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 (PWDs) 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

<table>
<thead>
<tr>
<th>Disability Type</th>
<th>Working Age (18-64) Population</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>With a disability</td>
<td>100</td>
<td>80.0</td>
</tr>
<tr>
<td>Hearing</td>
<td>18</td>
<td>1.4</td>
</tr>
<tr>
<td>Vision</td>
<td>15</td>
<td>1.2</td>
</tr>
<tr>
<td>Cognitive</td>
<td>4.5</td>
<td>3.7</td>
</tr>
<tr>
<td>Ambulatory</td>
<td>4.1</td>
<td>3.2</td>
</tr>
<tr>
<td>Self-care</td>
<td>1.7</td>
<td>1.4</td>
</tr>
<tr>
<td>Independent Living</td>
<td>3.3</td>
<td>2.7</td>
</tr>
</tbody>
</table>

Employment-to-Population Ratio

<table>
<thead>
<tr>
<th>Disability Type</th>
<th>With a disability</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>With a disability</td>
<td>35.5</td>
<td>34.4</td>
</tr>
<tr>
<td>Hearing</td>
<td>34.9</td>
<td>33.7</td>
</tr>
<tr>
<td>Vision</td>
<td>40.5</td>
<td>40.2</td>
</tr>
<tr>
<td>Cognitive</td>
<td>26.8</td>
<td>25.7</td>
</tr>
<tr>
<td>Ambulatory</td>
<td>24.2</td>
<td>23.1</td>
</tr>
<tr>
<td>Self-care</td>
<td>17.8</td>
<td>16.5</td>
</tr>
<tr>
<td>Independent Living</td>
<td>18.5</td>
<td>17.5</td>
</tr>
</tbody>
</table>

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.

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 to 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 and employment.
- Advocacy and information for consumers of Vocational Rehabilitation and Independent Living services through the Client Assistance Program (CAP).

About MOD

The Massachusetts Office on Disability (MOD) is located in Boston, MA 02108. The office provides employment services for individuals with disabilities. MOD is committed to providing equal employment opportunities for all individuals, regardless of disability status. MOD seeks to improve employment services for individuals with disabilities through various services to increase individual access to services and prepare them for competitive integrated employment.


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 interested in disability employment issues.

Federal Laws & Regulations

Americans with Disabilities Act (ADA)

Enacted in 1990, the ADA is 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.

Section 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 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 in or 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.


Workforce Innovation and Opportunity Act (WIOA) is designed to improve employment services for individuals with disabilities through various reforms to increase individual access to services and prepare them for competitive integrated employment.

The ADA Amendments Act of 2008 (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)

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 506 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.

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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/mcdd.

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 nondiscrimination 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/

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.

ADA Design Standards

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 of new wage of a 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 8626

Tax Incentives for Employers

Disability Employment Programs & Services

Barber Day Act passes, requires federal agencies to purchase certain products made by blind individuals.

Wagner-O’Day Act passes, creates the Rehabilitation Act of 1943 to address discrimination in employment.

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

1973

The Rehabilitation Act signed into law

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

1973

The ADA prohibits disability discrimination in employment.

1983

Americans with Disabilities Act is passed. Title I of the ADA requires federal agencies to ensure affirmative action: within state jurisdiction of the Massachusetts Commission Against Discrimination.

1984

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 at the primary goal of VR by ordering “presumptive employability” and requiring that consumers be offered “increased contact in defining their VR goals.”

1991

VA Vocational Rehabilitation, Troops to Teachers, and more.

Veterans Employment & Training Services (VETS) Program, providing access to a variety of job assistance services, including resources and training for veteran businesses, 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.vwrp.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

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

Executive Order 559

Establishes the Office of Access and Opportunity within 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.

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

The No Child Left Behind Act signed into law, improves work incentives for SSDI and SSI beneficiaries transitioning to financial independence through employment. www.ssa.gov/disabilityresearch/workincentives.htm

Notable Moments in Disability Employment Policy

1920

Smith-Fess Act creates the Vocational Rehabilitation Program

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

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.

1935

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

1945

The natio’s first Independent Living Center founded.

1964

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

1972

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1984

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