 1991 (CRA '91)***

CRA '91 made major changes in the federal laws enforced by the Equal Employment Opportunity Commission (EEOC) that prohibit discrimination in employment. Enacted in part to reverse several Supreme Court decisions that limited the rights of individuals protected by these laws, the act also provides additional protections. CRA '91 provides for compensatory and punitive damages in cases of intentional discrimination, as well as attorney fees and the possibility of jury trials.

This act applies to employers with 15 or more employees for each working day in each of 20 or more calendar workweeks in the current or preceding year, as well as employment agencies, educational institutions, unions, and government agencies.

Covered employers must post the *Equal Employment Opportunity is the Law* poster which describes the provisions of the act.

The EEOC is responsible for enforcing this law.

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### ***Consolidated Omnibus Budget Reconciliation Act (COBRA)***

The Consolidated Omnibus Budget Reconciliation Act (COBRA) amended the Employee Retirement Income Security Service Act, the Internal Revenue Code, and the Public Health Service Act to provide continuation of group health coverage that would otherwise be terminated.

COBRA generally covers group health plans maintained by employers with 20 or more employees during 50 percent of the working days in the previous calendar year. In addition, state health insurance continuation regulations may require employers with fewer than 20 employees to offer continuation of health coverage.

Under COBRA, eligible employees and their qualified dependents are entitled to continuation of their health insurance coverage for up to 36 months, depending on the qualifying event.

Under the law, the employee or qualified beneficiary may be required to pay all of the premium for the contribution period, plus up to 2 percent for administrative costs.

Contact your insurance carrier for specifics on when notification must be provided to employees and qualified beneficiaries.

The U.S. Department of Labor is the governing agency for COBRA.

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### ***Consumer Credit Protection Act (1968)***

This law protects everyone receiving personal earnings. It places a limit on the amount of an employee's wages that is subject to garnishment. The act also prevents an employer from discharging an employee for reason of wage garnishments resulting from "any one indebtedness" or child-support payments.

The U.S. Department of Labor is responsible for enforcing this act.

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### ***Drug-Free Workplace Act of 1988***

This act specifies requirements for federal contractors and grantees to maintain a drug-free workplace. These employers are required to certify that as a condition of receiving a contractor funding, they will establish a drug awareness program that educates employees about the dangers of drug use and chemical dependency. The particular components of such a training program are not specified. Requirements are issued jointly by the Department of Defense, General Services Administration, and the National Aeronautics and Space Administration.

Employers with single contracts of \$100,000 or more, all contracts awarded to individuals and recipients of any federal grants, regardless of size, are subject to the provisions of the Drug-Free Workplace Act. A firm with several contracts, which together total \$100,000 or more, is not subject to the act unless the value of any one of the contracts meets the specified dollar value.

The U.S. Department of Labor enforces the Drug-Free Workplace Act.

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### ***The Electronic Communications Privacy Act (ECPA) of 1986***

The Electronic Communications Privacy Act of 1986, an amendment to the [Federal Wiretapping Act](#), was enacted to protect the privacy of new forms of wire and electronic communications that were not included under the Federal Wiretapping Act. The definition for "wire communication" was expanded to include digital voice transmissions by radio or fiber optic cable. The term "electronic communications" was added to include electronic mail, digitized transmissions and video teleconferences.

In general, the ECPA prohibits the "intentional" interception of "any wire, oral or electronic communication," the use of an electronic device to terminate communication, and the intentional disclosure of the contents of communication by anyone "knowing or having reason to know that the information was obtained" in violation of the law.

Additionally, there are several provisions that are exceptions to this law:

1. It is not unlawful to intercept communications "where one party has been given prior consent to such interception."
2. The term "electronic, mechanical or other device," excludes any telephone or equipment used "in the ordinary course of business."
3. The ECPA does not prohibit the interception of messages by an e-mail service provider where interception is necessary to provide the service or protect the property rights of the provider.
4. It is not unlawful to intercept or access electronic communications that are readily available to the general public.
5. Monitoring of stored email.
6. Interception of messages in a non interstate system (for example, intra office e-mail) where prior consent is given or where interception occurs in the ordinary course of business.
7. Viewing or accessing stored information such as Internet activity history (for example, web hits).

