

**UMSL**

**UNIVERSITY OF MISSOURI –  
ST. LOUIS**

**Manager/Supervisor Human Resource  
Manual**

**EMPLOYMENT LAW MANUAL  
- ADMINISTRATIVE**

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## Overview

One of the most important functions of Human Resources is to ensure conformance with Employment Laws and Regulations. Most of the employment laws and regulations can be divided into three categories: those prohibiting discrimination, those regulating pay and those regulating benefits. Other laws affecting employment are listed together below.

If you have questions about the employment laws and their application to this environment, contact [James Hertel](#), Executive Director, Human Resources.

- Laws Prohibiting Discrimination
- Laws Affecting Pay
- Laws Affecting Benefits
- Tangential and Common Law Issues which Affect You and the University
- Other Laws
- University Policies Which Ensure Compliance with the Employment Laws

## Laws Prohibiting Discrimination (2 Pages)

Title VII of the Civil Rights Act of 1964

- Pregnancy Discrimination Act of 1978
- Sexual Harassment - Section 703 (Title VII as amended in 1980)
- Civil Rights Act of 1991

Executive Order 11246

- Rehab Act of 1973
- Vietnam Era Veterans Readjustment Act
- Executive Order 11141

Age Discrimination in Employment Act of 1967

Title IX of the Education Amendments of 1972

Americans with Disabilities Act (1990)

Equal Pay Act of 1963

Family and Medical Leave Act (1993)

### TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Makes it an unlawful employment practice for an employer:

1. to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, term, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
2. to limit, segregate, or classify employees or applicants for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect status as an employee, because of such individual's race, color, religion, sex, or national origin.

Amended by **Pregnancy Discrimination Act of 1978**, amended by **Section 703** to include sexual harassment in 1980 and amended to allow jury trials by **the Civil Rights Act of 1991**.

### EXECUTIVE ORDER 11246 (1965)

Requires that organizations with 50 or more employees and aggregate contracts of \$50,000 or more with the federal government take affirmative action to hire and retain minorities and females in proportion to the percentage of minorities and females in the area in which the organization is located and from which it draws its employees. Requires submission of an annual Affirmative Action plan outlining goals and timetables for achieving proportionate utilization of minorities and females.

Extended to disabilities by the **Rehabilitation Act of 1973**, to veteran's status by the **Vietnam Era Veterans Readjustment Act**, to age by **Executive Order 11141**.

### **AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967**

Prohibits discrimination against applicants and employees 40 years of age and older. Prohibits an employer from: (1) failing or refusing to hire or discharge any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's age; (2) limiting, segregating, or classifying employees' in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect status as an employee, because of such individual's age; or (3) Reducing the wage rate of any employee in order to comply with the Act.

Extended specifically to employment benefits by the **Older Workers Benefit Protection Act (1990)**.

### **TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

#### **(Amending the higher Education Act of 1965)**

Prohibits discrimination on the basis of sex by any educational program or activity receiving federal financial assistance.

### **AMERICANS WITH DISABILITIES ACT (1990)**

Prohibits discrimination against and requires reasonable accommodation of applicants and employees with physical or mental impairments (or a record or perception of such) which substantially limit one or more major life activities and who, with or without reasonable accommodation, can perform the essential functions of the job.

### **EQUAL PAY ACT OF 1963**

Requires that male and female employees be paid the same for equal work on jobs requiring equal skill, effort and responsibility performed under similar working conditions.

### **FAMILY AND MEDICAL LEAVE ACT (1993)**

Requires provision of up to a total of 12 weeks per year of job protected leave to eligible employees to care for the employee's child after birth, adoption or foster care; to care for employee's spouse, child or parent with a serious health condition; or for the employee's serious health condition which prevents employee from performing his or her job. To be eligible, employee must have been employed for at least one year, must have worked 1250 hours in the previous 12 months and must provide 30 days notice under most conditions.

# **Laws Affecting Pay**

## **EQUAL PAY ACT OF 1963**

Requires that male and female employees be paid the same for equal work on jobs requiring equal skill, effort and responsibility performed under similar working conditions.

## **FAIR LABOR STANDARDS ACT (1938)**

Requires payment of a minimum wage (currently \$5.15 per hour) and time and one half for time worked in excess of 40 hours in a week.

Amended by the Portal to Portal Act to define arrival and departure times and to establish a statute of limitations of two years.

## **CONSUMER CREDIT PROTECTION ACT (1968)**

Limits garnishments to 25% of employees' disposable income. Protects employees from termination for garnishments from one creditor.

## **DAVIS BACON ACT (1931)**

Requires that workers on Federal construction contracts in excess of \$2,000 be paid the prevailing wage.

## **WALSH HEALY ACT (1936)**

Requires that workers on Federal contracts requiring the manufacture or purchase of materials in excess of \$10,000 be paid the prevailing wage.

## **Laws Affecting Benefits**

### **SOCIAL SECURITY ACT (1935)**

Establishes a system for providing pension benefits and unemployment benefits.

