

Federal Employment Laws Quick Reference Guide

NOTE TO EMPLOYERS: This reference guide provides a brief summary of important provisions and obligations of a number of employment laws and regulations affecting employers. It is not intended to be nor should it be viewed as an all-inclusive listing of all laws and regulations or the provisions and obligations associated with them. Because provisions and requirements are subject to change, this information will need to be reviewed to be certain it remains current. Always refer to specific laws or regulations for detailed descriptions of provisions and obligations and seek professional advice and counsel when further information or clarification is needed and when notified of any pending agency investigation or potential charges claiming to be a violation of law.

Federal Law	Summary of Basic Provisions and Obligations	Compliance Thresholds
Consumer Credit Protection Act (CCPA)	Protects employees from discharge by their employers because their wages have been garnished for any one debt, and limits the amount of an employee's earnings that may be garnished in any one week.	1 or more employees
Employee Polygraph Protection Act (EPPA)	Prohibits employers from using lie detector tests, either for pre-employment screening or during the course of employment. Some exclusions apply for certain jobs such as security service or pharmaceutical. Requires posting " Employee Rights – Employee Polygraph Protection Act " poster.	1 or more employees Federal, state, and local government agencies are excluded
Employee Retirement Income Security Act (ERISA)	Governs the administration, operation and disclosing of information regarding employee benefit plans. Provides protection and guarantees to employees covered by private pension and welfare plans and sets standards for employee participation, funding methods and establishes fiduciary responsibilities. Requires maintenance of various employment/employee records for specific timeframes.	1 or more employees
Equal Pay Act	As an amendment to the Fair Labor Standards Act, prohibits paying different wage scales to men and women performing substantially the same jobs except for pay differences based on merit (performance), seniority, quantity or quality of work, or any factor other than sex. Requires maintenance of various employment/employee records for specific timeframes and posting " EEO is the Law " poster.	1 or more employees

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Fair Credit Reporting Act (FCRA)	Imposes a number of requirements (i.e., disclosure, written authorization, notice of adverse action, disputes related to information) on employers using third party sources to conduct background check investigations, such as criminal background, credit and motor vehicle records (considered “consumer reports”) for employment purposes on job applicants and employees.	1 or more employees
Fair Labor Standards Act (FLSA)	Governs overtime, minimum wage, recordkeeping, breaks for nursing mothers, and child labor protections. Requires maintenance of various employment/employee records for specific timeframes and posting “Employee Rights Under the Fair Labor Standards Act” poster.	1 or more employees
Health Insurance Portability and Accountability Act (HIPAA)	Ensures that workers who change jobs won’t lose health insurance coverage due to exclusions for pre-existing conditions. Requires notification of plan participation upon termination. Protects all individually identifiable personal health information and limits circumstances under which this information may be disclosed. Imposes numerous administrative activities, training obligations, policy development requirements, and establishment of sound information security practices.	Group health plans with 2 or more participants Compliance thresholds vary and are dependent on a number of factors
Reform and Control Act	Prohibits discrimination in employment on the basis of national origin and citizenship and establishes penalties for employers who knowingly hire ineligible employees. Employers must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). Employers must keep each I-9 on file for at least three years, or one year after employment ends, whichever is longer.	1 or more employees
Lilly Ledbetter Fair Pay Act	An amendment to the Civil Rights Act of 1964 that clarified that each paycheck providing discriminatory compensation is a basis to make a claim, regardless of when the discrimination began. Wage complaints can be filed within 180 days of a discriminatory paycheck and that 180 days resets after each paycheck is issued.	1 or more employees
National Labor Relations Act (NLRA)	Provides employees with the right to organize, bargain collectively and engage in strikes and other concerted activities.	1 or more employees

