

Disability Employment Data

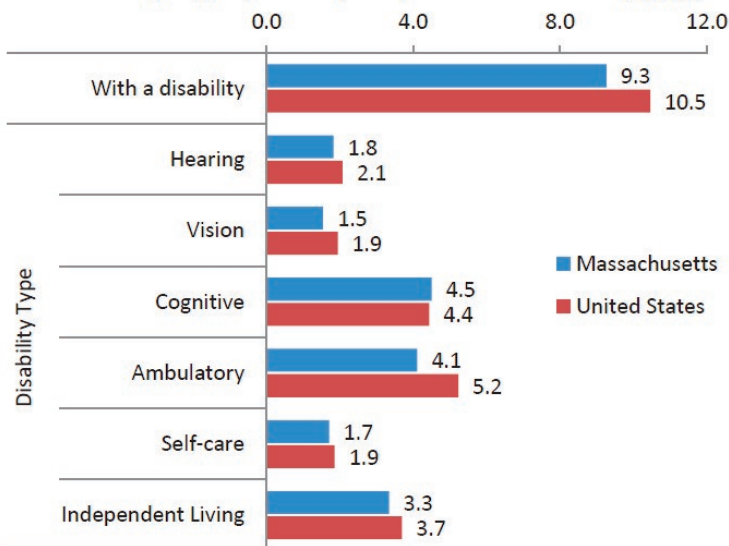
MOD commissioned a report on Disability and Worker Characteristics for Massachusetts in 2016. The following information is taken from this report.

According to 2014 **American Community Survey** data provided by the U.S. Census Bureau, there are approx. 773,146 persons with disabilities (PWD), in Massachusetts.

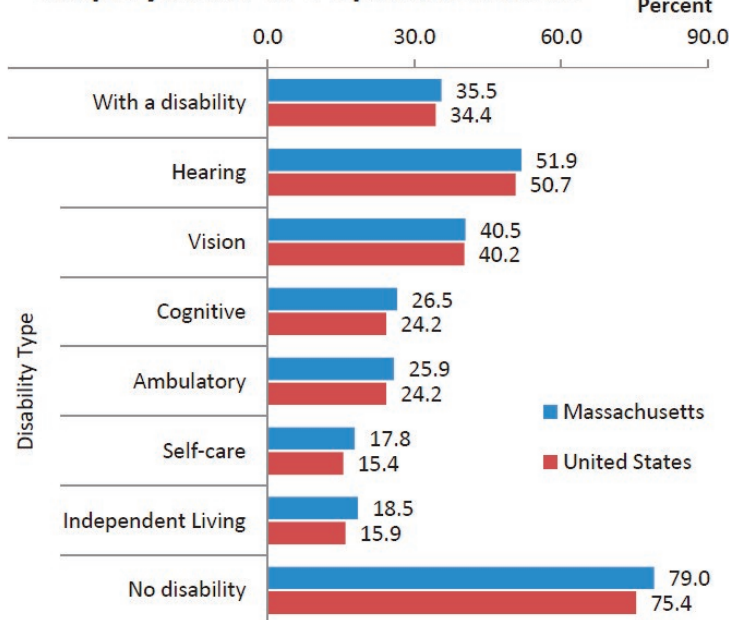
Approx. 399,206 are working age PWDs. Of those, 170,856 are in the Labor Force and 228,350 are not in the Labor Force. Approx. 141,899 or 83% of working age PWDs in the labor force are employed and 28,957 (17%) are unemployed.

Disability Prevalence

Working Age (18-64) Population



Employment-to-Population Ratio



Glossary of Terms

Disability: The United States Department of Justice defines a person with a disability as someone who: has a physical or mental impairment that substantially limits one or more major life activities of such individual, or has a record of such an impairment, or is regarded as having such an impairment.

Qualified Individual with a Disability: An individual with a disability who is able to perform the essential functions of the job with or without reasonable accommodation.

