

# U.S. Equal Employment Opportunity Commission Increases Enforcement

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The U.S. Equal Employment Opportunity Commission (EEOC) is the federal agency charged enforcing the federal laws against employment discrimination. Recently, the EEOC has taken a more aggressive approach in enforcing the Americans with Disabilities Act (ADA). The ADA is the federal statute that prevents employment discrimination on the basis of disability. In 2008, the ADA was amended and greatly expanded the individuals who are protected under the ADA's definition of disability. Of particular concern to the EEOC are company medical leave of absence policies that place limits on the amount of medical leave.

Recently, the EEOC announced a \$6.2 million settlement in connection with class case involving a Sears, Roebuck and Co.'s alleged inflexible leave limit policy. That case arose from a charge of discrimination filed with the EEOC by a former Sears's service technician. According to the EEOC, the employee was injured on the job, took workers' compensation leave, and, although remaining disabled by the injuries, repeatedly attempted to return to work. According to the EEOC, Sears did not provide the employee with a reasonable accommodation which would have put him back to work and, instead, fired him when his leave expired.

Recently, the EEOC has also filed a number of pattern and practice lawsuits on behalf of employees of large employers alleging that the employers violated the ADA by rejecting extensions of medical leave as a reasonable accommodation for employees with disabilities. The EEOC asserts that it is unlawful if any employer that maintains an inflexible maximum



leave policy, which it will not extend or otherwise modify in order to accommodate individuals with disabilities. As such, employers should review their medical leave of absence policies and processes to ensure that they provide appropriate flexibility to accommodate individuals with disabilities. This includes engaging in a good faith interactive process with employees whose leave may be ending to discuss potential reasonable accommodations which may include a reasonable extension of leave.

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*This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

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