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The Americans with Disabilities Act: A Legal Update

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Americans with Disabilities Act

Overview

P Title I prohibits discrimination in employment against qualified individuals with a disabilities

- < Who is a Aqualified individual @?*

- < What is a disability?*

P Requires employers to provide reasonable accommodations to qualified individuals with disabilities

P Remedies for violations include:

- < Reinstatement*

- < Backpay*

- < Equitable relief*

- < Compensatory damages*

- < Punitive damages*

Americans with Disabilities Act

ADisability @

P A physical or mental impairment that substantially limits a major life activity

P An record of such an impairment

P Being regarded as having such an impairment.

Americans with Disabilities Act

A Disability @

PA Substantially @ limits one or more major life activities

< Life activities = caring for oneself, walking, seeing, hearing, speaking, breathing, learning, reproduction, working

< ASubstantially limits @ depends on

B Nature and severity of impairment

B Duration of impairment

B Permancy/Long-term impact of impairment

PMajor life activity of working

< Geographical area

< Types of jobs individual is disqualified from

Americans with Disabilities Act

ADisability @

PA Arecord @ of a Adisability @

<History of Adisability @

<Misclassified as having a Adisability @

Americans with Disabilities

ADisability @

PBeing Aregarded as @having a Adisability @

*<Have impairments that are not substantially limiting,
but are erroneously regarded as have such*

*<Have impairments that are substantially limiting only
because of the attitudes of others*

*<Have no impairment, but are erroneously regarded
as having a substantially limiting impairment*

Americans with Disabilities Act

A Qualified individual with a Disability @

*ADA prohibits discrimination against a
Qualified individual with a Disability @
Qualified @*

*<An individual with a disability who, with or without
reasonable accommodation, can perform the essential
functions of the job.*

Americans with Disabilities Act

Developments

P Title I of the ADA does not apply to State employees

P While 8th Circuit avoids the issue, the 5th Circuit becomes first court of appeals to recognize cause of action for harassment under ADA

P Employers that refuse to reinstate employees with work restrictions as a matter of policy may violate the ADA

Americans with Disabilities Act

Developments

P Collective bargaining agreement may be evidence of essential functions of job

P Employee who is unable to work overtime because of an impairment is not substantially limited in the major life activity of working

P Job descriptions provide important evidence of essential functions of job

P Essential functions can include personal presence in office

Americans with Disabilities Act

Developments

P Failure to transfer allergy sufferer to different region may violate ADA.

P Employer's duty to accommodate mental illness often limited.

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