



DIVERSITY & INCLUSION

An Employer's Toolkit for Hiring
& Retaining Great Employees

The **WorkPlace**
» Think it forward.



Dear Employer,

Welcome to “Diversity and Inclusion: An Employer’s Toolkit for Hiring and Retaining Great Employees.” This Toolkit contains the collective expertise of people with disabilities, people who are lesbian, gay, bisexual and transgender (LGBT) with disabilities, business owners, service providers and advocates who have decades of combined experience in facilitating employment for people with disabilities, including LGBT people with disabilities.

In this Toolkit we will be giving you tips on how to strengthen, enrich and diversify your workplace by hiring candidates with disabilities, including LGBT candidates with disabilities. You can read and use the Toolkit in its entirety or you can refer to sections as you need them. We have also included additional information following the Toolkit which reviews the basics of laws that apply to hiring people with disabilities, including those who are also LGBT with disabilities.

Recruiting, hiring and retaining employees is a challenge faced by businesses of all sizes. People with disabilities, including LGBT people with disabilities, represent a talent pool that is often hidden and underutilized.

This Toolkit is a guide to creating an inclusive workplace which will assist you in accessing this hidden pool of talent. Creating an inclusive workplace not only helps you recruit skilled employees but also enhances efforts to retain the talents of an aging workforce. When it comes to doing business, being inclusive of people with disabilities—in recruitment, retention and advancement—can offer small businesses a competitive edge. People with disabilities, including those from the LGBT community, add value to your workforce.

We invite you to use the Toolkit to better understand how to grow your business by hiring candidates with disabilities, including those with disabilities from the LGBT community.

Thank you for your commitment to growing your business through diversity.

Sincerely,

Add Us In/Diversity Works Consortium



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»»» THE HIDDEN CANDIDATE POOL



The 28 million small businesses across America play a vital role in local economies. They represent 99.7 percent of all of the employers in the U.S and employ over 56 million people, or 57 percent of the private sector employees in the nation. They also create roughly 80% of new jobs in the country – and give people the opportunity at employment by providing 67% of all first jobsⁱ. Small businesses provide job opportunities to different types of workers and rely heavily on people for success. Increased diversity in staffing strategy helps to increase an employer’s potential for success.

Today, our nation benefits from an increasingly diverse workforce, one that offers a number of different perspectives and rich ideas to American businesses of all sizes and in all industries.

Between 2010 and 2030, the country will lose 20% of its workforceⁱⁱ To maintain the jobs we have now, without growing the workforce, our country needs to add 10-15 million new workers between now and 2020. One hidden candidate pool that will help us fill vacant positions is people with disabilities. Every day, people with disabilities, including lesbian, gay, bisexual and transgender (LGBT) people with disabilities, make significant contributions to workplaces across the U.S.

People with disabilities are the next great wave of diversity in the United States and around the globe. In fact, they are the largest minority in America today and still growing, especially when we include maturing workers with age-related disabilities and veterans with service-related disabilities. Employees who have a disability or who have a child or other dependent with special needs represent approximately 15%ⁱⁱⁱ of the U.S. workforce.

People with disabilities want to work and, in fact, come to employers with education and skill-sets that make them ideal candidates for a great many jobs, especially when utilizing technology that helps level the playing field.

Additionally, the LGBT community encompasses the full spectrum of our society’s diversity. Employees who are LGBT represent approximately 7%^{iv} of the U.S. workforce. The LGBT community crosses lines of gender, race, age, income, class, family structure, education, geography, religion and political affiliation and also includes individuals with disabilities. In fact, research indicates that disability is significantly more prevalent among adults who are LGBT.

Many large companies now include orientation and gender identity in their diversity and inclusion efforts. Ninety-one percent of Fortune 500 companies now include orientation in their non-discrimination policies and 61% include gender identity.^v LGBT employees now have more opportunities to showcase their talents.

THE BUSINESS CASE FOR TAPPING INTO THE HIDDEN CANDIDATE POOL: People with disabilities & LGBT people with disabilities

People with disabilities, including those from the LGBT community, offer companies the opportunity to hire qualified, motivated, productive, and reliable employees.

Good workplace practices for people with disabilities, individuals who are LGBT, and LGBT individuals with disabilities benefit everyone and make good business sense.

