



# French Law Requires Companies to Employ Workers with Disabilities

By Leah Shepherd

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**A** French law is ushering in new obligations for companies to employ people with disabilities.

By Jan. 1, 2020, employers in France with at least 20 employees must have workers with disabilities account for 6 percent of their total workforce. This includes full- and part-time employees, trainees and temporary workers. Companies that don't meet the annual quota will have to implement a collective bargaining agreement that favors workers with disabilities or pay into a government fund to support their employment.

Companies with at least 250 employees must appoint a designated employee to guide, inform and support employees with disabilities.

Eloïse Ramos, a lawyer with Bird & Bird in Paris, said, "The purpose is to raise awareness and empower all companies on this issue, regardless the size of their workforce, but also to facilitate compliance with this obligation by simplifying headcount calculations and declarations and providing a single interlocutor for companies."

She added, "This reform should encourage HR professionals to review their recruitment policy and diversify their hiring methods."

## Who Qualifies as Having a Disability

Under French law, a worker with a disability is any person whose opportunities to obtain or maintain employment are effectively reduced as a result of the impairment of at least one physical, sensory, mental or psychological function.

Employers can count a worker with a disability who:

- Is recognized as a disabled worker by the French Commission for the Rights and Autonomy of Disabled Persons.
- Has been subjected to an accident at work or an occupational disease resulting in a permanent disability of at least 10 percent and receives a pension.
- Receives a government disability pension on condition that the disability reduces his or her working capacity by at least two-thirds.
- Is a former military member and receives a military disability pension.
- Is a volunteer firefighter and receives a disability allowance or pension awarded as a result of an accident or illness contracted in service.
- Has a mobility inclusion card with a disability mention.
- Receives the government allowance for adults with disabilities.

Each disabled employee age 50 or over will count as 1.5 when calculating the number of employees with disabilities.

Terese Connolly, an attorney with Culhane Meadows in Chicago, said meeting the target "is not easy. But is it doable? Yes. People are going to have to be creative to access that part of the labor pool."

Sometimes employees don't want to disclose their disability because they fear getting a negative reaction. An employer might not be aware of everyone who could be counted under the law.

Kimberly Phillips, a research assistant professor at the University of New Hampshire's Institute on Disability in Durham, N.H., said, "Ideally, this legislation will promote a culture in which employees are more comfortable disclosing and/or discussing their disabilities, but it could also put pressure on existing employees to disclose in order to help employers meet the target proportions."

Charles Dauthier, an attorney with Morgan Lewis in Paris, noted, "The disabled worker does not have the obligation to disclose such status, either during the job interview or during the performance of the employment contract. Demanding employees to disclose such information would violate their right to privacy."

Instead, he suggested the following for employers in France:

- Remind all employees that the workplace is disability-friendly.
- Tell all employees that workers with disabilities cannot be discriminated against based on their health status and that they may benefit from certain protections and supports.
- Don't imply the employee should start the process to get disabled worker status, since this could violate his or her right to privacy.

[*SHRM members-only toolkit: Accommodating Employees' Disabilities* ([www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/accommodatingdisabilities.aspx](http://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/accommodatingdisabilities.aspx))]

## Best Practices

To successfully recruit and retain workers with disabilities, Connolly recommended being flexible, maintaining an open dialogue and keeping any biases in check. Remember that not everything has to be done the same way as before, and there could be many ways to accomplish essential job functions. Identify people's strengths and find creative ways to make accommodations, so they can accomplish the essential job duties.

Kathleen Murphy, principal researcher at the American Institutes for Research in Washington, D.C., said, "It's pretty well-documented in the literature that employers have unfounded fears about what it means to bring in a person with a disability. They want to do the right thing, but they haven't had disability etiquette [training], and they get nervous around a person with a disability. There's a discomfort around difference." In addition, "there's a concern that people with disabilities will be expensive, that the accommodation they will need will be expensive. The average accommodation costs \$500. Most commonly for people with disabilities, it's a schedule change they might need. It's not necessarily something that might cost money," she added.

The point is not just to hire them. "You want them to be successful. The only way to do that is with an open dialogue," Connolly said.

Have a centralized accommodation fund to buy software or other tools to assist employees with disabilities, so it comes out of a corporate-level budget, rather than a departmental budget.

Establish an employee resource group to help employees with disabilities and their allies discuss concerns, join forces and

raise awareness.

There are plenty of advantages to reaching an untapped labor pool. "Employing people with disabilities benefits companies by broadening the pool of workers from which to choose, increasing the diversity of staff, promoting a culture of inclusion, and, in many cases, increasing productivity and the bottom line," Phillips said.

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