



EQUITY &  
DIVERSITY

THE UNIVERSITY OF TENNESSEE, KNOXVILLE

# FEDERAL DISCRIMINATION LAWS: A BRIEF SUMMARY



## INTRODUCTION

The University of Tennessee is an equal opportunity/affirmative action employer and does not discriminate.

The Office of Equity and Diversity (OED) is the office designated by the University of Tennessee to review inquiries and complaints from students, faculty, and staff, regarding issues of discrimination. Individuals who believe that discriminatory acts have compromised their educational or work environment can also bring their concerns to the attention of the department head, dean, or appropriate supervisor. OED is responsible for reviewing facts and information provided by complainants and university departments in an objective manner, with a focus towards resolving conflicts fairly and consistently.

Conflicts involving discrimination issues can be unsettling for all involved with an inquiry or complaint. The term “discrimination” itself causes confusion and concern. The university encourages its students, faculty, and staff to consider registering their concerns with OED; however, they may also file complaints through avenues external to the university. State human rights commissions and federal agencies all have procedures for receiving and investigating discrimination complaints. Complainants who elect to file through an external agency should consult with that agency to inquire about filing requirements and time limits. Filing a complaint within the university does not alter the time requirements of an external agency.

This brochure is intended to provide general information regarding some of the federal laws dealing with non-discrimination and affirmative action in the educational and employment settings. It is not intended to be absolute, comprehensive, or to provide legal advice. Most states also have state civil rights laws. Such laws are not covered here as they vary from state to state. For further information, the reader is strongly encouraged to research the particular topic of interest or seek additional advice.



## AFFIRMATIVE ACTION and EXECUTIVE ORDER 11246

The phrase “affirmative action” has its foundation in Executive Order 11246. Affirmative action is also a component of other civil rights laws.

Executive Order 11246 prohibits covered federal contractors and subcontractors from engaging in employment discrimination on the basis of an applicant’s **race, color, religion, sex or national origin**. This order requires that certain employers take **affirmative action** to (1) ensure that all qualified applicants and employees receive equal employment opportunity and (2) recruit and advance qualified minorities and women for jobs in which they are underutilized relative to their availability in the job market.

Affirmative action programs or efforts may include training programs, recruiting efforts, or other outreach efforts on the part of the employer. Generally, a covered employer is one who receives federal contracts or subcontracts in excess of \$10,000 or which may accumulate to more than \$10,000 in any 12-month period. There are a few exceptions to this rule.

Executive Order 11246 also requires contractors or subcontractors of a certain size to develop a written affirmative action plan geared towards correcting the underutilization of qualified minorities and women.

## FEDERAL NON-DISCRIMINATION LAWS

### TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (42 USC 2000E)

Title VII was enacted to provide equal employment opportunities in the workplace for all individuals. This act makes it unlawful for employers to hire, fire, or otherwise take adverse employment action against someone because of that individual’s **race, color, religion, sex, or national origin**. Adverse employment action can include hiring, firing, promotions, compensation, terms and conditions of employment, or privileges of employment. The act also encompasses both **pregnancy discrimination and sexual harassment** in the workplace under the



provision prohibiting gender discrimination.

Title VII applies to all employers who have fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

#### **TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 USC 2000D)**

This act makes it unlawful for a recipient of federal funds for the operation of any program or activity to (1) deny program services, aids, or benefits; (2) provide a different service, aid, or benefit, or provide them in a manner different than they are provided to others; or (3) segregate or separately treat individuals in any matter related to the receipt of any service, aid, or benefit, on the basis of **race, color, or national origin**.

More than 30 federal agencies provide federal financial assistance in the form of funds, training, technical, and other assistance to state and local governments and non-profit and private organizations. Title VI applies to these recipients of federal assistance. Colleges and universities receiving federal funds cannot discriminate on the basis of race, color, or national origin in the provision of facilities, curriculum, admissions, or other services, aids, or benefits.

#### **EQUAL PAY ACT OF 1963 (29 USC 206D)**

This act is part of the Fair Labor Standards Act of 1938, as amended. The Equal Pay Act prohibits covered employers from compensating employees who are performing equal work differently because of their **gender**. Compensation includes wages, fringe benefits, and wage rates (Pay that differs because of gender is also prohibited by Title VII). It was enacted to ensure that employees performing substantially similar jobs under similar circumstances and having similar qualifications are compensated equally, regardless of gender.

For the work to be considered equal on different (or the same) jobs, the work must require equal skill, effort, and responsibility, and the working conditions must be similar. The jobs being compared do not need to be identical, but must be substantially equal.

The Equal Pay Act of 1963 applies to all employers covered by the Fair Labor Standards Act of 1938, as amended.

**AMERICANS WITH DISABILITIES ACT OF 1990 (42 USC 12101) AND THE REHABILITATION ACT OF 1973 (29 USC 701) AS AMENDED BY AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008**

These two acts, the Americans with Disabilities Act and the Rehabilitation Act of 1973, prohibit discrimination on the basis of **disability** in employment, housing, transportation, access to public accommodations and services, education, and telecommunications. Both acts apply to all qualified individuals with disabilities. A person with a disability is an individual who has a physical or mental impairment that substantially limits one or more major life activity; has a record of such impairment; or is regarded as having such impairment.