How to Take Advantage of the Hidden Candidate Pool to Find a Good Hire

Defining the Good Hire

Small businesses are successful when they hire good people. Qualified, valuable talent helps steer companies to better customer service, community involvement, and profitability.

How does an employer determine if an applicant is a good fit for his/her business? They can always look for the common characteristics of a good hire:

- | | | | |
|--------------------------------|----------------|-------------------|---------------|
| ✓ Dependable | ✓ Confident | ✓ Detail-oriented | ✓ Accountable |
| ✓ Reliable | ✓ Hardworking | ✓ Action-oriented | ✓ Team Player |
| ✓ Has integrity | ✓ Punctual | ✓ Honest | ✓ Ambitious |
| ✓ Responds well to instruction | ✓ Enthusiastic | ✓ Flexible | ✓ Energetic |
| ✓ Gets the job done | ✓ Motivated | ✓ Positive | ✓ Ethical |



Job Seekers with Disabilities Can Be Good Hires

Having the right talent at the right place at the right time is vital to maintaining a competitive advantage. When the talent pool is expanded to include people with disabilities, including LGBT individuals with disabilities, employers:

- gain access to a skilled and valued workforce;
- retain the skills and knowledge of employees who acquire disabilities;
- reduce the average cost of hiring and training and become eligible for certain tax benefits like the Wounded Warrior Tax Credit, which provides businesses with up to \$9,600 for hiring long-term unemployed veterans with service-connected disabilities.

THE BUSINESS CASE FOR TAPPING INTO THE HIDDEN CANDIDATE POOL: People with disabilities & LGBT people with disabilities (continued)

Innovation is key to an employer's success. Employees with disabilities bring unique experiences and understanding that transform a workplace. People with disabilities often possess valuable problem-solving skills because many need to identify creative ways to perform tasks that people without disabilities take for granted. When employees with disabilities are a part of your team, you can discover that technology can be used in new ways to increase productivity. **For example:**

- Using pictures instead of words in a distribution area may increase productivity and reduce errors not only by employees with learning disabilities, but also by those for whom English is not their primary language.
- Installing a ramp at your front entrance benefits people with various mobility limitations, customers with strollers, delivery personnel with hand trucks, and many others who benefit from increased access.
- Turning on the captioning feature on televisions in your facility allows your employees who are deaf to view the information on the screen and also benefits older customers who are losing their hearing as they age.
- Altering how things are done as a reasonable accommodation for an employee with disabilities can result in more efficient and effective business practices across our companies. Disability also adds another dimension to our diversity efforts, contributing to the development of unique and creative business solutions. Employees with disabilities, including LGBT employees with disabilities, come from all backgrounds and ages, and have varied skills and perspectives, adding value to our businesses.

Why You Should Hire People with Disabilities & LGBT People with Disabilities

Being inclusive of people with disabilities, including those from the LGBT community, in recruitment, retention and promotion gives small business a competitive edge. **Here are the facts:**

- Employees with disabilities have the right skills for your business. People with disabilities are better educated and more skilled than ever before. Over 11% of incoming freshmen in colleges across the nation have a disability^{vi}
- Any additional costs associated with hiring people with disabilities is negligible.
- Finding qualified candidates with disabilities is not difficult. Small businesses have a tendency to rely on word-of-mouth and employee referrals when advertising openings. Advertising your job opportunities with local organizations serving job seekers with disabilities increases your access to qualified applicants. Furthermore, the majority of disabilities are invisible, so you may be interviewing and hiring people with disabilities without realizing it.
- People with disabilities have skills desirable in the workplace. Living with a disability requires adaptation, creativity, and persistence, all of which are positive attributes in the workplace.
- People with disabilities are capable of fully participating in community life, including working and building a career. When hiring and employing people with disabilities, it is important that you focus on a person's abilities and qualifications.

»» BEFORE YOU BEGIN

Whether you are a federal contractor or not, it's important to understand your basic obligations under the ADAAA and CT state laws protecting the employment rights of people with disabilities and LGBT people with disabilities. Let's get started with a quick overview of our obligations.

Under the **ADAAA**, private employers with **15 or more employees** cannot discriminate on the basis of disability in any employment decision. The **Connecticut Human Rights and Opportunities Act**, requires that private employers with **3 or more employees** cannot discriminate on the basis of disability, orientation, or gender identity.

