

REVIEW PROTOCOL FOR EMPLOYER COMPLIANCE

Highlights

- The objective of the Employer Compliance evidence review is to determine the quality of existing causal evidence on the effectiveness of rules, policies, and enforcement activities aimed at preventing discrimination by employers to improve labor market outcomes. The review was originally conducted in 2014 and was updated in 2022.
- The review focuses on policies, programs and interventions intended to reduce or prevent employment discrimination.
- This topic area currently includes research with causal analyses.

Introduction and Scope of the Review

The U.S. Department of Labor (DOL) is committed to protecting the right of all workers to equal opportunity in the labor market. This review assesses the quality of existing causal evidence on the labor market impacts of policies, rules, programs and enforcement activities designed to detect, reduce and prevent discrimination among employers. The review includes efforts targeting current employees, former employees, job applicants, interns, contractors and subcontractors, and participants in training or work-based training programs and focuses on discrimination in the workplace based on characteristics to include gender, race, ethnicity, national origin, religion, sexual preference, disability or veteran status. It includes all worker groups including protected workers. The review addresses the following research question:

- What is the quality of existing causal evidence on the effectiveness of policies, programs and enforcement activities intended to detect, reduce and prevent employer discrimination of workers and job applicants?

Domains of Interest

The topic area review examines a range of policies, rules, programs and interventions, including enforcement activities. The outcomes of interest include recruitment, employment, performance evaluation, advancement, termination, and rates of pay and other forms of compensation. The domains of interest are:

- **Employment**, including but not limited to measures such as employment rate, tenure on the job, consecutive months employed, career advancement, promotion, employment performance evaluation and termination rates.
- **Earnings and Compensation**, including but not limited to monthly, quarterly or annual wages; hourly wages; cumulative wages over the follow-up period; rates of pay; earnings differentials or “gaps” between groups of workers; and other forms of compensation.
- **Compliance**, including employer behavior that follows state and federal regulations, particularly with respect to employment and compensation.

Eligibility Criteria

CLEAR conducts a broad literature search to identify research papers and reports that examine the research question(s) identified for each evidence review. This review includes only causal impact studies. Once identified, research is examined against the eligibility criteria described below. CLEAR assesses studies meeting these criteria for the quality of the evidence and summarizes each for inclusion on the website.

- 1. The research must use quantitative methods to examine a regulation, rule, policy, intervention, program or enforcement activity designed to detect, reduce or prevent discrimination by employers against job applicants, employees, contractors or subcontractors.** To meet this criterion, research must use quantitative methods to assess the effectiveness of a policy, program, rule, regulation or enforcement activity. This includes research that claims to identify a causal impact even if the study design did not support such claims. Examples of eligible activities include but are not limited to policies that require employers to maintain written affirmative action plans, programs recognizing achievement of equal opportunity goals, and enforcement activities such as compliance reviews and sanctions. Studies that use administrative data to evaluate the impact of rules and regulations on outcomes of interest are eligible.
- 2. The research must examine at least one outcome in one of the primary domains identified previously.** A study must examine at least one outcome in the employment or earnings domains. In addition, outcomes may include indicators of compliance with rules and regulations. Studies focused solely on harassment prevention and reduction as an outcome are not eligible for this review.
- 3. The study must be published in a relevant time and place.** This review was originally conducted in 2014 to cover research published between 1990 and 2014. It was updated in 2021 to add research published between 2015 and October 2021. To be eligible research must focus on an activity occurring in the United States, including the 50 states, the District of Columbia, territories, and tribal entities.
- 4. The study must be published in English.** All research studies must be published in English to be considered for inclusion in CLEAR.

Review Process and Causal Evidence Guidelines Specific to the Topic Area

The Employer Compliance topic area includes both experimental and nonexperimental causal research which is reviewed and rated based on the eligibility criteria above and the CLEAR Causal Evidence Guidelines following the process outlined in the CLEAR Policies and Procedures Document.¹ In assessing the quality of the evidence, CLEAR uses ratings of high, moderate and low. Only two types of studies may receive a high rating: well-conducted randomized controlled trials (RCTs) with low attrition and no obvious confounds to the RCT design and interrupted time series (ITS) designs with sufficient replication. The CLEAR Causal Evidence Guidelines describe the criteria for rating the quality of evidence. In addition, Table 1 provides the additional guidance specific to this review.

