



Mineral



Question of the Week

JULY 13, 2022

QUESTION

I know that most of the federal employment discrimination laws kick in when an employer reaches a certain number of employees. How do we count that number?

ANSWER

According to the Equal Employment Opportunity Commission (EEOC), you should count every employee who has worked for your organization during at least 20 calendar weeks in the current or previous year. Those 20 weeks don't have to be consecutive, and the individual could have worked full time or part time. This methodology can be applied for the federal laws which the EEOC enforces: the Americans with Disabilities Act (ADA), Title VII, the Pregnancy Disability Act, the Genetic Information Nondiscrimination Act, and the Age Discrimination in Employment Act.

Some of those same protections also show up in state laws and may take effect at lower headcounts. For example, the California Fair Employment and Housing Act (FEHA) has protections similar to those in the ADA. The definition of a disability under FEHA, however, is even broader, and FEHA applies to any organization with five or more employees (compared with the ADA's 15 or more employees). If you're setting policy or assessing liability related to discrimination, it is important to check state and local laws as well as federal laws. You can find this information on the platform.