### **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) (1974)**

Establishes standards for administering employee benefit plans including disclosure and reporting requirements.

### **CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) (1985)**

Requires that employees or dependents be offered continuation of benefits under certain circumstances.

### **OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA) (1990)**

Prohibits discrimination against employees based on age in all employee benefit programs except when age based reductions in coverage are justified by significant cost considerations.

### **FAMILY AND MEDICAL LEAVE ACT (1993)**

Requires provision of up to a total of 12 weeks per year of job protected leave to eligible employees to care for the employee's child after birth, adoption or foster care; to care for employee's spouse, child or parent with a serious health condition; or for the employee's serious health condition which prevents employee from performing his or her job. To be eligible, employee must have been employed for at least one year, must have worked 1250 hours in the previous 12 months and must provide 30 days notice under most conditions.

### **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPPA) (1996)**

Guarantees that employees and their dependents who leave an employer's group health plan will have ready access (except as universally restricted) to coverage under the subsequent employer's health plan, regardless of their health or prior claims experience. Limits pre-existing condition exclusions to one year, in most cases, less periods of continuous coverage under the previous plan.

# **Tangential and Common Law Issues Which Affect You and the University**

In addition to specific causes of action resulting from the employment laws, there are often causes of action mostly coming from common law which sometimes are accepted by regulatory agencies but more commonly have been used by employees to initiate court action.

## **RETALIATION OR PUBLIC POLICY**

Generally arises from adverse treatment or perceived treatment of employees after they have utilized legally granted privileges, reported a legal violation (Public Policy) or filed a complaint, or a law suit.

## **IMPLIED CONTRACT**

Generally arises from written or oral representation made by management about the permanency of the employment relationship.

## **DEFAMATION OF CHARACTER**

Generally arises from a false or perceived false, or even a true statement (when made inappropriately or to the wrong person) which might damage an employee's reputation or chances of future employment.

## **INVASION OF PRIVACY**

Generally arises when an employer's actions intrude on matters for which the employee has a reasonable privacy expectation.

## Other Laws

**National Labor Relations Act (Wagner Act) (1935):** Gives employees the right to join and form labor organizations and to engage in concerted activities. Prohibits companies from committing unfair labor practices.

**Taft-Hartley Act (1947):** Prohibits unions from committing unfair labor practices.

**Occupational Safety and Health Act 1970:** Requires employers to provide a safe place to work.

**Jury System Improvement Act (1978):** Prohibits employers from taking action against permanent employees for performing jury duty in federal court.

**Immigration Reform and Control (1986):** Prohibits hiring of illegal aliens, requires proof of residency and authorization to work recorded on the I-9 form within three (3) days of employment.

**Employee Polygraph Protection Act (EPPA (1988):** Prohibits employers from using lie detector tests on employees and establishes rights of refusal for employees. Includes exceptions for investigation where there is substantial economic loss, reasonable suspicion, reasonable written notice to the employee and restrictions on the use of results. Exempts government agencies.

**Work Adjustment and Retraining Notification Act (1988):** Requires at least 60 days notice to employees of a facility closing or mass layoff.

**Federal Drug Free Workplace Act (1988):** Prohibits the unlawful possession, use, distribution or sale of a controlled substance on the property of employers with \$25,000 or more in federal contracts.

**Fair Credit Reporting Act (1992):** Prohibits obtaining a credit report on an applicant or employee without prior written notification to and authorization by the applicant or employee.

**Uniformed Service Employment Rights Reemployment Act (1994):** Requires that veterans who are recalled to military service be returned to the workplace without loss of benefits or status.

## State Laws

**Voting Time:** Entitles employees to three (3) consecutive hours (including time before or after work) between the opening and the closing of the polls to vote. Any necessary time off work to vote will be paid but must be scheduled at least one day in advance and may be determined by the supervisor.

**Jury and Witness Duty:** Provides for public employees to receive their regular pay during jury duty time and subpoenaed witness time.

# University Policies Which Ensure Compliance with the Employment Laws

[HR102 Equal Opportunity Program](#)

[HR105 Employment Documentation](#)

[HR106 Reporting Hours Worked](#)

[HR110 Interviewing](#)

[HR114 Release of Employee Information](#)

[HR115 Employment of Relatives](#)

[HR116 Employment of Minors](#)

[HR117 Layoff](#)

[HR202 Classification Status](#)

[HR211 Overtime](#)

[HR215 Compensatory Time](#)

[HR306 Social Security](#)

[HR307 Workers' Compensation](#)

[HR405 Military Leave](#)

[HR407 Family and Medical Leave](#)

[HR409 Work-Incurred Injury or Illness](#)

[HR410 Legal Proceedings](#)

[HR411 Voting](#)

[HR508 Drug/Alcohol Abuse in the Workplace](#)

[HR510 Sexual Harassment](#)

[HR513 Volunteers](#)

[HR601 Discipline](#)