Reasonable Accommodation: a modification or adjustment to a job, the work environment, or the way things are typically done to enable a qualified individual with a disability to enjoy an equal employment opportunity.

Equal Employment Opportunity An opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly-situated employee without a disability.

Interactive Process: A dialogue between an employer and an employee or applicant with a disability to determine whether there is a reasonable accommodation that would enable the individual to perform the essential functions of the job or participate in the application process.

Essential Function: The basic job duties that an employee must be able to perform, with or without reasonable accommodation.

About MOD



The Massachusetts Office on Disability (MOD) was created by M.G.L. Chapter 6 Section 185 with the primary mission of ensuring the full and equal participation of all people with disabilities in all aspects of life. MOD works on employment issues in a variety of ways by providing:

- Training for employers on their obligations under the ADA and M.G.L. Ch. 151B.
- Training and technical assistance to Executive Branch ADA Coordinators.
- Information and referral for individuals on employment rights, programs, resources, and services.
- Advocacy for individuals around disability discrimination in employment.
- Advocacy and information for consumers of Vocational Rehabilitation and Independent Living services through the Client Assistance Program (CAP).

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Disability Employment Information Guide

A Guide to Rights, Responsibilities, Programs & Services

Introduction

The purpose of this publication is to provide a succinct guide to state and federal laws, policies, and programs that impact employment outcomes of persons with disabilities. This is intended to be a resource for employers, persons with disabilities, government officials, advocates, and anyone in-terested in disability employment issues.

Federal Laws & Regulations

Americans with Disabilities Act (ADA)

Enacted in 1990, the ADA is arguably the most significant federal civil rights law prohibiting discrimination against persons with disabilities. The ADA is divided into Five (5) Titles by covered entity:

- Title I Employment**
- Title II State & Local Governments
- Title III Public Accommodations
- Title IV Telecommunications
- Title V Miscellaneous

The ADA's general non-discrimination requirements apply to covered entities across all five titles. Entities:

- Must ensure equal opportunity.
- May not use discriminatory eligibility criteria.
- Must make reasonable modifications.
- May not retaliate against a person for filing a complaint or charge of discrimination, or for participating in an employment discrimination investigation or lawsuit.

Title I covers private employers with 15 or more employees. Title II extends this coverage to all state and local government employers regardless of number of employees. Titles I & II:

- Require covered employers to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others
- Make it illegal for a covered employer to discriminate against a qualified person with a disability or record of a disability, or a qualified individual who is regarded as having a disability.
- Require that employers reasonably accommodate the known physical or mental limitations of a qualified applicant or employee with a disability unless the accommodation would result in an undue financial or administrative hardship, i.e. significant difficulty or expense, or the elimination of an essential function of the employee's job; or a direct threat to health or safety.

The ADA Amendments Act of 2008 (ADAAA)

The ADAAA became effective in 2009, and made a number of significant changes to the definition of "disability" under the ADA, making it easier for an individual seeking protection under the ADA to meet the definition of "disability."

Enforcement: Title I (15 or more employees): Equal Employment Opportunity Commission (EEOC)

Title II (state or local government): U.S. Department of Justice (DOJ)

Sections 501 and 505 of the Rehabilitation Act of 1973

prohibit employment discrimination and retaliation against a qualified person with a disability working in the federal government sector. **Enforcement:** Agency's Equal Employment Opportunity Office

Section 503 of the Rehabilitation Act of 1973

prohibits employment discrimination by federal contractors and subcontractors against individuals with disabilities and requires affirmative action in hiring persons with disabilities when the employer has a contract or subcontract with the federal government in excess of \$10,000.

Enforcement: U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP).

Section 504 of the Rehabilitation Act of 1973

prohibits recipients of federal financial assistance from discriminating

against qualified individuals with disabilities in employment and all other programs and activities. **Enforcement:** Office of Civil Rights at the agency providing the funds, or the U.S. Department of Justice, Civil Rights Division.