**NOTE:** Several states have more restrictive laws.

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### ***Employee Polygraph Protection Act of 1988***

This act restricts the use of lie detector tests in the workplace. Lie detector tests include polygraphs, voice stress analyzers, and any other mechanical device used to render a diagnostic opinion about an individual's honesty.

The act also prohibits the use of lie detector tests to screen job applicants or to test current employees unless the employees are "reasonably suspected" of involvement in workplace theft. An exception is permitted by employers that provide security services and those companies which manufacture, distribute, or dispense controlled substances.

The U.S. Department of Labor is responsible for enforcing the Employee Polygraph Protection Act.

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### ***Employee Retirement Income Security Act (ERISA) (1974)***

This act applies to those employer-provided benefit plans if the employer is engaged in a business or industry affecting commerce. ERISA establishes requirements for tax-qualified, employer-sponsored pension and retirement plans, as well as certain welfare benefit plans which provide medical, hospital, accidental death, disability, and unemployment benefits.

Employers bound by this act must comply with provisions to provide documents to employees (summary plan descriptions, annual reports, benefits information, etc.).

The Pension and Welfare Benefits Administration of the U.S. Department of Labor is responsible for enforcing ERISA.

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### ***Equal Pay Act of 1963***

This act amended the Fair Labor Standards Act to prohibit sex-based wage discrimination. It prohibits employers from paying workers of one sex less than the rate paid to employees of the opposite sex for work that requires equal skill, effort, and responsibility, and is performed under similar working conditions. The law was written to ensure that employers pay female workers the same rate as paid to men when both sexes are performing substantially similar or identical work.

Covered employers must post the *Equal Employment Opportunity is the Law* poster.

The Equal Employment Opportunity Commission is responsible for enforcing this law.

Pay differentials are permitted when they are based on seniority, merit, quantity or quality of production, or a factor other than sex. These are known as "affirmative defenses" and it is the employer's burden to prove that they apply.

In correcting a pay differential, no employee's pay may be reduced. Instead, the pay of the lower paid employee(s) must be increased.

Under the EPA, records must be kept in accordance with the Fair Labor Standards Act. Any documents describing or relating to wage differentials for employees of the opposite sex must be retained for at least two years. Such documents may include performance evaluations, job descriptions, collective bargaining agreements, etc. Employers should retain employee records for active and terminated employees for six years.

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### ***Executive Order 11246***

Employers with federal contracts or subcontracts of more than \$10,000 are bound by this law which, like Title VII, prohibits discrimination on the basis of race, color, religion, sex, or national origin.

Also, federal contractors with at least 50 workers and contracts totaling \$50,000 or more must develop and implement written affirmative action plans showing the steps they have taken to eliminate discrimination within their organizations.

The U.S. Labor Department's Office of Federal Contract Compliance Programs monitors federal contractors' compliance with this order.

### ***Fair Credit Reporting Act as Amended by the Consumer Credit Reporting Act (CCRA) of 1996***

This law governs the activities of consumer reporting agencies as well as users of information obtained from such agencies. Specifically, the act limits access and use of individual consumer report information and is designed to ensure that the information obtained in a consumer report is used in a manner that is fair and equitable to the consumer in terms of confidentiality, accuracy, and relevancy.

The Fair Credit Reporting Act (FCRA) does permit consumer information reports to be used for employment purposes, however the employer must adhere to certain notification requirements. Specifically, employers who use consumer reporting agencies (CRA) to obtain background information on applicants and current employees are required to obtain a separate signed consent form prior to procuring the report. Employers should also be aware that the FCRA imposes civil liabilities and criminal penalties on those who willfully obtain the information under false pretenses.

If negative information is revealed regarding a candidate, employers should consider the source, check its accuracy with other sources and be sure that you have a business-related reason for using the information obtained through the report. In the event the consumer report prompts an employer to take adverse action (i.e., disqualify the applicant from the hiring process), the employer must send a copy of the consumer report and a summary of the individual's rights under the FCRA to the applicant/employee **prior** to taking such adverse action. The law also implies the employer will not take any adverse action until the applicant/employee has been provided with a reasonable period of time to review the report and address any discrepancies.