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Occupational Safety and Health Act (OSHA)	Requires employers to provide for safe and healthy working conditions and environments and to adhere to specific safety and health standards and regulations. Provides whistleblower and retaliation protections. Requires maintenance of employment/employee records, annual completion and posting of OSHA Form 300 for 3 consecutive months beginning in February of any given year (this form must be signed by an executive of the company) and posting " Job Safety and Health: It's the Law " poster. Certain covered employers are also required to electronically submit information from their Form 300A by March each year.	1 or more employees
Omnibus Transportation Employee Testing Act	Requires drug and alcohol testing of drivers of commercial motor vehicles as well as reference checks, physical exams, limited hours of service and maintenance of testing-related records.	1 or more employees
Patient Protection and Affordable Care Act of 2010 (ACA)	Expands the availability of health care by regulating and mandating health care coverage and benefits for employees. The legislation is complex in depth, breadth and scope.	1 or more employees Compliance thresholds vary.
Pension Protection Act (PPA)	Significantly changes ERISA and other laws affecting defined contribution and defined benefit plans, IRAs and other plans. The act simplifies funding rules for defined benefit plans, accelerates employer funding obligations, clarifies rules for cash balance plans, makes permanent EGTRRA (Economic Growth and Tax Relief Reconciliation Act) revisions, provides diversification and investment education provisions and outlines automatic enrollment options for defined contributions plans.	1 or more employees
Personal Responsibility and Work Opportunity Reconciliation Act	Also known as New Hire Reporting, requires employers to submit information on new hires and rehires to their respective state agency within 20 days of hire.	1 or more employees

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Portal to Portal Act	Allows employers to eliminate from paid working time certain travel and walking time and other similar “preliminary” and “postliminary” activities performed prior or subsequent to the workday that are not made compensable by contract, custom, or practice.	1 or more employees
Sarbanes-Oxley Act	Protects employees of publicly held organizations against discrimination, harassment and retaliation because they provide information or participate in investigations related to allegations of violations securities laws, SEC rules, and federal laws pertaining to shareholder fraud. Provides significant “make whole” relief and the opportunity to recover costs related to litigation and attorneys’ fees.	Any company with 1 or more employees with a class of securities registered under section 12 of the Securities Exchange Act of 1934 and any company required to file reports under section 15(d) of the Securities and Exchange Act of 1934
Taft-Hartley Act	Sets forth the rights and obligations of employers regarding collective bargaining.	1 or more employees
Uniformed Services Employment and Reemployment Rights Act (USERRA)	Prohibits discrimination on the basis of past military service, current military obligations, or intent to serve. Provides certain re-employment rights, special benefits continuation periods for eligible employees called to military service, and posting “ Your Rights Under USERRA ” poster.	1 or more employees
SECURE (Setting Every Community Up for Retirement Enhancement) Act	Requires enrollment for part-time employees, working at least 500 hours for 3 consecutive years, access to a company’s 401(k) or similar plan, and to count all years of service for vesting. Requires employers to include a lifetime income disclosure on participants’ annuity plan statements, at least annually, showing anticipated monthly distribution amounts. Increases penalties for plans failing to file timely and accurate Form 5500s and required notifications or statements to participants of the plan. Eliminates the 10% penalty for early withdrawal of funds for birth/adoption expenses or transfers to 529 plans. Increases incentives for small employers to offer plans.	1 or more employees
Americans with Disabilities Act (ADA)	Prohibits discrimination against individuals with disabilities and requires the removal of barriers to employment. Required job accommodation for applicants and employees with disabilities and the maintenance of various employment/employee records for specific timeframes, as well as posting “ EEO is the Law ” poster. Spanish EEO poster available.	15 or more employees

