



State and Federal Laws that Impact Labor Exchange



DLEG is an Equal Opportunity Employer/Program

Discrimination is prohibited on the basis of:

- Race
- Color
- Religion
- Gender
- National Origin
- Age
- Disability
- Political Affiliation or Belief
- Citizenship and Participation Status



Complaint Filing Options

BWT employees have the right to file a discrimination complaint with:

- The State Designated Equal Opportunity Officer for the workforce system; **or**
- The Director of USDOL's Civil Rights Center, **or**
- The civil rights office of federal agencies granting financial assistance to BWT



Employment Laws

- Wagner-Peyser Act
- Workforce Investment Act
- Michigan Employment Security Act
- Title VII: The Civil Rights Act of 1964
- Executive Order 11246
- Michigan's Elliott-Larsen Civil Rights Act
- Title I: The Civil Rights Act of 1991
- EEO and the Small Business
- The Rehabilitation Act
- Americans with Disabilities Act



Employment Laws

- Fair Labor Standards Act
- The Equal Pay Act
- Age Discrimination in Employment Act
- Michigan Minimum Wage Act
- Michigan Talent Bank Job Order Policy
- Title 38: Veterans' Preference
- Jobs for Veterans Act of 2002: Veterans' Priority
- Immigration Reform and Control Act
- Family and Medical Leave Act
- Freedom of Information Act



The Law and the Labor Exchange



The Law and the Labor Exchange

Michigan employers who are provided services through the Wagner-Peyser-funded labor exchange must comply with:

- United States Employment Service (USES)
- Employment and Training Administration (ETA)
- U.S. Department of Labor (USDOL)
- Michigan Department of Labor & Economic Growth-Bureau of Workforce Transformation (DLEG-BWT)



Wagner-Peyser Act of 1933

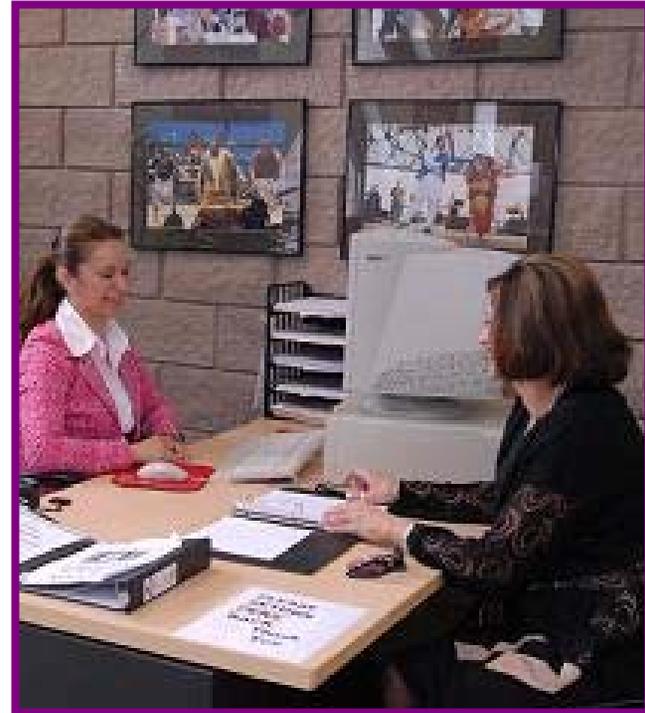
This legislation established a nationwide system of public employment offices that are known as the United States Employment Service (USES).



President D. Franklin Roosevelt signs the Wagner-Peyser Act on June 6, 1933, as Senator Wagner and Representative Peyser look on.

Workforce Investment Act of 1998

Key components of the WIA enable job seekers and employers to easily access the information and services they need through the One-Stop delivery system.



The Arab Community Center for Economic and Social Services (ACCESS) – Dearborn, Michigan



Labor Exchange Services

At the One-Stop Centers, labor exchange services are delivered in one of three modes including:

- Self-service,
- Facilitated self-help service, and
- Mediated service



MI Employment Security Act of 1936

This Act was passed to protect the welfare of the people of Michigan with the establishment of an unemployment compensation fund and the creation of the Michigan Employment Security Commission (MESCC).

This legislation also mandates free public employment offices.



Title VII: Civil Rights Act of 1964

Protected Group/Class

- Race
- Color
- Religion
- Gender
- National origin
- Age
- Disability



President Lyndon B. Johnson signs the Civil Rights Act on July 2, 1964

Title VII: Civil Rights Act of 1964

Employment practices covered by Title VII of the Civil Rights Act include:

- Disciplinary action
- Fringe benefits
- Hiring
- Job classification
- Performance appraisal
- Promotion
- Recruitment
- Termination
- Training
- Transfer
- Union and other memberships
- Wages and compensation



Executive Order 11246 (signed in 1965)

This federal Order prohibits employment discrimination based on race, color, religion, gender, or national origin; it governs any entity with government contracts that total \$10,000 or more in a 12-month period.