Under the FCRA, after taking adverse action based in whole or in part on the information obtained in the consumer report, the employer must provide the applicant/employee with: 1) a written, electronic, or oral notice of such adverse action; 2) the name, address, and telephone number of the CRA who provided the report; 3) a statement that the CRA did not make the decision to take adverse action and is unable to provide the applicant/employee with specific reasons for the adverse action; and 4) a notice of the employee's rights to a free copy of the report and applicant's right to dispute the accuracy or completeness of any information in the report with the CRA.

Many states have enacted similar laws restricting access to use of credit histories. Employers should be aware of state laws as well as the fair credit reporting act prior to requesting investigative reports on current employees and job applicants.

The Federal Trade Commission is responsible for enforcing the FCRA.

### ***Fair Labor Standards Act (FLSA)***

This act, also known as the Wage-Hour Law, was enacted in 1938 and has been subsequently revised several times. The act requires most employers to pay non-exempt workers at least a minimum wage of \$5.85 an hour or the state minimum wage, whichever is more beneficial to the employee, as well as an overtime wage rate of at least one and one-half times the employee's *regular* pay rate for each hour worked in excess of 40 hours in a workweek, except where state law is more beneficial to the employee.

The law addresses wages, hours, overtime, recordkeeping, employment of minors, disabled workers, full-time students, learners, and apprentices. It allows recovery of wages and penalties for violation.

Covered employers are required to maintain certain identifying information and data pertaining to hours worked and wages earned for covered, non-exempt employees. All payroll data records

must be retained for at least three years under the FLSA and must be available for inspection by representatives from the Department of Labor, Wage and Hour Division.

Every employer employing workers who are subject to the FLSA minimum wage provisions must post a notice explaining FLSA requirements. This notice must be kept posted where it is accessible for both employees and job applicants.

The U.S. Department of Labor enforces the Fair Labor Standards Act.

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### ***Family and Medical Leave Act of 1993 (FMLA)***

This act, effective August 5, 1993, requires employers with 50 or more employees, including part-time, temporary, and seasonal employees during each of 20 or more calendar workweeks in the current or preceding calendar year, to provide eligible employees with up to 12 weeks of unpaid leave during any 12-month period for the following events:

1. The birth of a child of the employee and/or to care for the child.
2. The placement of a child with the employee for adoption or foster care.
3. To care for a covered relation (spouse, parent, child) with a serious health condition.
4. A serious health condition of the employee to the extent he/she is unable to perform the functions of his/her position.

Covered relations include a biological/adopted/foster child, stepchild, legal ward or a "child" of a person acting in the capacity of a parent, a biological parent, and any person that acted in the capacity of a parent towards the employee. Siblings and in-laws are not covered.

Eligible employees include those employed by the covered employer, who work at a site with 50 or more employees within 75 miles, for at least 12 months and who have worked at least 1,250 hours during the last 12-month period. Paid time off during the preceding 12 months including vacation, holiday, or personal leave does not count in determining whether the employee has worked the required 1,250 hours.

Employees who work at a site with less than 50 employees and the total number of workers employed by the employer within 75 miles is less than 50 are not eligible for leave under the federal Family and Medical Leave Act, but may be eligible for a state-mandated leave or a company leave policy.

The act does not require an employer to maintain any employee benefits during the leave with the exception of health care benefits where provided prior to the leave. However, all benefits must be restored upon the employee's return to work.

Employers must also restore returning employees to the same job or a job with equivalent status, benefits, and pay when such leave is covered by FMLA.

Covered employers are prohibited from:

1. Interfering with anyone exercising his/her rights under the Act,
2. Taking any adverse action against an employee who tries to exercise his/her rights, or
3. Retaliating because an employee filed a complaint, gave information, or testified in relation to a complaint.

Employers must keep accurate records pertaining to the leave and post a notice of employees' rights.

The Family and Medical Leave Act does not supersede any state or local laws that offer greater family or medical leave rights. In addition, compliance with the Family and Medical Leave Act does not excuse compliance with other disability-based laws.

The U.S. Department of Labor is responsible for enforcing the provisions of the FMLA.