Employers covered by disability laws and other civil rights laws have to make sure that people with disabilities, including LGBT people with disabilities:

- Have an equal opportunity to apply for jobs and to work in jobs for which they are qualified;
- Have an equal opportunity to be promoted once they are working;
- Have equal access to benefits and privileges of employment that are offered to other employees, such as employer-provided health insurance or training; and
- Are not harassed because of their disability, orientation, or gender identity;
- Are provided reasonable accommodations to enjoy equal employment opportunity.

For more information about the ADAAA, CT Human Rights and Opportunities Act, and other federal laws protecting the rights of people with disabilities, including LGBT people with disabilities, take a look at Appendix A: What are the Laws Prohibiting Job Discrimination Based on Disability, Orientation, and Gender Identity? And Appendix B: Myths about the ADA.



»» BEFORE YOU BEGIN (Continued)

Creating an Inclusive Workplace

Small business owners can't afford to waste time with ineffective and/or costly recruitment. **To increase your access to qualified workers with disabilities, be sure to:**

- Partner with The WorkPlace for access to qualified, job-ready candidates. The WorkPlace is your go-to source for finding your “good hire.”
- Post your job openings with and reach out to other local disability organizations (e.g., Centers for Independent Living, local offices of the CT Department of Rehabilitation Services, Bureau of Rehabilitation Services) and LGBT organizations (e.g., LGBT community centers, CT chapter of the Gay, Lesbian, Straight Education Network).
- Reach out to the disability student services offices (DSOs) at colleges and universities in your community. DSOs specialize in assisting students with various disabilities and impairments to achieve their academic goals, including helping with career services. DSOs are separate from the career services offices you are typically familiar with. Staff members in these offices often establish rapport with students with disabilities, offering personalized services.
- People who work in these offices are open to hearing from local small businesses. Because they know the students with disabilities so well, they can help you identify qualified students with disabilities that meet the specific needs of your business. Nearly 11% of college freshmen report some type of disability, so DSOs represent an excellent source for good workers for your business.
- Advertise your opportunities on disability and LGBT job boards and attend diversity job fairs hosted by organizations in your community, including your local workforce development center.
- Include details about your facility in your postings and highlight accessible features of your building, if appropriate. For example, be sure to let applicants know if you're on the local bus line and where to park.
- Advertise that you're an equal opportunity employer and be sure to mention that you don't discriminate based on disability, sexual orientation, or gender identity.
- Explore internship or mentoring programs targeted towards youth with disabilities, including LGBT youth with disabilities. These programs allow you to increase your workforce diversity while offering valuable work experience to young workers.



»»» BEFORE YOU BEGIN (Continued)

Taking Advantage of the Benefits of a Diverse Workplace

Small businesses can capitalize on a broad range of financial, profitability, public relations, and legal advantages when they commit to hiring workers with diverse backgrounds. These opportunities translate into lower costs, higher revenues, and increased profits:

Tax Incentives: Small businesses can also take advantage of two Federal tax incentives available to help cover costs of making access improvements for employees and customers with disabilities –

- The Disabled Access Credit is a tax deduction for the removal of access barriers to facilities or vehicles. For example, if you purchase a larger computer monitor for an employee with diabetes who has vision loss related to retinopathy, you may be eligible for the Disabled Access Credit.
- The Barrier Removal Deduction can help offset the costs associated with remodeling a bathroom to increase accessibility for employees and customers with disabilities.
- **Reduced Training Costs:** Small businesses with return-to-work programs benefit further by creating a culture that values their people. When employees who acquire a disability, through disease, workplace injury or other causes, are able to return to work after treatment or rehabilitation, companies often see reduced training and hiring costs and lower insurance premiums. If your employee is able to return to work, you don't have to worry about finding a new employee. This cuts hiring-related costs such as pre-employment drug screens, background checks, and training a new person. Plus, small business insurance providers may offer incentives for return-to-work policies and procedures.
- **Increased Customer Base/Market Share:** Customers with disabilities and their families, friends and associates represent a trillion dollar market segment. They, like other market segments, purchase products and services from companies that best meet their needs. Nearly 90% of American consumers would prefer to give business to companies that hire and promote people with disabilities. Further, the LGBT community represents a nearly \$800 billion dollar market segment. That number may be even larger when one considers the number of people who do not openly claim their LGBT identity. Therefore, hiring workers with disabilities, including LGBT workers with disabilities, helps increase one's opportunity to gain a significant and lasting customer base. You can also demonstrate your social responsibility and leverage unique experiences and skills by employing people with disabilities, including youth, maturing workers, and veterans with disabilities. Those operating in small communities can quickly establish a reputation as a company that supports a more diverse workforce, making them more attractive to prospective employees, customers and vendors.

