***GUIDE TO LEGAL FOUNDATIONS FOR DISABILITY INCLUSIVE EMPLOYMENT***[[1]](#footnote-1)

Federal law protects from discrimination, and even allows for favorable treatment of, individuals with disabilities in the context of employment, across multiple sectors.

This is reflected in multiple federal statutes, listed below, enforced by various federal agencies, *e.g.*, the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP). (*NOTE*: Individuals with disabilities are *not* protected under Title VII of the Civil Rights Act of 1964).

* **Americans with Disabilities Act (ADA)**, **Title I**, prohibits covered employers from discriminating against people with disabilities in all employment-related activities, including hiring, pay, benefits, firing and promotions. Enforced by the EEOC. There is no basis for a “reverse discrimination” claim under the ADA.  *See* 42 U.S.C. § 12201(g) (“Nothing in this chapter shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual’s lack of disability.”).[[2]](#footnote-2)
* **Rehabilitation Act** prohibits discrimination against individuals with disabilities by specific types of employers: federal agencies, employers/businesses contracting with federal agencies and programs receiving federal financial assistance. In particular, **Section 503** prohibits employment discrimination based on disability and requires affirmative action for people with disabilities by federal contractors or subcontractors and is enforced by the OFCCP.
* **Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)** requires employers that have federal contracts or subcontracts to provide equal employment opportunities for certain veterans with disabilities. In particular, **Section 4212** prohibits discrimination against covered veterans with disabilities in the full range of employment activities and is enforced by the OFCCP.
* **Workforce Innovation and Opportunity Act (WIOA)**, **Section 188** prohibits discrimination against individuals with disabilities by those who apply for, participate in or are employees of any program or organization that receives federal financial assistance under WIOA and is enforced by the Civil Right’s Center, U.S. Department of Labor.

In terms of potential updates to federal employment law, where that law is embodied determines how it may be changed in the future.

* ***Statutes*** – only can be changed by Congress passing a new law.
* ***Federal Regulations*** – only can be changed by a new federal regulation, or if overridden by Congress passing a new law.
* ***Executive Orders*** – only can be changed by a new executive order or if overridden by Congress passing a new law.
* ***Court Order******–*** Regardless of the congressional or executive origin of federal law, a successful legal action in court may result in a federal law be stricken down.

1. This document is for general informational purposes only and does not constitute legal advice and should not be relied upon as such. [↑](#footnote-ref-1)
2. There is no Constitutional basis for such a reverse discrimination claim against a private sector employer either. *See* July 10, 2018, [EEOC Informal Discussion Letter | U.S. Equal Employment Opportunity Commission](https://www.eeoc.gov/foia/eeoc-informal-discussion-letter-320), [↑](#footnote-ref-2)