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***Federal Insurance Contributions Act (FICA)  
(Social Security Act of 1935)***

This act requires most employers and employees to pay social security tax and Medicare tax according to rates set by the federal government. These funds are then forwarded to the federal government to support the Social Security Old Age, Survivors, and Disability Insurance (OASDI) benefit programs and the hospital insurance program.

The taxes are due quarterly. Employers who are late paying the taxes are subject to interest penalties. Failure to pay taxes may result in a lien on an employer's property. Employers must keep records for at least four years.

The Internal Revenue Service (IRS) is responsible for enforcing this act.

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***Federal Unemployment Tax Act (FUTA) (1936)***

This act requires employers to pay unemployment insurance taxes on the wages paid to workers. Any employer who employs one or more workers for any part of a day over 20 different calendar weeks or has a payroll of \$1,500 or more during any quarter is subject to FUTA taxes.

Unemployment insurance is designed to ensure financial security for qualifying workers during times of temporary unemployment. It was established as part of the Social Security Act and is funded through a joint federal-state program. Taxes paid under FUTA are used for paying state and federal administration expenses of the unemployment program; providing emergency, interest-free loans to any state for unemployment benefits; and funding 50 percent of the federal-state extended benefits program that provides an additional 13 weeks of benefits to the unemployed during periods of extended unemployment.

The U.S. Department of Labor is the governing agency and reviews the rate annually.

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***The Federal Wiretapping Act (1968)***

This act applies to all employers whose business operations affect interstate or foreign commerce. The Federal Wiretapping Act makes it unlawful to intentionally intercept wire, oral, or electronic communications. Under the act, monitoring calls is allowed under the following circumstances:

1. One party has consented to the monitoring.
2. The monitoring is conducted "in the ordinary course of business."
3. The monitoring is being conducted by a provider of wire communication services for mechanical and service checks.
4. A court order has been obtained.

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### ***Health Insurance Portability and Accountability Act (HIPAA) (1996)***

This act applies to any group health plan or health insurance issuer offering group health insurance coverage must comply with HIPAA. Additionally, the privacy rule and administrative simplification rules of HIPAA apply to health plans, health care clearinghouses, and any health care providers who conduct certain transactions electronically.

Title I of HIPAA limits the extent to which a health insurance plan may subject employees to pre-existing condition limitations; requires certain "late enrollees" be offered special enrollment opportunities; and prohibits discrimination either in eligibility or cost because of health status.

The primary legal requirement under HIPAA is for plan administrators to provide a "Certificate of Group Health Plan Coverage" at the time an individual ceases to be covered by the group plan and is not eligible for COBRA; when an individual becomes eligible for COBRA or exhausts continuation coverage; or if the individual requests certification within 24 months of when coverage ceases.

In general, HIPAA limits or eliminates "job lock," which was caused when employees were unable to change jobs because they would lose health insurance coverage and be subjected to long preexisting condition waiting periods on a new employer's medical plan.

HIPAA also incorporated some changes to COBRA. Under the act, a qualified beneficiary determined to be disabled at any time within the first 60 days of COBRA continuation coverage is entitled to an 11-month extension of continuation coverage, for a total of 29 months of COBRA continuation. Another modification to COBRA, under HIPAA, is that children born to or adopted by an individual on COBRA will be allowed to be enrolled on the plan immediately, not having to wait until the next open enrollment date.

For more detailed information on the Health Insurance Portability and Accountability Act, or for sample certificates of group health plan coverage, contact the U.S. Department of Labor, Employee Benefits Services Administration (EBSA).

For more information regarding the HIPAA privacy rule, contact the U.S. Department of Health and Human Services.

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### ***Immigration Reform and Control Act of 1986***

This act is structured to control illegal immigration to the U.S. and prohibits the employment of unauthorized foreign nationals. Employers with four or more employees are prohibited from discriminating against employees or applicants on the basis of citizenship or national origin. All employers and employment agencies are barred from hiring, continuing to employ, or refer aliens who are not authorized to work in the U.S. This act applies to all individuals hired after November 6, 1986.

