

Requirements for Agricultural Employers Under the Federal Laws That Assure Equal Employment Opportunities

Four Federal laws, the Equal Pay Act of 1963, Civil Rights Act of 1964 (Title VII), Age Discrimination in Employment Act of 1967, and Americans with Disabilities Act of 1990, have been enacted to provide qualified workers equal access to employment opportunities.¹⁴ As their titles suggest, each of these laws covers different types of discrimination. Table 10 summarizes the responsibilities of agricultural employers under these laws.

Equal Pay Act of 1963

Congress passed the Equal Pay Act of 1963 to prohibit wage discrimination based on an employee's sex (26). This means that any employer not exempt from the law must pay the same wages to male and female employees performing equal work on jobs requiring equal skill, effort, and responsibility, and which are performed under similar working conditions. An employer may, however, use a different pay scale in which payment is made according to: (1) a seniority system, (2) a merit system, (3) a system that measures earnings by quantity or quality of production, or (4) a differential based on any factor other than sex (26).

The Equal Pay Act makes it unlawful for an employer to retaliate against an employee who files a complaint or institutes a proceeding under the act, or has participated in such a proceeding (26). This law amends the Fair Labor Standards Act (sections 6(d)), and therefore, contains the same exemptions for agricultural employment and the same penalties for noncompliance as explained earlier for the FLSA. The administration and enforcement of the Equal Pay Act of 1963 were transferred in 1979 from the jurisdiction of the U.S. Department of Labor to the U.S. Equal Employment Opportunity Commission (EEOC).

Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964 prohibits an employer from: (1) failing or refusing to hire any individual, discharging any individual, or otherwise

discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, or national origin; and (2) limiting, segregating, or classifying employees or applicants for employment in any way that would deprive them of employment opportunities or adversely affect their job status, on the basis of race, color, religion, sex, or national origin (5, 26).

This act also prohibits an employer from retaliating against any employee or applicant for employment because he or she opposed any practice made unlawful by the act or has filed a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under the Civil Rights Act (26). These same prohibitions apply to farm labor contractors. Title VII created the EEOC to administer the law (26).

Title VII of the Civil Rights Act of 1964 has limited applicability to farm employment because coverage applies to employers of 15 or more employees for each working day in each of 20 or more calendar weeks (total weeks, not consecutive weeks) in the current or preceding calendar year (26). Many agribusiness firms, some large farms, and some large producing and packing operations may be covered under this law.

Age Discrimination in Employment Act of 1967

The Age Discrimination in Employment Act of 1967 was passed to promote employment of older persons (at least 40 years of age) based on their ability rather than age, to prohibit arbitrary age discrimination in employment, and to help employers and workers find ways to meet problems arising from the effect of age on employment (26). This law prohibits: (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment, because of a person's age; and (2) limiting, segregating, or classifying employees or applicants for employment in any way that would deprive them of employment opportunities or adversely affect their job status on the basis of age (26). The law does not apply where age is a *bona fide* occupational qualification, nor does it apply where

¹⁴The Immigration Reform and Control Act of 1986 prohibits employers of three or more people from discriminating against any individual (other than an undocumented worker) on the basis of national origin, or on the individual's status as a U.S. citizen, including a noncitizen who has formally declared an intention to become a U.S. citizen (8).

Table 10--Federal equal employment opportunity laws: Summary of applicability to agriculture and penalties for violations

