WHAT WORKFORCE STAFF SHOULD KNOW ABOUT ADA & FEHA

Presented by:

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Equal Opportunity Employer/Program
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What Workforce Staff & Employers Should Know About ADA & FEHA

Workshop Overview
This workshop presented by the Disability Access Services of the California Department of Rehabilitation is intended to help California’s Workforce staff, employers and others assisting job seekers with disabilities to understand the rights and responsibilities under both the Americans with Disabilities Act (ADA) and California’s Fair Employment and Housing Act (FEHA).

Disclaimer
The information or materials provided in this resource guide is intended solely as informational guidance and not a determination of your agency’s legal rights or responsibilities under the Fair Employment and Housing Act (FEHA), the Americans with Disabilities Act (ADA), and other Workforce Opportunity Innovation Act (WIOA) guidelines.

Alternate Formats
This publication is accessible for assistive technology users and can be made available in Braille, large print, and electronic format, upon request, as a reasonable accommodation for an individual with a disability. To request a copy of alternate formats, please contact the Disability Access Services.

Workshop Objectives
As a result of attending this pre-conference workshop, participants will:

1. Gain an understanding of disability related employment terms, guidelines and principles applicable to the ADA/FEHA and their impact on employers with five or more employees.

2. Explore online ADA/FEHA and DOR training resources designed to help employers and staff helping job seekers with disabilities further their understanding of these employment responsibilities.
Background Information

Participation in the Workplace

Census Data

- The US Census for 2011 estimated California population to be 38,041,430 with over 20% self-identifying as having a disability.
- Persons with disabilities tend to be older than persons without a disability reflecting the increased onset of disability during the aging process.
- In 2014, 47% of persons with a disability were age 65 or older.

Employment Rates

The March, 2017 Report, issued by the US Department of Labor’s Office of Disability Employment Policy, indicates the employment rates and unemployment findings for individuals with disabilities compared to those without a disability to be as follows:

- 68.6% of individuals without a disability were employed, with the remaining number not actively seeking employment.
- By contrast, only 20.4% of individuals with disabilities in the age ranges of 18-64 years old that were living in non-institutional settings were employed.

Unemployment Rates

- As cited in this report, the national unemployment rate for individuals without a disability seeking employment was 5.2%.
- The unemployment rate for job seekers with disabilities during the same period, was more than twice as high at 12.8%

National studies conducted over the past 20 years indicate employer misconceptions, fears and misconceptions about the skills, talents, reliability, and worker traits of individuals with disabilities, when combined with limited knowledge of the requirements imposed on employers by the Americans with Disabilities Act (ADA) and California’s Fair Employment and Housing Act (FEHA) contribute to form attitudinal employment barriers for job seekers and employees with disabilities.

WorkCon 2017: What Workforce Staff Should Know About ADA/FEHA Pre-conference Workshop
Today’s Focus
To understand the implications and impact of the ADA and the FEHA, we will review DFEH 208 publication, Disability Under the Fair Employment & Housing Act: What you should know about the law, updated on November of 2014.

The following questions will be reviewed:

- What changes do I need to know about?
- What does the law require of employers?
- What is a disability under the law?
- What can be done for an applicant or employee with a disability?
- What is reasonable accommodation?
- What is the interactive process?
- What is good faith?
- Must an applicant or employee always be accommodated?
- What questions may be asked of an applicant or employee?
- What are the remedies available under the Fair Employment and Housing Act?
- If discrimination has occurred, what can be done?
Online Resources

In this section, participants will review online and video resources designed to improve understanding of the FEHA, the federal ADA, and other disability related topics.

State of California Online Resources

Department of Rehabilitation Employer Resources
http://www.dor.ca.gov/Workforce-Development/index.html

Workforce Development (WDS), "What's in it for Your Business?" is a Department of Rehabilitation (DOR) employer outreach program designed to build collaborative partnerships that create staffing solutions for California businesses. The Workforce Development Section (WDS) develops and coordinates linkages with the business community in order to increase meaningful employment opportunities for individuals with disabilities. Information concerning the various aspects & benefits of hiring individuals with a disability can be obtained from this website or (916) 558-5400.