Employers are required to verify an individual's identity and eligibility to work in the U.S. by examining documents required by law (Immigration and Naturalization Service Employment Verification Form I-9). Employers must obtain a completed I-9 within three days from the date of hire. These forms must be kept for three years after an applicant is hired or one year beyond the date of termination, whichever is longer. Verification of identity and work authorization may be obtained only after a job offer has been made. Fines for failure to comply with verification and recordkeeping requirements range from \$100 to \$1,000. Fines for hiring an illegal alien range from \$250 to \$10,000.

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### ***Jury System Improvement Act***

This act applies to all employers. It provides all employees the right to unpaid time off because of jury service or scheduled attendance for jury service in any federal court. Employers may not discharge, threaten to discharge, intimidate, or coerce employees because of such service.

Any individual claiming an employer has violated the provisions of this act may do so in district court.

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### ***National Labor Relations Act (NLRA)***

Most private employers (both unionized and non-unionized) are covered by this act provided that the employer meets the minimum annual gross volume of business, as determined by the National Labor Relations Board. The dollar volume threshold varies from \$50,000 to \$500,000 or more, depending on the type of business. Typically, all but the smallest of private employers are covered.

Two basic rights are afforded to employees of covered employers under the act: the right to organize, join, or assist a union; and the right to engage in "concerted activities for ... mutual aid or protection." The later includes any activity by two or more employees to improve wages, benefits, or working conditions. The NLRA prohibits employers from taking adverse employment action against individuals who exercise their rights under the act. The act prohibits employers from engaging in unfair labor practices including: interference, restraint, or coercion; employer domination or support of a labor organization; discrimination on the basis of labor activity; discrimination in retaliation for involvement with any National Labor Relations Board proceeding; and refusal to bargain.

The National Labor Relations Board is the governing agency charged with enforcing the provisions of the act.

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### ***Occupational Safety and Health Act (OSHA) (1970)***

This act applies to all employers engaged in a business affecting commerce. Employers are required to provide their employees with a work environment free from hazards that may cause physical harm or death.

Employers with 11 or more workers may be required to complete and maintain specific forms for recording work-related injuries and illnesses. The OSHA 300, Log of Work-Related Injuries and Illnesses, is used to record information pertaining to every work-related death or illness and every work-related injury that results in loss of consciousness, restricted work activity or job transfer, missed work, and/or medical treatment beyond first aid. The OSHA Form 300A, Summary of Work-Related Injuries and Illnesses, must be completed by all covered employers, even if no work-related injuries or illnesses occurred during the year. Additionally, this summary page must be posted in the employer's workplace each year from February 1 through April 30.

The OSHA Form 301, Injury and Illness Incident Report (or an equivalent form), must be completed within seven calendar days of receiving notice that a recordable work-related injury or illness has occurred.

The Occupational Safety and Health Administration of the U.S. Department of Labor is responsible for enforcing the act and addressing concerns related to employee safety and health. States are permitted to administer their own safety activities, however employer requirements must be at least as stringent as the federal requirements.

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### ***Older Worker Benefit Protection Act (1990)***

This act applies to employers who employed at least 20 persons (full time or part time) in each of 20 or more calendar weeks in the current or preceding calendar year and who are engaged in an industry affecting commerce. This act, an amendment of the Age Discrimination in Employment Act (ADEA), was passed by Congress to regulate releases in which employees are giving up the right to sue for discrimination in exchange for a severance package.

Under this act, the following components must be included in every release involving claims of age discrimination under the ADEA: a clear written contract; ADEA specificity; restricted scope (meaning the individual cannot waive rights to claims based on incidents that have yet to happen); consideration (meaning the employee has to be getting something in return for signing the release and it cannot be something they would already be entitled to otherwise); advice to seek counsel; presigning waiting period; and postsigning revocation period.

Employers creating waivers should have the waiver written and/or reviewed by legal counsel to help ensure it will hold up in court if challenged.

The Equal Employment Opportunity Commission is responsible for enforcing the provisions of this act.

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### ***Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)***

This act requires all states to have a program in place for employers to provide information about newly hired or rehired employees. This information will be used so that child support can be more effectively enforced.

Under the act, employers will have to report certain required information on their newly hired or rehired employees to the designated state agency. Under the minimum federal standards, the report must include the name, address, and social security number of the new employee; and the employer's name, address, and federal Employer Identification Number. These reports must be filed with the state within 20 days of the hire date.