Provisions	Exemptions for agriculture	Basis for agricultural exemptions	Enforcement
<p>Equal Pay Act of 1963 Covered employers must pay the same wages to male and female employees performing equal work on jobs requiring equal skill, effort, and responsibility and which are performed under similar working conditions.</p>	Partial	Same as for minimum wage under the Fair Labor Standards Act (See table 1).	<p>Responsible agency U.S. Equal Employment Opportunity Commission.</p>
<p>Civil Rights Act of 1964 Covered employers are prohibited from discriminating against any individual with respect to employment opportunities, compensation, terms, conditions, or privileges of employment based on race, color, religion, sex, or national origin.</p>	Same as other employers	Employs 14 or fewer persons for less than each working day in each of 20 or more calendar weeks in the current or preceding calendar year.	U.S. Equal Employment Opportunity Commission.
<p>Age Discrimination in Employment Act of 1967 Covered employers are prohibited from discriminating against any individual 40 years or older with respect to employment opportunities, compensation, terms, conditions, or privileges of employment based on age.</p>	Same as other employers	Employs 19 or fewer persons or employs 20 or more persons for less than each working day in each of 20 or more calendar weeks in the current or preceding calendar year.	U.S. Equal Employment Opportunity Commission.
<p>Americans with Disabilities Act of 1990 Covered employers are prohibited from discriminating against any qualified individual with a disability with respect to employment opportunities, compensation, terms, conditions, or privileges of employment based on disability.</p>	Same as other employers	Employs fewer than 14 persons for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.	U.S. Equal Employment Opportunity Commission.

Source: Compiled by USDA, ERS from *Laws Enforced by the U.S. Equal Employment Opportunity Commission*, 1989.

employers observe the terms of a *bona fide* benefit plan or where employers differentiate between employees for reasonable factors other than age (5, 26).

This law, administered by the EEOC, also has limited application to farm employment because it defines an employer as a person who has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Because the 20 or more calendar weeks do not have to be consecutive, some large producing and packaging operations may have to comply with this law.

Americans With Disabilities Act of 1990

The Americans With Disabilities Act of 1990 (ADA), which became effective July 26, 1992, prohibits discrimination against qualified individuals with disabilities in all aspects of employment (26).¹⁵ This means that a covered employer may not: (1) discriminate on the basis of disability against any individual with a disability in regard to recruiting, hiring, promoting, terms of compensation and

¹⁵Anyone currently using drugs illegally is not protected by the ADA and may be denied employment or fired on the basis of such use.

benefits, and other terms, conditions, or privileges of employment; (2) limit, segregate, or classify a job applicant or employee on the basis of disability in such a way that it adversely affects the applicant's or employee's employment opportunities or status; and (3) enter into contractual or other arrangements that discriminate against applicants or employees on the basis of disability or; (4) use standards, criteria, or methods of administration not job related and consistent with business necessity and have the effect of discrimination on the basis of disability (26).

A covered employer is also required to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business. The law states that "reasonable accommodation may include making facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities" (4). Undue hardship on the operation of the employer's business, according to ADA, "means an action requiring significant difficulty or expense, when considered in light of the following factors: nature and cost of the accommodation needed; overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; the overall financial resources of the covered entity; the overall size of the business or covered entity with respect to the number of its employees; the number, type, and location of its facilities; the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the

geographic separateness, administrative, or fiscal relationship of the facility or facilities in question" (4).

ADA, like the other equal opportunity laws discussed in this section, will affect a small percentage of farm employers. The coverage includes employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year (26). The EEOC also administers this law.

Penalties

Each of the laws assuring equal employment opportunities penalizes employers who fail to comply. The Equal Pay Act of 1963 and the Age Discrimination in Employment Act of 1967 contain remedies that include prohibiting an employer from discriminatory practices and requiring the employer to provide affirmative relief (these can be hiring, reinstating, promoting, and paying lost wages). Liquidated damages (an amount equal to lost wages) are payable only in cases of willful violations. The law authorizes a judgment award plus reasonable attorneys' fees and the costs of the action paid by the defendant.

The Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 authorize injunctive relief enjoining an employer from continuing discriminatory practices and requiring an employer to provide affirmative relief, including reinstatement, hiring, backpay, and any other equitable relief deemed appropriate by a court. Section 706(k) of Title VII of the Civil Rights Act of 1964 authorizes the award of attorneys' fees and costs to a prevailing plaintiff in a court proceeding.

Summary

The four major Federal laws that prohibit employment discrimination affect only farms employing large numbers of people and agribusiness firms. Employers should note that State and local antidiscrimination laws may apply to firms employing fewer employees than specified in the Federal legislation.