Limited Examination and Appointment Program (LEAP)

To be eligible to participate in the Limited Examination and Appointment Program (LEAP), the applicant must be an individual with a disability as defined by FEHA. A Department of Rehabilitation (DOR) Counselor must sign the LEAP Certification Form. It is not necessary to become a DOR client because the Department will only certify the presence of a disability. Applicants are encouraged to contact the closest DOR Office to schedule an appointment for LEAP Certification. It is the responsibility of the applicant to provide medical evidence of their disability to the DOR. For more information about LEAP certification, contact the Department of Rehabilitation (DOR). The California Human Resources Department (CalHR) administers the LEAP examinations as scheduled.

LEAP Information is available at: http://jobs.ca.gov/Job/Leap
Phone: (916) 558-5423 (voice) or California Relay Service (7-1-1)
Email: wdsinfo@dor.ca.gov
DFEH Publications
The California Department of Fair Employment & Housing (DFEH) has a number of publications and posters designed to help employers and individuals understand and comply with the California Fair Employment and Housing Act (FEHA).

The following recommended publications can be viewed by visiting DFEH Publications or downloaded by visiting the DFEH website at: www.dfeh.ca.gov/publications_publications.htm

- Discrimination is Against the Law DFEH-151
- Pre-Employment Inquiry Guidelines DFEH-161
- Employment Discrimination Based on Disability DFEH-184
- California Family Rights Act DFEH-188
- Disability Under the FEHA: DFEH-208

Alternate formats of these publications can be requested from the California Department of Fair Employment and Housing:
- Toll Free (800) 884-1684 or TTY (800) 700-2320
- Sacramento and Out of State (916) 227-0551

Complaint Process
Under FEHA, employees or job applicants have 365 days from the date of the alleged discriminatory act to file the complaint. For more information about the DFEH complaint process, contact: DFEH Complaint Process
Toll Free Phone: (800) 884-1684
http://www.dfeh.ca.gov/Complaints_ComplaintProcess.htm

Fair Employment and Housing Commission Disability Regulations
California Code of Regulations, Title 2, Division 4 of the Fair Employment and Housing Commission adopted on December 18, 2012, which outlines the definitions, terms and responsibilities under California’s Fair Employment and Housing Act.

FEHC Disability Regulations
http://www.dfeh.ca.gov/res/docs/FEHC%20Disability%20Regs/FEHC%20FINAL_DISABILITy_REGS_12-18-12%20_2_.pdf
Federal Resources
Several agencies have jurisdictions over the non-discrimination provisions of laws applicable to individuals with disabilities.

EEOC Publications
This EEOC website contains guidance on a wide range of issues concerning an employer's obligations under the provisions of the Americans with Disabilities Act (ADA). Specific topics of interest for individuals with visual, hearing, psychiatric or other conditions and situations are included.

ADA Guidance by Subject Matter
http://www.eeoc.gov/laws/guidance/subject.cfm

Additional information regarding the ADA can be obtained by contacting the EEOC (www.eeoc.gov)

- General Questions: (800) 669-4000 or TTY (800) 669-6820
- To order publications call:
  o Voice (800) 669-3362
  o TTY (800) 800-3302
  o Mailing Address: P.O. Box 541, Annapolis Junction, MD 20701

Job Accommodation Network (JAN)
The Job Accommodation Network (JAN) is a free national consulting service of the Office of Disability Employment Policy, JAN’s services are designed to increase the employability of people with disabilities by providing individualized worksite accommodation solutions and technical assistance regarding the ADA and other disability related legislations.

Job Accommodation Network (JAN) can be reached by calling (800) 526-7234 (voice/TTY) or by e-mail at jan@askjan.org

ADA Pacific Technical Assistance Center
http://adapacific.org/ada/faq.php
The ADA Pacific Technical Assistance Center has an excellent "Service Animals: Frequently Asked Questions" publication.
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