Section 188 of the Workforce Investment Act of 1998

(WIA) prohibits disability discrimination in employment or in provision of services by any organization or entity receiving Federal financial assistance under WIA or by any program or activity under the One-Stop job training system by a One-Stop partner. **Enforcement:** U.S. Department of Labor, Civil Rights Center.

Genetic Information Nondiscrimination Act (GINA)

prohibits discrimination and retaliation against employees or applicants based on genetic information. **Enforcement:** Equal Employment Opportunity Commission (EEOC).

Workforce Innovation and Opportunity Act (WIOA)

is designed to improve employment services for individuals with disabilities through various reforms to increase individuals' access to services and prepare them for competitive integrated employment.



President George H.W. Bush Signs the Americans with Disabilities Act, July 26, 1990.

Massachusetts Laws & Executive Orders

M.G.L. 151B §4

Prohibits any employer in Massachusetts who employs six or more people from firing, refusing to hire or rehire, or otherwise discriminating against a qualified disabled person based on disability. **Enforcement:** Massachusetts Commission Against Discrimination www.mass.gov/mcad.

Massachusetts Executive Order 526

Prohibits discrimination and mandates affirmative action to ensure equal opportunity for people with disabilities by the Executive Department of the Commonwealth. The requirements of this Order apply to state executive agencies' internal policies and practices, such as employment and the granting of licenses, and apply as well to recipients of state funding, including contract and grant recipients.

Massachusetts Executive Order 559

Establishes the Office of Access and Opportunity within the Office of the Governor. The Office works to foster non-discrimination and equal opportunity for all, irrespective of disability, veteran's status, or other protected category within state government. www.mass.gov/anf/employment-equal-access-disability/



ADA Design Standards

The 2010 ADA Design Standards requires, Under Section 203.9, that "employee work spaces shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the employee work area."

The Design Standards discuss "designing employee work areas to be more accessible at the outset will avoid more costly retrofits when current employees become temporarily or permanently disabled, or when new employees with disabilities are hired."



Employee work areas shall also comply with: 206.2.8 – addresses circulation paths; 207.1 – addresses Means of Egress; and 215.3 – addresses the capability of adding visible alarms.

Under the Definition of "Employee work areas, corridors, toilet rooms, kitchenettes and break rooms are considered employee work areas" and must conform to the Design Standards.

Tax Incentives for Employers

Barrier Removal Tax Deduction is a deduction of up to \$15,000 per year for the removal of architectural and transportation barriers for individuals with disabilities and elders with mobility issues. Visit www.IRS.gov for details.

Work Opportunity Credit is a tax credit up to 40% of the first \$6,000 of first year wages of a new employee who is part of a targeted group. Targeted groups include employees with disabilities and certain unemployed veterans. IRS Form 5884

Disabled Access Credit is a non-refundable credit for small businesses that incur expenditures for the purpose of providing access to persons with disabilities. IRS Form 8826

Disability Employment Programs & Services

State

Massachusetts Office on Disability (MOD) Client Assistance Program (CAP), is a Federal program that apprises people of available services and benefits through Voc. Rehab. and IL programs. CAP acts as an ombudsman to consumers of VR and IL services. www.mass.gov/mod.

Executive Office of Labor & Workforce Development One-Stop Career Centers provide unemployed individuals with access to a variety of job assistance services, including career counseling, workshops and short-term training, resume development, and more. www.mass.gov/lwd/

Dept. of Developmental Services (DDS) offers an array of specialized services and supports for eligible adults with intellectual disabilities including employment supports which provide supervision, training, and/or transportation that enable individuals to get paid jobs. www.mass.gov/dds

Dept. of Mental Health (DMH), the State Mental Health Authority, provides access to services and supports to meet the mental health needs of individuals of all ages, including skills training and supported employment. www.mass.gov/dmh

MA Rehabilitation Commission (MRC) Runs the largest Vocational Rehabilitation (VR) Program to assist individuals with disabilities to obtain and maintain employment. VR helps individuals with physical, psychiatric and/or learning disabilities face the challenges of the modern workplace. www.mass.gov/mrc