Hiring, promoting, and accommodating workers with disabilities, including LGBT workers with disabilities, helps small businesses demonstrate a good-faith effort to comply with various Federal and state civil rights laws prohibiting workplace discrimination based on disability. Proactive recruitment from the "hidden" candidate pool helps limit risk while adding valuable benefits for your business.

INCLUSIVE INTERVIEWING TECHNIQUES

When scheduling interviews, let applicants know that accommodations can be provided upon request and be sure to schedule your interviews in an accessible location. Keep in mind that some applicants may need to arrange for transportation to the interview, so be ready to provide an estimate on how long the interview will last and the expected end time.

When conducting interviews, ask similar questions of all your applicants, regardless of disability. Conduct the interview emphasizing abilities, achievements, and candidate qualities. Ask questions that help you decide if the applicant can perform the job duties. Your questions should focus on the applicants' ability to do the job, not on their disability, sexual orientation, or gender identity. Describe the position that you're interviewing for, providing details about the job duties and expectations of the position. After you've shared this information with the applicant, be sure to ask:

✓ Can you perform the essential functions of the job with or without accommodation?

If the applicant mentions the need for an accommodation, be sure to ask:

✓ How would you perform the tasks, and with what accommodation(s)?

You can also ask about the applicant's education and experience.

Be sure to avoid questions about:

✗ Disability, medical conditions, diagnoses, or how an applicant acquired his disability

✗ Prior workers' compensation history

✗ Medication, medical treatments, or hospitalization

✗ Why the applicant took time off in past jobs.

Can I ask someone with a disability to demonstrate how they would perform a task on the job?

Yes, you can -- even if you don't ask every other applicant as long as the disability might logically interfere with their ability to perform the task. For instance, it is permissible to ask a wheelchair user how they would lift 25 lbs. (with or without reasonable accommodations). It is not permissible to ask someone who is blind to demonstrate how they would lift 25 lbs. because their disability would not logically interfere with them performing the task. It is permissible to ask a person who is blind to demonstrate how they would perform the task if you ask all applicants how they would do so.

»»» INCLUSIVE INTERVIEWING TECHNIQUE (Continued)

Making a Job Offer

Once you've identified the best candidate for your business, you may ask any disability-related questions and conduct medical examinations as long as you do this for everybody in the same job category. This includes fitness-for-duty exams or pre-employment drug screening. You may withdraw a job offer from an applicant with a disability only if it becomes clear that they cannot do the essential functions of the job or would pose a direct threat (i.e., a significant risk of substantial harm) to the health or safety of themselves or others. For example, you can withdraw an offer for a heavy equipment operator if his pre-employment physical reveals he has frequent, uncontrolled seizures. However, you cannot withdraw the offer if his physical reveals his positive HIV status and you're concerned the job would be too stressful. Be sure to consider whether any reasonable accommodations would enable the individual to perform the job's essential functions or would reduce any safety risk the individual might pose before you withdraw your offer.

Hiring decisions based on skills and talents ensure you get the employee who is the best fit for your business.

Understanding and Providing Reasonable Accommodations

Reasonable accommodations are effective provided adjustments or modifications enable people with disabilities to enjoy equal employment opportunities in your organization and to maximize their ability to be productive employees for your business.

You must provide a reasonable accommodation if a person with a disability needs one in order to apply for a job, perform a job, or enjoy benefits. Some examples of common workplace accommodations include:

- Providing a sign language interpreter for an interview with an applicant who is deaf.
- Allowing an applicant with a learning disability extra time to complete a job application.
- Periodic breaks during the work day for a worker with diabetes so they can monitor their insulin levels and have a quick snack.
- Re-arranging equipment in the copy room so an employee in a wheelchair can reach everything.
- Flexible scheduling to allow a worker with bipolar disorder to attend weekly sessions with his therapist.



» INCLUSIVE INTERVIEWING TECHNIQUE (Continued)

Accommodations vary depending upon the needs of the individual and not all people with disabilities, or even all people with the same disability, will require the same accommodation. In fact, the overwhelming majority of people with disabilities don't need any accommodations at work.