Executive Order 11246 (signed in 1965)

This order can require any or all of the following list, depending on the number of employees and total dollar amounts in government contracts:

- Access to records
- Compliance reviews
- Contract clauses
- Posted notice
- Program summaries
- Record keeping
- Reporting
- Special affirmative action regarding women
- Written affirmative action programs



Michigan Elliott-Larsen Civil Rights Act of 1976

This law expands the definition of discriminatory practices to include:

- Height
- Weight
- Marital status
- Family obligations (e.g., having children)
- Arrests in which a conviction does not occur



Title I: Civil Rights Act of 1991

Title I of the Civil Rights Act of 1991 makes several significant changes expanding the original scope of the Title VII Civil Rights Act of 1964 that include:

- Allowing compensatory and punitive damages and jury trials when intentional employment discrimination can be shown with respect to one of the Title VII protected classes, or with respect to protection offered by the Americans with Disabilities Act or the Rehabilitation Act and putting caps on the amounts that can be awarded



Title I: Civil Rights Act of 1991

- Prohibiting use of different cut-off scores based on race in employment tests
- Prohibiting alteration of test results based on the demographics of the test takers
- Making into law the adverse impact definition of discrimination and stating that an employer must prove a close connection between a substantially different impact and the ability to actually perform the job in question
- Clarifying that discrimination is established when race, color, religion, gender, or national origin is a motivating factor for any employment practice, even though other factors may have also motivated the practice



Equal Employment Opportunity and the Small Business

Small businesses that employ 15 or more individuals are covered by EEO laws. The businesses include:

- Private employers
- State and local government employers
- Educational institutions

EEO laws also cover:

- Private and public employment agencies
- Labor organizations
- Joint labor management committees that control apprenticeship and training programs



EEO and the Small Business

There are 36 major government agencies that regulate small businesses. A few are listed below:

- U.S. Department of Commerce
- U.S. Department of Justice
- U.S. Department of Labor
- National Labor Relations Board
- Occupational Safety and Health Agency
- Internal Revenue Service
- Environmental Protection Agency
- Small Business Administration



Rehabilitation Act of 1973

This Act requires all employers with federal contracts of \$10,000 or more to implement affirmative actions to recruit, hire, and promote qualified individuals with disabilities.



Americans with Disabilities Act of 1990

The ADA prohibits employers from discriminating against **qualified individuals** with disabilities and stipulates that they must be provided reasonable accommodation where needed.



President George H.W. Bush (center) signing the Americans with Disabilities Act

Fair Labor Standards Act of 1938

Issues regulated by the FLSA include:

- Child labor standards
- Minimum wage
- Overtime pay
- Record keeping



Equal Pay Act of 1963

Enforced by the EEOC, the Equal Pay Act requires that men and women receive equal pay for equal work.



President John F. Kennedy signs the Equal Pay Act on June 10, 1963



Age Discrimination in Employment Act of 1967

This Act prohibits employment discrimination against anyone 40 years or older.



Discriminatory Employment Practices

Report discriminatory employment practices to:

Ms. Mildred Williams

BWT EO Officer

Victor Office Center

201 N. Washington Square, 5th Fl

Lansing, MI 48913

(517) 373-7675

WilliamsM21@michigan.gov



Michigan Minimum Wage Law of 1964

The law provides employers with legal requirements for minimum wages, overtime pay, and record keeping for employees not covered under the federal Fair Labor Standards Act.

The law applies to employees 16 years of age or older employed in Michigan at a fixed site by an employer who employs 2 or more employees.



Questions on Wage & Hour Regulations

General Information

Lansing (517) 335-0400

Detroit (313) 456-4906

Wage & Hour Webinar

Date: October 15, 2008

Time: 9:30 a.m. – 11:30 a.m.



Michigan Talent Bank Job Order Policy

Job orders that appear in the Michigan Talent Bank must be consistent with all federal and state laws governing fair employment practices.

If you become aware of any unacceptable job listings in the MTB, as an ES provider you should immediately notify the MTB Help Desk at 1-888-253-6855 or MTBHelp@michigan.gov



Unacceptable Job Orders

- no immediate vacancies
- to perform an illegal activity
- contain discriminatory requirements
- contain sexually explicit or vulgar language
- indicate the job seeker will not be compensated
- indicate the job seeker will not receive overtime pay at 1½ times the regular rate for all time worked over 40 hours in any week



Unacceptable Job Orders

- request job seekers report for interviews at an address that is not a normal place of business, such as a hotel or motel room
- require the job seeker to make a monetary investment
- require the job seeker to pay a fee in order to receive a referral to an employer
- A job posting cannot be for the purpose of recruiting replacement workers involved in a labor dispute



Acceptable Job Orders

- The job order posted must be for an immediate opening
- Taxes must be reported on a W-2 form
- No significant monetary investment can be required of the job seeker
- Customary licensing fees or certifications are acceptable



Other Michigan Talent Bank Job Orders

- Bona Fide Occupational Qualification (BFOQ)
- Suppressed Job Order
- Veterans' Preference/ Priority of Service



Bona Fide Occupational Qualification

BFOQ Examples:

- Age → For safety reasons, mandatory retirement ages for bus drivers and airline pilots may be enforced.
- Gender → In advertising, a manufacturer of men's clothing may lawfully advertise for male models.
- Religion → A church may lawfully require that members of its clergy be members of that denomination.