MA Commission for the Blind (MCB) provides the highest quality rehabilitation and social services to blind individuals, leading to independence and full community participation. www.mass.gov/mcb

Dept. of Veterans' Services provides various programs and services to assist veterans to find employment or training, including resources and training for veteran business owners, Veterans Employment & Training Services (VETS) Program, VA Vocational Rehabilitation, Troops to Teachers, and more. www.mass.gov/veterans/

MA Commission for the Deaf & Hard of Hearing (MCDHH), the principal agency in the Commonwealth on behalf of people of all ages who are deaf or hard of hearing, provides services including the Transition to Work Program which works to prepare Deaf and hard of hearing youth for transition to the workplace. www.mass.gov/mcdhh

Department of Transitional Assistance (DTA) administers the Employment Services Program (ESP), a joint federal and state funded program whose primary goal is to assist clients in finding jobs, resolving barriers to employment and providing a way to self-sufficiency. www.mass.gov/dta

Federal

Schedule A refers to the non-competitive process of hiring candidates with disabilities into federal jobs. www.usajobs.gov/Help/working-in-government/unique-hiring-paths/individuals-with-disabilities/

Workforce Recruitment Program (WRP) is a recruitment and referral program that connects federal and private sector employers nationwide with highly motivated college students and recent graduates with disabilities who are eager to prove their abilities in the workplace through summer or permanent jobs. www.wrp.gov

The Job Accommodation Network (JAN), offers assistance to individuals with disabilities interested in self-employment and entrepreneurship. www.AskJAN.org.

Ticket to Work Program helps Social Security beneficiaries with disabilities transition to financial independence through employment, while maintaining health coverage. Jobseekers can "assign their tickets" to a designated Employment Network in their area for assistance and support. <https://www.ssa.gov/work/>

Social Security Work Incentives make it possible for people with disabilities receiving Social Security or Supplemental Security Income to work and still receive monthly payments and Medicare or Medicaid. www.ssa.gov/disabilityresearch/workincentives.htm

Notable Moments in Disability Employment Policy

1920
Smith-Fess Act creates the Vocational Rehabilitation Program

1935
Wagner-O'Day Act passes, requires federal agencies to purchase certain products made by blind individuals

1938
The Equal Employment Opportunity Commission is created by the Civil Rights Act of 1964 to address discrimination in employment.

1945
The Rehabilitation Act signed into law

1950
M.G.L. 151B requires non-discrimination in employment.

1964
Americans with Disabilities Act is passed. Title I of the ADA prohibits disability discrimination in employment.

1972
U.S. Business Leadership Network formed, leads national movement to include disability as part of workplace inclusion initiatives.

1973
U.S. Supreme Court rules that segregation of people with disabilities is discriminatory when integration is an appropriate option in *Olmstead v. L.C.*, leads to the phasing out of "sheltered workshops."

1935
League for the Physically Handicapped forms in New York City to protest employment discrimination by the Works Progress Administration (WPA) and draws national attention to the issue of disability employment.

1945
President Truman declares the first week in October "National Employ the Physically Handicapped Week," since renamed "National Disability Employment Awareness Month," amidst increased public interest in the employment of disabled World War II veterans.

1972
The nation's first Independent Living Center founded

1983
Discrimination on the basis of disability is added to the jurisdiction of the Massachusetts Commission Against Discrimination.

1984
The Employment Opportunities for Disabled Americans Act improves work incentives for SSI recipients.

1986
Amendments to the Rehabilitation Act stress employment as the primary goal of VR by ordering "presumptive employability," and requiring that consumers be afforded increased control in defining their VR goals.

1992
Ticket to Work and Work Incentives Improvement Act signed. Goal is to support SSDI and SSI beneficiaries in transitioning to financial independence through employment.

2007
Executive Order 526 (formerly 478) requires non-discrimination, diversity, equal opportunity and affirmative action: within state government employment.