The average cost of an accommodation is around \$500 and over 50% of accommodations cost nothing. If you do spend money to provide a workplace support for an employee with a disability, tax incentives are available to offset those costs. Visit the IRS website for more information about tax benefits for businesses that have employees with disabilities.

You generally don't have to provide a reasonable accommodation unless an individual with a disability has asked for one. That request can be a statement in "plain English" and does not have to include the terms "ADA" or "reasonable accommodation." The request does not have to be in writing, but you may ask for something in writing to document the request. If you believe that a disability may be causing a performance or conduct problem, you are allowed to ask the employee how you can help to solve the problem.

Once the applicant or employee requests an accommodation, you should discuss the individual's needs and identify the appropriate reasonable accommodation. If the need for an accommodation is not obvious, it's okay to ask for documentation describing the individual's disability and why the requested accommodation is needed. It's always okay to provide accommodation without requesting any documentation at all. You are free to rely instead on an individual's own description of her limitations and needs.

You aren't required to provide any accommodation that would pose an undue hardship (i.e., significant difficulty or expense) based on your resources and the operation of your business). Also, where more than one accommodation would work, you may choose the one that is less costly or that is easier to provide. Accommodations need to be effective. They don't have to be the most expensive, the fanciest, or even the specific accommodation the employee has requested as long as the chosen accommodation removes the workplace barrier created by the disability.



10 EMPLOYER TIPS FOR CREATING AN INCLUSIVE WORKPLACE

You've learned about the business benefits of hiring people with disabilities, including LGBT individuals with disabilities and you have a basic understanding of your small business obligations under various federal and state laws prohibiting job discrimination based on disability, orientation, and gender identity. So what now? Here are 10 helpful tips to get started with creating an inclusive workplace:

- 1. Provide periodic training** for your employees. Include topics like disability etiquette and awareness, strategies for ADA compliance, serving customers with disabilities, and understanding the needs of LGBT people with disabilities. There are a variety of low-cost methods for training your staff:
 - Posting etiquette tips in the employee break room,
 - Sending out monthly emails with quick strategies for ADA compliance,
 - Showing a disability-related awareness video during your new employee orientation process,
 - Encouraging your employees to follow disability and LGBT organizations on their social media sites; and
 - Scheduling annual diversity training that includes information about disability and civil rights.
- 2. Conduct a facility audit** to identify potential access barriers for customers, vendors, applicants, and employees with disabilities. This should include parking areas, paths of travel into and around the facility, restrooms, common use areas that are open to the public, and work areas. Create a plan to make reasonable modifications to remove barriers and increase access to your facility. For easy-to-use checklists for conducting an accessibility audit, visit the ADA National Network at www.adata.org.
- 3. Partner with The WorkPlace/Add-Us-In and other local job placement organizations** (e.g., CT Department of Rehabilitation Services, Bureau of Rehabilitation Services) that work with people with disabilities, including LGBT people with disabilities and veterans with service-connected disabilities, to identify qualified candidates for vacant positions. Actively recruit job applicants with disabilities and include disability, orientation, and gender identity in your EEO statements.
- 4. Provide effective means of communication** for people who are deaf, hard of hearing, blind, or who have other sensory disabilities to ensure that these individuals have an equal opportunity to enjoy your business' goods, services, amenities, and employment opportunities. Offer print materials in alternate formats. Verify you have adequate lighting in public areas. Review your procedures for accepting telephone calls via relay services.
- 5. Target some of your marketing and advertising** toward people with disabilities, including LGBT people with disabilities. Include information about accessibility improvements your business has made in advertising and promotional materials. Include images of people with disabilities in your marketing materials and use disability and LGBT-appropriate language in all your advertising materials.

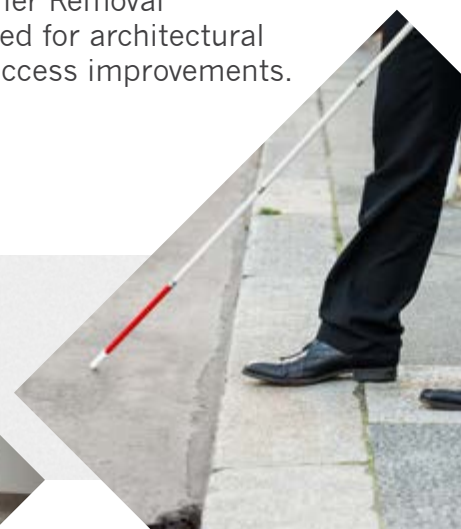
10 EMPLOYER TIPS FOR CREATING AN INCLUSIVE WORKPLACE (Continued)

6. Take steps to maintain confidentiality and protect the privacy of your employees with disabilities. All information about disability, orientation, and gender identity must be kept strictly confidential and is subject to a “need to know” basis.