The new hire report must be made on a W-4 or an equivalent form of the employer's choice. These reports may be sent by first-class mail, magnetic media, or electronically.

Additional information on the PRWORA of 1996 may be obtained from the U.S. Department of Health and Human Services, Office of Child Support Enforcement.

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### ***Pregnancy Discrimination Act (PDA)***

The PDA affects employers with at least 15 employees on each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

The PDA amends Title VII of the Civil Rights Act of 1964 to prohibit an employer from treating pregnancy, childbirth, or other related medical conditions differently than it treats other temporary disabilities for purposes of employment, including hiring, firing, promotion, seniority, leaves of absence, benefits, and pay increases.

The Equal Employment Opportunity Commission is responsible for enforcing the PDA.

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### ***The Uniform Guidelines on Employee Selection Procedures***

The Uniform Guidelines on Employee Selection Procedures were developed to determine the appropriate use of selection procedures, while maintaining compliance with federal antidiscrimination laws. Several federal agencies, including the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance (OFCCP) have adopted the guidelines.

The guidelines require employers to demonstrate that their selection procedures are valid in predicting or measuring performance in a particular job. The guidelines also require that questions on a job application or in a selection interview be job related, and that employers avoid questions that could be construed as an invasion of privacy. A selection process that has an adverse impact on members of a particular race, sex, or ethnic group is considered discriminatory under Title VII.

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### ***Uniformed Services Employment and Reemployment Rights Act (USERRA)***

Employers are prohibited from discriminating against any employee or prospective employee based on the basis of application for or membership in a uniformed service. "Uniformed Services" includes the Armed Forces (Army, Navy, Marines, Air Force, and Coast Guard), the Army National Guard, and the Air National Guard when engaged in active or inactive duty for training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency. Generally, employers are required to grant those who take military leave the same rights as other employees on leaves of absence and provide returning employees with the same benefits they would have received if they had remained continuously employed.

USERRA also requires employers to offer employees and their dependents continuing health plan coverage for up to 24 months and the unqualified right to employment for all returning members of the uniformed services provided they meet certain criteria outlined in the law.

Pension plan benefits that accrued during military service, regardless of whether they are defined benefit or defined contribution plans, are guaranteed under USERRA.

For seniority and benefits based on seniority, individuals returning from military leave are entitled to any benefits they had prior to the leave as well as any seniority or benefits that would have accrued had they not taken leave and remained continuously employed. This regulation is referred to as the "escalator principle."

Non-seniority based benefits are handled according to company policy, while employees are out on leave.

The U.S. Department of Labor, Veterans' Employment and Training Service, administers the provisions of the USERRA.

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### ***The Vietnam Era Veterans Readjustment Assistance Act (1974)***

Federal contractors and subcontractors with contracts of \$100,000 or more must take affirmative action in hiring and promoting disabled veterans, Vietnam-era veterans, and veterans who serve an active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Additionally, employers with 50 or more employees and \$50,000 worth of federal contracts must develop and implement a written affirmative action plan.

The U.S. Department of Labor Office of Federal Contract Compliance Programs (OFCCP) is the federal agency responsible for investigating individual charges of discrimination under the Vietnam Era Veterans Readjustment Assistance Act.

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### ***The Vocational Rehabilitation Act of 1973***

Employers with federal contracts of \$10,000 or more must take measures to employ qualified, disabled individuals. The act also requires a written affirmative action plan from employers who employ 50 or more workers and who have contracts of \$50,000 or more.

The U.S. Labor Department's Office of Federal Contract Compliance Programs monitors federal contractors' compliance with this order.

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### ***Worker Adjustment and Retraining Notification Act (WARN)***

The WARN Act requires employers to provide 60 days' advance written notice of plant closings or mass layoffs to each employee. The act covers those employers with 100 or more workers excluding part-time employees (those who work an average of fewer than 20 hours per week and who have been employed for fewer than six of the 12 months preceding the date notice is required), or 100 or more employees including part-time workers who work more than a total of 4,000 hours per week (not including overtime).

The U.S. Department of Labor is responsible for enforcing the provisions of WARN.

**NOTE:** A number of states have "mini-WARN" Acts that also regulate plant closings or reductions in force.

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