Coverage of the ADA extends to all aspects of the employment relationship, including the job application process, hiring, firing, promotions, compensation, training, other terms, conditions and benefits of employment. It also applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment related activities.

In the educational setting, students with disabilities may participate in programs and activities equivalent to those made available to similarly situated students with the provision of reasonable accommodations as appropriate to ensure equal access.

The acts also require a covered entity (such as the university) to provide reasonable accommodations in the work or educational environment to qualified individuals with disabilities. In the employment context, the ADA applies to all employers who have fifteen or more employees for each working day in each of twenty or more calendar weeks in a year.

**TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (20 USC 1681)**

Title IX states that no person shall, on the basis of **sex**, be excluded from participation in, be denied the benefits



of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives federal financial assistance. This includes any institution whose students receive federal financial assistance. Therefore, virtually all colleges and universities are covered by this amendment unless they are exempted from the act. Title IX also prohibits sexual misconduct, the failure to provide students equal opportunities in athletics, and discrimination based on pregnancy.

### **AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (29 USC 621)**

This act, known as the ADEA, is the primary federal legislation that prohibits employers from using age as a factor in the hiring process, terms, conditions and privileges of employment, and termination of employment. To be covered by the ADEA, an individual must be 40 years or older.

The ADEA applies to all employers who have twenty or more employees for each working day in each of twenty or more calendar weeks.

### **VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974 (VEVRAA), AS AMENDED**

The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) and the Veterans Employment Opportunities Act of 1998 (VEOA) require that contracts for property or service contain provisions requiring the contractor to take affirmative action to employ and advance in employment qualified **veterans** of the Vietnam era, special disabled veterans, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition. The affirmative action requirements of this act apply to any employment that occurs under the awarded contract (or subcontract).

The acts apply to employers who receive federal contracts in the amount of \$25,000 or more.

Regulations governing these acts also include the obligation of the contractor to refrain from discrimination in employment with regards to protected veterans.

## RETALIATION

When an individual engages in an activity that is protected by one of the civil rights laws, the individual is protected from **retaliation** for opposing any discriminatory acts and for participating in filing a charge, testifying, assisting, or being involved in any manner in an investigation, proceeding, or hearing under the applicable law. Protected activity also includes testifying or presenting evidence as part of an internal investigation conducted as a result of an allegation of discrimination.

The prohibitions against retaliation apply whether or not the individual's original complaint is found to be valid.

## EXEMPTIONS

The civil rights laws and regulations outlined above are broad and encompassing in their scope; however, many also include specific, limited exceptions. In order to determine whether one of the exemptions applies to a particular situation, the reader should consider consulting the actual law or regulation in question.

## SOURCES

Interested readers can find out more about the topics mentioned in this brochure by consulting the following resources:

Department of Education's Office of Civil Rights:  
[www.ed.gov/about/offices/list/ocr](http://www.ed.gov/about/offices/list/ocr)

Department of Veterans Affairs:  
[www.va.gov](http://www.va.gov)

Equal Employment Opportunity Commissions:  
[www.eeoc.gov](http://www.eeoc.gov)

Title 42 of the United States Code (U.S.C):  
[uscode.house.gov](http://uscode.house.gov)

U.S. Department of Justice:  
[www.justice.gov](http://www.justice.gov)

U.S. Department of Labor  
[www.dol.gov](http://www.dol.gov)

U.S. Department of Justice's ADA Home Page:  
[www.ada.gov](http://www.ada.gov)

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## OFFICE OF EQUITY & DIVERSITY

ONLINE: [oed.utk.edu](http://oed.utk.edu)

PHONE: 865-974-2498

FAX: 865-974-0943

1840 Melrose Avenue  
Knoxville, TN 37996-3560



All qualified applicants will receive equal consideration for employment and admissions without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

Eligibility and other terms and conditions of employment benefits at The University of Tennessee are governed by laws and regulations of the State of Tennessee, and this non-discrimination statement is intended to be consistent with those laws and regulations.

In accordance with the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, The University of Tennessee affirmatively states that it does not discriminate on the basis of race, sex, or disability in its education programs and activities, and this policy extends to employment by the University.

Inquiries and charges of violation of Title VI (race, color, and national origin), Title IX (sex), Section 504 (disability), ADA (disability), Age Discrimination in Employment Act (age), sexual orientation, or veteran status should be directed to the Office of Equity and Diversity (OED), 1840 Melrose Avenue, Knoxville, TN 37996-3560, telephone (865) 974-2498 (dial 711 for telecommunications relay services). Requests for accommodation of a disability should be directed to the ADA Coordinator at the Office of Equity and Diversity. The university name and its indicia within are trademarks of the University of Tennessee.

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