¹ The CLEAR Causal Evidence Guidelines and the CLEAR Policies and Procedures may be found at <https://clear.dol.gov/>.

Table 1. Employer Compliance Review Specific Guidance

	CLEAR Causal Evidence Guidelines	Topic Area Specific Guidance
Attrition Standard	Study must have low attrition at the cluster or subcluster level to meet Criterion RCT.2.	Use conservative attrition standard.
Control Variables	To meet Criterion Regression.1 and receive a moderate rating, nonexperimental causal research must include specific control variables in its regression analysis (other than those using fixed effects). Regression methods that incorporate a matching design must match on these control variables; if not, they must include them as controls in the regression. ¹	<ul style="list-style-type: none"> – Age – Race/ethnicity – Gender – At least one pre-intervention measure of earnings or employment status. This could include pre-intervention earnings or wages, pre-intervention employment status, or measure of pre-intervention work history.
Changes in Group Composition	Studies with nonexperimental designs and analyses at the group level must meet Criterion Regression.4 to receive a moderate causal evidence rating.	Although research designs in this topic area commonly use state-level or other aggregate data, CLEAR does not require that authors demonstrate that the composition of the groups being compared does not change. ²
Pre-intervention Data	An ITS design must use data drawn from a sufficiently long period of time before an intervention's implementation to meet Criterion ITS.2.	Data must cover at least one year before the implementation of the intervention.

¹ If the analysis is conducted at the aggregate rather than individual level (for example, examining employment rates in business establishments), the set of control variables included should be flagged for review by the principal investigator.

² Any changes in the composition or characteristics of workers in the aggregate due to an antidiscrimination rule, policy, or enforcement activity may be seen as an impact of that activity, and thus should be part of the measured treatment effect. For example, if minority workers move from states with less stringent policies regarding nondiscrimination in employment to states with more stringent policies, increases in the rate and share of minority employment in the latter states can be thought of as part of the impact of the state policies. Similarly, if firms hiring a smaller share of minority workers in a given industry become subject to penalties by the EEOC and go out of business, the resulting increase in minority employment rates in the industry can be thought of as part of the impact of nondiscrimination enforcement activities

APPENDIX A LITERATURE SEARCH

CLEAR conducts a comprehensive literature search to identify research meeting the eligibility criteria described in the review protocol. This process includes (1) a database search, (2) a search of selected internet sites for grey literature, (3) a snowball search, and (4) a Google Scholar search for specific regulations, policies, programs, rules and intervention names.

1. Database Search

All CLEAR searches use the following databases to identify causal literature: Scopus, Academic Search Premier, Business Source Corporate Plus, E-Journals, EconLit, Education Research Complete, Sociology Source Ultimate, ERIC, APA PsycINFO, ProQuest Dissertations and Theses. In conducting the search, CLEAR uses “and” to connect terms from each category (design, outcome, impact, and keyword terms) and “or” among terms within a category.

Table 2. Keywords used in database searches for Employer Compliance Topic Area

Design terms	Causal, evaluation*, quantitative, statistical, formative
Outcome terms	Hire, hiring, unemploy*, employ*, job, work*, occupation, advancement, promot*, fire*, firing, terminat*, pay, earning*, wage*, compensation, salary
Impact terms	Effect*, efficac*, impact, improv*, progress, gain, growth, increase, decrease, prevent, diminish, detect*
Keyword terms	Americans with Disabilities Act, Executive Order 11246, Rehabilitation Act, Vietnam Era Veterans’ Readjustment Assistance Act, VEVRAA, Uniformed Services Employment and Reemployment Rights Act, USERRA, Civil Rights Act, Equal Pay Act, Pregnancy Discrimination Act, Age Discrimination in Employment Act, Genetic Information Nondiscrimination Act, Fair Pay Act, Executive Order 13988 OR equal employment, equal opportunity*, affirmative action, discriminat*, anti-discriminat*, antidiscriminat*, nondiscriminat*, enforce*, worker* employee* applicant*, contractor*, subcontractor* AND race, racial, color, religion, sex, gender, national origin, disab*, veteran*, uniformed service*, ethnic*, gender ident*, sexual orientation, transgender, gay, bisexual, lesbian, pregnancy

An asterisk indicates a truncation. When used in a search term, all words with the root are returned. For example, a search on “occupation*” returns citations with the words that have “occupation” as the first ten letters, including “occupation,” “occupations,” and “occupational.”