7. Protect your employees from harassment. Harassment based on anything – race, sex, religion, national origin, disability, orientation, or gender identity – is serious. If an employee complains to you that they are being harassed, respond to the complaint right away by conducting an appropriate investigation and, if necessary, take action to correct the situation.
8. Gather input from your employees, vendors, and customers with disabilities regularly. People with disabilities, who frequently need to find creative ways to work around physical barriers and product inaccessibility, can offer ideas and innovative solutions to attract and retain new customers, especially those in the growing older adult market as well as find cost-effective, usable solutions that bring facilities and customer service policies and practices into compliance with the ADA.

9. Ask a person who uses assistive technology like screen reading software to visit your website and social media pages to evaluate them for accessibility. You can ask an employee with a disability, your neighbor, or contact a local disability organization (e.g., Center for Independent Living, CT Assistive Technology Project). Be sure to include your online employment application process in the review if you have one. Make changes to improve your sites based on their feedback or website accessibility guidelines such as the Web Content Accessibility Guidelines (WCAG).
10. Talk with your accountant about using the IRS tax incentives available to small businesses to help cover the costs of making access improvements. The Disabled Access Credit can be used for architectural access improvements, equipment purchases, services like sign language interpreters, and most reasonable accommodations for applicants and employees with disabilities. The Barrier Removal Deduction can be used for architectural and transportation access improvements.

**CONGRATULATIONS!
YOU ARE DOING THE SMART THING TO
GROW YOUR BUSINESS.**



»»» ADDITIONAL INFORMATION

The ADA and other federal and state civil rights laws are designed to protect the rights of a variety of individuals from a variety of backgrounds with numerous abilities and skills. By learning more about our responsibilities, small businesses can make appropriate efforts to comply with these various laws and respond to the needs of a diverse workforce. Most importantly, small business can help ensure access to the “hidden” candidate pool. Get started now to create an inclusive workplace and help your small business grow!

»»» A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY?

Disability Discrimination Laws

The Americans with Disabilities Act of 1990 (ADA) is a comprehensive federal civil rights law designed to prevent discrimination so that people with disabilities, including LGBT individuals with disabilities, can have an equal opportunity to participate in all aspects of society. The ADA contains five different sections or “titles.” Although this toolkit is designed for employers and focuses on Title I, it’s important to have a general understanding of each section in order to fully appreciate our nation’s public policy about the civil rights of people with disabilities and to increase the accessibility of your business. So, let’s take a moment to briefly review each title.

Title I: Talks about your responsibilities as an employer. In general, this section prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA’s nondiscrimination standards also apply to federal sector agencies under section 501 of the Rehabilitation Act, as amended. Private employers with 15 or more employees and public employers, regardless of their number of employees, are covered under Title I of the ADA.

Title II: Covers programs, activities, and services provided by state and local government entities. This can include activities of State legislatures and courts, town meetings, police and fire departments, public schools, motor vehicle licensing, public transportation, including commuter and intercity rail (AMTRAK), and employment. Public entities must operate programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities. For example, it would not be a violation for a city to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if the city refused to allow children with disabilities to participate in its other recreational programs. A city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit service animals assisting individuals with disabilities. Moving a public information office from the third floor to the first floor of an inaccessible building might be necessary. You may not carry an individual with a disability as a method of providing program access.

A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY? (continued)

Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, Title II extends to all the activities of State and local governments whether or not they receive Federal funds.

Title III: Covers places which are privately—not publicly—owned and are open to the public, such as hotels and motels, restaurants, stores, doctors’ offices, libraries, museums, day care centers, private educational facilities, cinemas and theaters. Title III prohibits discrimination on the basis of disability by private entities referred to in the law as public accommodations. A public accommodation is a private entity that owns, operates, leases, or leases to places of public accommodation. Title III requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with the ADA standards for accessible design.