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Genetic Information Non-Discrimination Act (GINA)	Prohibits employers from collecting or using genetic information on applicants and employees to make hiring, firing, compensation, promotion, or other employment-related decisions; restricts the acquisition of genetic information; strictly limits disclosure of genetic information and prohibits retaliation against individuals who exercise their rights under the Act. Requires posting " EEO is the Law " poster.	15 or more employees
Pregnancy Discrimination Act	Prohibits discrimination against women affected by pregnancy, childbirth, or related medical conditions; requires women be treated the same as all other employees with medically related conditions in terms of pay and benefits. Requires posting " EEO is the Law " poster.	15 or more employees
Title VII of the Civil Rights Act of 1964, as amended	Prohibits discrimination in employment on basis of race, religion, color, sex, sexual orientation or transgender status, or national origin. Requires maintenance of employment/employee records for specific timeframes and requires posting " EEO is the Law " poster.	15 or more employees
Age Discrimination in Employment Act (ADEA)	Prohibits discrimination against persons age 40 and over and restricts mandatory retirement requirements except where age is a "bona fide occupational qualification." Requires maintenance of various employment/employee records for specific timeframes and posting " EEO is the Law " poster.	20 or more employees
Consolidated Budget Reconciliation Act (COBRA)	Requires employers providing health care coverage to offer the option to continue coverage to employees, their spouses, and dependents when certain qualifying events occur that result in loss of coverage. Requires notification of continuation rights at time of hire and time of qualifying event(s), denial of eligibility for coverage, and notification of termination of coverage if prior to the end of continuation period.	20 or more employees
Older Workers Benefit Protection Act	Prohibits age-based discrimination in early retirement and other benefit plans.	20 or more employees

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Family and Medical Leave Act (FMLA)	Requires employers to provide eligible employees with up to 12 weeks of unpaid time off as the result of their own serious illness, to care for seriously ill family members, or upon the birth/adoption of their children; up to 26 weeks of leave to care for an active service member or service member recovering from a serious illness or injury sustained up to 5 years after the veteran ends active duty; and up to 12 weeks of leave for a “qualifying exigency” arising out of a family member’s active duty or call to active duty. Requires notification of employee rights’, maintenance of various employment/employee records and posting “ Employee Rights and Responsibilities Under the Family and Medical Leave ” poster. Some states have adopted separate FMLA guidance and the law with the greatest benefit to the employee prevails.	50 or more employees (during at least 20 calendar weeks in the current or preceding calendar year)
EEO-1 Reporting	Requires employers who are subject to Title VII of the Civil Rights Act of 1964 to complete and file an annual EEO-1 form. The survey requires company employment data to be categorized by race/ethnicity, gender and job category. Some employers are excluded, including government, school systems and Indian tribes.	100 or more employees (also applies if a company is owned by another or there is centralized ownership, and the entire enterprise employs a total of 100 or more)
Worker Adjustment and Retraining Notification Act (WARN)	Requires employers to provide advance notice of facility closings or major layoffs. Requires posting of notice for 60 days prior to effective date.	100 or more employees

