

Table 1 depicts several selected examples of laws that regulate employment premised upon the general concept of equal employment opportunity. These laws may be amended on occasion, and their true effect is shaped by state and federal court decisions and agency regulations and enforcement.

Table 1. Selected Equal Employment Opportunity (“Anti-Discrimination”) Statutes

Title/Popular Name	Citation	Description [Note: A parenthetical lower case letter at the end of a description, e.g., (a) refers to comments after the Table.]
Title VII, Civil Rights Act of 1964	42 U.S.C. § 2000, et seq.	Civil rights legislation that bars “discrimination” on enumerated grounds. It is administered by the U.S. Equal Employment Opportunity Commission, whose rules contain the “real meat” of the law. As an outgrowth of gender discrimination, sexual harassment, including retaliation, is a major element of employment law. States have enacted their own EEO laws (NH RSA 354-A in NH) and grounds for protection may be broader than those under federal law (e.g., marital status, gender preference). (a)
Title IX, Civil Rights Act of 1964	42 U.S.C. § 2000, et seq.	Prohibits discrimination on the basis of race, color, and national origin in programs/activities receiving federal financial assistance, notably in educational contexts, including public elementary and secondary schools, and colleges and universities.
ADA Americans With Disabilities Act	42 U.S.C. § 1201, et seq.	Protects applicants and employees from discrimination based on physical or mental disability so long as individual can perform essential functions of the job with or without reasonable accommodation. Hiring practices must avoid discriminatory actions, and employees may have right of reinstatement following a period of disability. States have enacted their own versions of protection for disabled workers. Also regulates workplace conditions that impact the disabled. (b)
FLSA or Fair Labor Standards Act & Equal Pay Act	29 U.S.C. § 201, et seq. 29 U.S.C. § 206, et seq.	FLSA establishes minimum hourly wage, prohibits gender discrimination in pay practices, and requires payment of overtime for work in excess of a regular workweek for “non-exempt” employees. Equal Pay Act is another federal law governing gender pay issues. (c)
FMLA or Family and Medical Leave Act	29 U.S.C. § 2601, et seq.	For covered eligible employees, law requires employer to provide unpaid leave to address employee’s medical needs or those of employee’s family. Interplay with ADA and workers compensation laws is complex. Employers often fail to take action that may prevent exposure to continuing, unfunded obligations under FMLA and local paid leave policies. (d)
ADEA or Age Discrimination in Employment Act	29 U.S.C. § 621, et seq.	Prohibits discrimination in employment practices seeking to protect individuals over the age of 40. State laws, including NH RSA 354-A, may apply more broadly and inclusively. (e)
FCRA or Fair Credit Reporting Act	15 U.S.C. § 1681, et seq.	Restricts employer use of credit information, requiring, e.g., notice of any employment use of adverse credit information and opportunity for employee/applicant to correct. See also state laws on discrimination because of arrest or conviction record and emphasis on possible bars to using arrest records under EEO statutes.
USERRA or Uniform Services Employment and Reemployment Rights Act	38 U.S.C.A. § 3411	Protects eligible service personnel from adverse employment actions while on active duty and provides for qualified reinstatement rights to former position upon return.
GINA or Genetic Information Nondiscrimination Act	29 U.S.C. § 216, et seq. 42 U.S.C. § 300gg-1, et seq.	Prohibits use of genetic information in making employment decisions, restricts employer and other entities from requiring or requesting genetic information and restricts its disclosure.
Immigration & Legal Work Status: <i>Immigration and Nationality Act and Immigration Reform and Control Act of 1986</i>	Various provisions of Title 8 of the U.S. Code, including § 1324b	This controversial topic is complex and is reviewed in the part of this paper specifically focusing on work status.

Table 1 *Continued*

Footnotes	(a)	<p>In <i>Ledbetter v. Goodyear Tire & Rubber Co., Inc.</i>, 550 U.S. 618 (2007), the U.S. Supreme Court held that a wage discrimination charge must be filed within 300 days of the last intentionally discriminatory act by the defendant employer. In 2009, the <i>Lily Ledbetter Equal Pay Act</i> sought to undo this decision and expand the time limit for filing disparate pay claims. 2013 U.S. Supreme Court decisions limited both federal and state legislative powers to legislate on the use of single-sex marital status in employment. [See <i>Hollingsworth v. Perry</i>, ___ US ___ (June 26, 2013) and <i>United States v. Windsor</i>, ___ U.S. ___, (June 26, 2013). Other 2013 SCOTUS decisions defined who qualifies as a “supervisor” whose workplace harassment will be automatically attributed to his or her employer for purposes of Title VII liability [<i>Vance v. Ball State University</i>, ___ U.S. ___ (June 24, 2013)] and the level of proof required to show retaliation in certain Title VII cases [<i>University of Texas Southwestern Medical Center v. Nassar</i>, ___ U.S. ___ (June 24, 2013)].</p>
	(b)	<p>In 2009, Congress, reacting to court decisions applying ADA narrowly, amended aspects of the ADA to broaden the scope of conditions coming within its scope.</p>
	(c)	<p>FLSA overtime requirements apply only to workweek hours and do not mandate overtime for work over a set number of work hours in a day or on weekends or holidays. Municipal officials and lawyers need to understand FLSA requirements such as:</p> <ul style="list-style-type: none"> • Employees who are not covered under FLSA; • Exemptions from overtime pay requirements (primarily white collar exemptions for professional, administrative, and executive employees); • Special provisions for computing overtime for first responders, including firefighters and law enforcement. <p>FLSA overtime issues also may include matters such as:</p> <ul style="list-style-type: none"> • Computation of hours worked; • Applicable rates of pay; • Compensatory time off; • Call time; • Compensability of time spent “donning and doffing” uniforms and protective gear. <p>FLSA, like other federal laws, sets a floor, and states and local government entities (by law, regulation, charter, ordinance, collective bargaining agreements, or personnel policy or practice) may provide more generous treatment for employees.</p> <p>In New Hampshire, the 2014 legislative session saw enactment of laws that are summarized at the NH Department of Labor Home Page [http://www.nh.gov/labor/] including: changes to the equal pay law (NH RSA 275:37) and the citizens job protection law.</p> <p>State and federal proposals to increase minimum wage levels have been proposed (with mixed success in some states). Recently, the New Hampshire legislature found 2015 SB 261, proposing to increase the N.H. minimum wage, inexpedient to legislate.</p>
	(d)	<p>Congress recently changed FMLA primarily to address issues arising with increased deployment of armed forces personnel. (See, also, USERRA description in Table 1.) U.S. Department of Labor and Department of Justice websites contain helpful guidance on FMLA, including recommended forms seeking to facilitate compliance and the unending requirement for record-keeping inherent in federal labor laws. Employers should adopt FMLA policies to ensure compliance and gain the protections available under FMLA.</p>
	(e)	<p>In addition to being aware of possible state law differences, a key aspect of preventing age discrimination is compliance in offering early retirement “buy outs” with particular reference to the OWBPA, the Older Workers Benefit Protection Act, added as a collection of discrete amendments to ADEA in 1990, and codified at 29 U.S.C. §§621, 623, 626, and 630.</p>

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