Title IV: Addresses telephone and television access for people with hearing and speech disabilities. Look at your telephone bill and you will notice that you all help pay for our nation’s telephone relay service, known as TRS. TRS is available 24 hours a day, 7 days a week to enable callers with hearing and speech disabilities who use telecommunications devices for the deaf (TDDs or TTYs) and callers who use voice telephones to communicate with each other through a third party communications assistant. Title IV also addresses television access for people with hearing and disabilities. It requires closed captioning of federally funded public service announcements.

Title V: Contains various miscellaneous provisions, such as recovery of legal fees, provision of technical assistance, specific instructions to many Federal agencies, and a provision prohibiting either (a) coercing or threatening or (b) retaliating against individuals with disabilities or those attempting to aid people with disabilities in exercising their rights under the ADA.

The ADA is the most comprehensive law that protects the civil rights of people with disabilities.

Notice in these sections that the law refers to individuals with disabilities who are “qualified”. In order to have ADA protection, an individual must meet the definition of disability and also be a qualified individual with a disability. An individual is covered by the ADA if they have a physical or mental impairment that substantially limits a major life activity, a record of such an impairment, or are being regarded as having such an impairment. To receive public services, a “qualified” individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public entity. For purposes of employment, a “qualified” individual with a disability is someone who satisfies the employer’s requirements for the job, such as education, employment experience, skills or licenses AND is able to perform the essential functions of the job with or without reasonable accommodation.

A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY? (continued)

Following the passage of the ADA, several decisions by the U.S. Supreme Court created a situation in which many individuals with physical or mental impairments that affected them significantly enough to be substantially limited in a major life activity were not considered individuals with disabilities who were protected under the ADA. These included individuals with conditions such as amputation, cognitive disabilities, epilepsy, multiple sclerosis, HIV/AIDS, diabetes, and cancer. These court decisions effectively narrowed the definition of disability under the ADA and restricted who was protected by the law.

The Americans with Disabilities Act (ADAAA) Amendments Act of 2008 was a response to a number of these decisions by the Supreme Court. Its purpose is to restore the original intent of the ADA's coverage and provide clarification of the definition of disability under the law. Specifically, the ADAAA broadens coverage to the maximum extent possible to protect the civil rights of individuals with disabilities. The ADAAA became effective January 1, 2009 and the final regulations became effective May 24, 2011.

The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that they have a disability within the meaning of the ADA. Impairments that are episodic or in remission, like multiple sclerosis, seizure disorders, and cancer, are considered disabilities. The effects of mitigating measures such as medication, mobility devices, assistive technologies, or auxiliary aids should not be considered when determining impairment.

More information about the ADAAA and its related regulations are available online at http://www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm.

Sections 501 and 505 of the Rehabilitation Act of 1973 prohibit discrimination against qualified individuals with disabilities who work in the federal government. Employers, who receive federal funds, must also comply with the Rehabilitation Act. In general, these are the same obligations as those under Title I of the ADA, as amended.

Section 503 of the Rehabilitation Act of 1973 prohibits certain federal contractors and subcontractors from discriminating against qualified employees and job applicants with disabilities. Section 503 also requires contractors to take affirmative steps to hire and promote qualified people with disabilities. The non-discrimination provisions of Section 503 mirror those found in the ADA and Section 501 of the Rehabilitation Act. New rules related to veterans and people with disabilities became effective March 24, 2014. These rules set a workforce utilization goal of 7% for federal contractors and subcontractors and require these employers to proactively recruit, hire, and promote individuals with disabilities.

A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY? (continued)

In addition to Federal guidelines and standards many states also have accessibility requirements that must be considered. The Connecticut Human Rights and Opportunities Act (HROA), CONN. GEN. STAT. § 46a-51 et seq., which includes the Connecticut Fair Employment Practices Act (FEPA) and the Connecticut Fair Housing Practices Act (FHPA), makes it unlawful to discriminate on the basis of disability in employment, housing, and public accommodations. Businesses with 3 or more employees must comply with the CT FEPA. All of Connecticut's anti-discrimination laws are enforced by the Connecticut Commission on Human Rights and Opportunities (CHRO).

When federal and state law requirements differ, the one that offers greater civil rights protection to the individual with disabilities prevails.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces other nondiscrimination laws that will not be covered in this toolkit, such as:

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- The Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- The Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older;
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government;
- Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits employment discrimination based on genetic information about an applicant, employee, or former employee; and
- The Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.