Suppressed Job Order

Except for the 24-hour hold for Veterans' Preference, the suppression of a job order is a violation of State of Michigan policy and potentially violates many state and federal laws that impact labor exchange activities.

Omitting the required identifying information for the employer from a job order also constitutes a suppressed job order.



Veterans' Preference

Title 38 of the U.S. Code mandates that all state Employment Service offices give special consideration to those who served in the Armed Forces.



Veterans' Preference refers to the entitlement to employment services that is given to covered or eligible veterans and is mandated by law.



Veterans' Preference

Title 38 of the United States Code, Chapter 41 and 43

- **Targeted Groups**
- **Federal Contractor Job Listing (FCJL)**
- **MTB Veterans' Flag**
- **24-Hour Hold**



Veterans' Priority

In 2002, Public Law 107-288 amended Title 38 to improve the delivery of employment services to veterans. This amendment is also known as the **Jobs for Veterans' Act**.

Priority of Service

- **Disabled veterans**
- **Recently separated veterans**
- **Covered veterans**
- **Covered persons**

Veterans' Priority refers to the delivery of service that qualified covered veterans are given over non-veterans in employment service assistance, referral, and job listing notification.



Immigration Reform and Control Act of 1986

Under this Act, employers may only hire individuals who can legally work in this country: U.S. citizens and nationals, and foreign workers authorized to work in the United States.



H-2A Program

The H-2A program establishes a way for agricultural employers anticipating a shortage of domestic workers to apply for permission to bring foreign workers into the U.S. to do temporary or seasonal agricultural work.

For information regarding the H-2A program contact:

Mr. Richard Olivarez

State Monitor Advocate

Victor Office Center

201 N. Washington Square, 5th Fl

Lansing, MI 48913

(517) 241-8669

Email: OlivarezR@michigan.gov



Family and Medical Leave Act of 1993

The FMLA provides qualified employees with up to 12 weeks of unpaid leave in any 12-month period for the following:

- Birth of a child
- Adoption of a child
- Care for a family member suffering from a serious health condition
- An employee's recovery from a serious health condition



Freedom of Information Act (FOIA)

The FOIA was enacted to give Americans greater access to federal government records. Recent amendments have expanded the scope to encompass electronic records (E-FOIA).



Michigan Freedom of Information Act

The Michigan FOIA regulates and sets requirements for the disclosure of public records by all public bodies in the state including:

- State agencies
- County and other local governments
- Schools boards
- Other boards, departments, commissions, councils
- Public colleges and universities



FOIA Requests

Records that may be requested under FOIA include:

- Final orders or decisions in contested cases and the records on which they were made
- Minutes of open and closed meetings
- Official voting records
- Formally published rules
- Research material
- Staff manuals
- Working papers
- Written statements that implement or interpret laws, rules, or policy, etc.



FOIA Request Fee

An agency may charge a fee for the release of information under FOIA. The fee must be limited to:

- labor costs to collect data
- actual duplication
- mailing
- clerical costs



FOIA Request Fee Exceptions

The first \$20 of the FOIA fee must be FREE for a person:

- Receiving public assistance
- Having an affidavit showing inability to pay, or
- An individual representing a public interest group



FOIA Requests Exempt from Disclosure

Certain information may be withheld from public disclosure:

- Certain medical, counseling, or psychological information
- Information of a personal nature considered an invasion of privacy if disclosed
- Information or records subject to the confidentiality of practitioner privilege
- Information pertaining to test questions and answers and other assessment instruments
- Social Security Numbers
- Trade secrets, commercial, or financial information voluntarily provided to an agency for developing government policy



Contact Information

To obtain additional information regarding today's topics, contact:

Joe Billig, Complaint Specialist

(517) 241-8614 or BilligJ@michigan.gov

Rick Olivarez, State Monitor Advocate

(517) 241-8669 or OlivarezR@michigan.gov

Mildred Williams, EO Officer

(517) 373-7675 or WilliamsM21@michigan.gov



Contact Information

To obtain additional information regarding today's topics, contact:

Michigan Talent Bank Help Desk

1-888-253-6855 or email: MTBHelp@michigan.gov

Wage & Hour Division

(517) 335-0400 (Lansing)

(313) 456-4906 (Detroit)

Website: www.Michigan.gov/wagehour



Contact Information

To obtain an emailed copy of this presentation, please send your requests to:

Darlene Hubsy

HubsyD@michigan.gov

The **Employment Laws** presentation will be posted on the training Website at: www.michigan.gov/bwt in the next few days. Look under the category “Other webinar documents”.