See next pages for FEDERAL CONTRACTORS

Federal Law for Contractors	Summary of Basic Provisions and Obligations	Compliance Thresholds
<p>Davis-Bacon Act</p>	<p>Requires employers with public construction contracts to pay prevailing minimum wage rates (including fringe benefits) as identified by the Secretary of Labor. Requires maintenance of various employment/employee records for specified timeframes and posting "Employee Rights Under the Davis-Bacon Act" poster.</p>	<p>Applies to employers with contracts in excess of \$2,000</p>
<p>Drug Free Workplace Act</p>	<p>Requires employers with federal contracts and grantees to maintain a drug free work environment by developing, implementing and administering a drug free workplace policy and awareness program. Requires posting the company's Drug Free Workplace Policy.</p>	<p>Applies to employers with contracts of \$100,000 or more</p>
<p>Executive Order 11246 <i>(Affirmative Action Plan, EEO-1)</i></p>	<p>Requires employers with federal contracts and subcontracts to eliminate employment discrimination and prior discrimination through affirmative action for minorities and women. Requires development of written affirmative action programs for minorities and women; annual completion and submission of EEO-1 form; maintenance of employment/employee records for specific timeframes; evaluation of selection decisions (applicants/hires, promotions and terminations) for adverse impact, evaluation of employee compensation, and posting "EEO is the Law" poster (and supplement for employers holding federal contractors or subcontracts).</p>	<p>Basic provisions apply to employers with contracts/ subcontracts of \$10,000 or more Written plan and EEO-1 requirements apply to employers with 50 employees and a \$50,000 contract; certain financial institutions</p>
<p>Executive Order 12989</p>	<p>Requires employers with federal contracts (and service and construction subcontracts whose contracts include the FAR E-Verify clause requiring the use of the USCIS electronic E-VERIFY system) to verify that all new hires and existing employees directly working on the contract are legally eligible to work in the United States, and, posting "This Employer Participates in E-Verify" and "If You have the Right to Work, Don't Let anyone Take it Away" posters.</p>	<p>Federal contractors and service and construction subcontractors</p>
<p>Executive Order 13496</p>	<p>Requires that employers with federal contractors provide notice to their employees of their rights by posting the "Employee Rights Under the National Labor Relations Act" poster. Additionally, contracts and purchase orders must include a prescribed contract clause.</p>	<p>Applies to prime (\$100,000 or more) and subcontracts (\$10,000 or more) Certain exemptions apply</p>

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Executive Order 13706	Establishes paid sick leave for federal contractors. Up to 7 days should be provided annually, including time for family care.	Applies to contracts for construction covered by the Davis-Bacon Act, contracts for service covered by the Service Contract Act, a contract for concessions workers, and contracts in connection with federal property or lands related to offering services for federal employees and their families
McNamara-O’Hara Service Contract Act (SCA)	Requires employers with federal service contracts to pay employees in various classes no less than the prevailing wage rates and fringe benefits. Requires maintenance of various records for specific time frames and posting “ Employee Rights on Government Contracts ” poster.	Applies to contractors and subcontractor performing services on prime contracts in excess of \$2,500
Rehabilitation Act (Section 503)	<p>Prohibits employers with federal contractors or subcontracts from discriminating against individuals with disabilities and requires affirmative action, including the establishment of a utilization goal.</p> <p>Requires development of a written affirmative action program for individuals with disabilities (as applicable), posting “EEO is the Law” poster, incorporating specific, mandated language for contracts, voluntarily requesting self-identification from applicants and employees, measuring effectiveness of outreach efforts, and maintenance of employee records for specific timeframes.</p>	<p>Basic provisions apply to employers with contracts or subcontracts of \$15,000 or more</p> <p>Written plan requirements apply to employers with 50 employees and a \$50,000 contract; certain financial institutions</p>
Vietnam-Era Veterans Readjustment Assistance Act (VEVRAA)	<p>Prohibits federal contractors and subcontractors from discriminating in employment against protected veterans, and requires these employers to take affirmative action.</p> <p>Requires annual completion and submission of VETS 4212 form by September 30, establishing hiring benchmarks, measuring effectiveness of outreach hiring efforts, posting “EEO is the Law” poster, voluntarily requesting self-identification from applicants and employees, maintenance of employee records for specific timeframes, incorporation of EO clause in job postings and contracts (with required citation and language), and development of written affirmative action program for veterans (as applicable).</p>	<p>Basic provisions apply to employers with contracts and subcontracts of \$150,000 or more</p> <p>Written plan requirements apply to employers with 50 employees and a \$150,000 contract; certain financial institutions</p>

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<p>Walsh-Healy Act</p>	<p>Applies to employers working on certain government contracts. Establishes basic labor standards that include payment of minimum wage, overtime for hours worked over 40 and safe working conditions. Requires maintenance of various employment/employee records for specific time frames and posting "Employee Rights on Government Contracts" poster.</p>	<p>Applies to federal government contract work in excess of \$15,000 for the manufacturing or furnishing of materials, supplies, articles, or equipment</p> <p>Certain exemptions apply</p>