A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY? (continued)

In addition, other federal laws, not enforced by EEOC, also prohibit discrimination and reprisal against federal employees and applicants. These also will not be covered in this toolkit, but include:

Civil Service Reform Act of 1978 (CSRA) contains a number of prohibited personnel practices, which are designed to promote overall fairness in federal personnel actions, including prohibiting any employee who has authority to take certain personnel actions from discriminating for or against employees or applicants for employment on the bases of race, color, national origin, religion, sex, age or disability. Additional information about CSRA may be found at <http://www.opm.gov/er/address2/guide01.htm>; at www.osc.gov/; and at <http://www.mspb.gov/>.

Veterans Employment Act of 2010 expands GI Bill education benefits to include apprenticeship and training programs, so that veterans can get the licenses and certificates they need for new careers. It also calls for small- business training and counseling, and creates pilot programs to help veterans market their military training more effectively in the civilian sectors.

The Uniformed Services Employment and Reemployment Rights Act (USERRA), which is enforced by the U.S. Department of Labor (DOL), prohibits employers from discriminating against employees or applicants for employment on the basis of their military status or military obligations. It also protects the reemployment rights of those who leave their civilian jobs (whether voluntarily or involuntarily) to serve in the uniformed services, including the U.S. Reserve forces and state, District of Columbia, and territory (e.g., Guam) National Guards. USERRA applies to all employers, regardless of size. More information can be found in EEOC's "Veterans with Service-connected Disabilities and the Americans with Disabilities Act (ADA): A Guide for Employers" at <http://www.eeoc.gov/facts/veterans-disabilities-employers.html>. Information on the reemployment rights of uniformed service personnel can also be found on DOL's website at <http://www.dol.gov/vets>.

Other laws not covered in this toolkit can be found in a publication called, "A Guide to Disability Rights Laws" on the Department of Justice's website at <http://www.ada.gov/cguide.htm>. These include: Telecommunications Act, Fair Housing Act, Air Carrier Access Act, National Voter Registration Act, Civil Rights of Institutionalized Persons Act, Individuals with Disabilities Education Act, Rehabilitation Act and Architectural Barriers Act.



A) WHAT ARE THE LAWS PROHIBITING JOB DISCRIMINATION BASED ON DISABILITY, ORIENTATION, AND GENDER IDENTITY? (continued)

Laws Prohibiting Discrimination Based on Sexual Orientation and Gender Identity



There are also Federal laws protecting individuals who are LGBT from discrimination based upon their orientation in the workplace. For example, the EEOC has held that discrimination against an individual because that person is transgender is discrimination because of sex and therefore is covered under Title VII of the Civil Rights Act of 1964. Further, claims by lesbian, gay, and bisexual individuals alleging sex-stereotyping are also covered under Title VII. Through enforcement of the Civil Rights Act, the EEOC commits to maintain a professional workplace in which individuals are accorded respect, regardless of their differences. This includes ensuring that employees and applicants are not discriminated against on the basis of race, color, religion, sex, national origin, age, disability, orientation or other improper bases. Further, the EEOC monitors employers to ensure that they maintain an environment free of harassment, including verbal or physical conduct that creates an intimidating or hostile environment for an individual because of orientation.

OFFCP recently published a new rule prohibiting discrimination on the bases of orientation and gender identity in the federal contracting workforce. The rule implements Executive Order 13672, which was signed by President Obama on July 21, 2014. Federal contractors must include gender identity and orientation as prohibited bases of discrimination in their EEO clause. The new rule will take effect some time in 2015.

The Connecticut Human Rights and Opportunities Act (HROA), CONN. GEN. STAT. § 46a-51 et seq., which includes the Connecticut Fair Employment Practices Act (FEPA) and the Connecticut Fair Housing Practices Act (FHPA), also makes it unlawful to discriminate on the basis of orientation in employment, housing, and public accommodations. Businesses with 3 or more employees must comply with the CT FEPA. Connecticut's anti-discrimination law prohibits discrimination in employment against any employee who is gay, lesbian or bisexual or who is identified as being gay, lesbian or bisexual. Individuals do not have to be open about their orientation to be protected and do not even have to be gay to be protected from discrimination based on orientation. Further, HB6599, an Act Concerning Discrimination, amended HROA to also prohibit discrimination based on gender identity and expression and protects the rights of individuals who are transgender.