2. Internet Sites Grey Literature Search

In addition, CLEAR searches the websites of organizations conducting research in this topic area using a limited set of key words. The search identifies studies that may not be published elsewhere, such as technical reports from government agencies or working papers, and studies not available through the database search. CLEAR uses a Custom Google Search engine with the following abbreviated set of key words: employer AND discriminat* OR anti-discriminat* OR antidiscriminat* AND causal AND (impact

OR effect) with a set date range of January 2014 through October 2021. The search is limited to studies published in English.

- American Bankers Association
- American Bar Foundation
- American Enterprise Institute
- American Institutes for Research
- Association for Public Policy and Management
- Biddle Consulting Group
- Booz Allen
- Brookings Institute
- Cato Institute
- Center for Corporate Equality
- Center for Economic Policy and Research
- Center for Law and Social Policy
- Center for Public Justice
- Congressional Research Services
- DCI Consulting
- Economic Policy Institute
- Ethics and Public Policy Center
- Ford Foundation
- Heritage Foundation
- Institute of Policy Research, Manhattan
- Institute of Policy Research, Northwestern
- Institute for Women's Policy Research
- Joint Center for Political and Economic Studies
- Levy Economics Institute
- Massachusetts Budget and Policy Center
- Milken Institute
- National Bureau of Economic Research
- National Community Reinvestment Coalition
- National Credit Union Administration
- NORC
- Pacific Research Institutes
- Pew Research Center
- RAND Corporation
- SRI International
- Tax Foundation
- Urban Institute
- U.S. Bureau of Labor Statistics
- U.S. Government Accountability Office

3. Snowball Search

CLEAR uses the technique of snowballing for identifying relevant research. Through this process, we screen the reference lists of eligible or related research papers to identify other studies that may be eligible for review. The papers consulted included:

- Ashenfelter, O., & Heckman, J. (1976). Measuring the effect of an anti-discrimination program. In O. Ashenfelter & J. Blum (Eds.), *Estimating the labor market effects of social programs* (pp. 46-89). Princeton, NJ: Princeton University Press.
- Beller, A.H. (1982). The impact of equal employment opportunity policy on sex differentials in earnings and occupations. *American Economic Review*, 72(2), 171-175.
- Gailey, A.H., & Seabury, S.A. (2010). The impact of employment protection on workers disabled by workplace injuries. In D.P. Kessler (Ed.), *Regulation versus litigation: Perspectives from economics and law* (pp. 165-196). Chicago: University of Chicago Press.
- Leonard, J. (1984). Employment and occupational advance under affirmative action. *The Review of Economics and Statistics*, 66(3), 377-385.

- Leonard, J. (1984). The impact of affirmative action on employment. *Journal of Labor Economics*, 2, 439-463.
- Romei, A., & Ruggieri, S. (2013). A multidisciplinary survey on discrimination analysis. *The Knowledge Engineering Review*, 29(5), 582-638.
- Stephanopoulos, G., & Edley, C. (1995). Review of federal affirmative action programs, part 3: empirical research on affirmative action and anti-discrimination. Retrieved from http://womenshistory.about.com/library/etext/gov/bl_gov_aa_06.htm.

4. Google Scholar Search

Finally, CLEAR conducts a Google Scholar search using a specific list of policies, legislation, rules that may prompt specific interventions or activities to comply with their content. For this topic area, the search included:

- Americans with Disabilities Act
- Executive Order 11246
- Rehabilitation Act
- Vietnam Era Veterans' Readjustment Assistance Act
- Uniformed Services Employment and Reemployment Rights Act
- Civil Rights Act
- Equal Pay Act
- Pregnancy Discrimination Act

CLEAR used combinations of the following search terms: causal (impact OR effect) AND

["Age Discrimination in Employment Act" AND employer AND discriminat* OR anti-discriminat* OR antidiscriminat*],

["Genetic Information Nondiscrimination Act" AND employer AND discriminat* OR anti-discriminat* OR antidiscriminat*],

["Fair Pay Act" AND employer AND discriminat* OR anti-discriminat* OR antidiscriminat*],

["Equal Employment Opportunity Act" AND employer AND discriminat* OR anti-discriminat* OR antidiscriminat*],

["Executive Order 13988" AND employer AND discriminat* OR anti-discriminat* OR antidiscriminat*]