What Do the Discrimination Laws Require?

• Employers must make sure that individuals with disabilities:
  • Have an equal opportunity to apply for jobs
  • Have an equal opportunity to work in jobs for which they are qualified
  • Have equal access to benefits and privileges of employment
  • Are not harassed because of disability

• Employers must respect the privacy rights of employees in the process
Definitions of Mental Disabilities

- Mental or emotional impairments affecting major life activities
- Which make those activities more difficult
- Excluding some transitory impairments, but including chronic, severe, or episodic impairments
- Prevalence
- Examples

What Do the Discrimination Laws Require?

- Through an “interactive process” an employer must provide:
  
  * Reasonable Accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause an undue hardship.*
3 Types of Reasonable Accommodations

• Changes to a job application process
• Changes to how the job is done
• Changes that enable an employee with a disability to enjoy benefits and privileges of employment (like access to training)

Examples of Accommodations

• Make existing facilities accessible
• Acquire/modify equipment
• Change testing/training materials
• Modify work schedules
• Job restructuring
• Shift changes
• Unpaid leave
• Reassignment to vacant position
(maybe) NOT a Reasonable Accommodation

- Elimination of essential job functions
- Lowering production standards
- Personal use items (i.e., prosthetic limb, eyeglasses, hearing aids)
- Creating a job
- Bumping an employee from his/her job
- Promoting an employee into a vacant job he/she is not otherwise qualified for

Threats of Workplace Violence

- An employer may discipline an employee who violates a workplace violence policy by making threats to harm others, even if the employee’s conduct is the result of a disability
- This rule is very narrow
- Know the difference between “making a threat” and “posing a threat”