

PUBLICATION

EEOC Issues Employer Guidance on Return to Work of Service Members

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Given the tide of service members expected to return home over the next several years, the United States Equal Employment Opportunity Commission (EEOC) recently unveiled updated guidance on the rights of veterans with disabilities under the Americans with Disabilities Act (ADA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

The EEOC issued two publications, one aimed at [employers](#) and the other geared towards [wounded veterans](#), that incorporate new guidance based on changes to the law stemming from the ADA Amendments Act. That law, which passed in 2008, broadened the definition of a disability, thereby making it easier for veterans with a wide range of injuries and impairments, including traumatic brain injuries and post-traumatic stress disorder, to seek reasonable accommodations from their employers.

Although the ADA uses different standards from the U.S. Department of Defense and the U.S. Department of Veterans Affairs in determining what constitutes a disability, many more service-connected disabilities are now considered disabilities under the ADA than before the implementation of the ADA Amendments Act, the guide for employers says. Indeed, approximately 25 percent of recent veterans report having a service-connected disability, according to the EEOC's guide for employers.

The guide for employers describes how protections for veterans with service-connected disabilities differ under the ADA and USERRA, which prohibits employers from discriminating against employees or job applicants on the basis of their military status. USERRA, which is enforced by the U.S. Department of Labor, requires employers to make reasonable efforts to return veterans to their prior employment and/or to become qualified for a different job, regardless of whether they have a service-connected disability.

The guide also outlines how employers can prevent disability-based discrimination against veterans, as well as how to provide reasonable accommodations; and it provides information for employers looking to hire veterans with disabilities as part of a voluntary affirmative action program.

For additional counseling on re-integrating injured and uninjured service members into your workforce, please contact any of our nearly 60 attorneys dedicated specifically to Labor & Employment issues, located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.