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BLOGS

Archive;Discrimination

The Moving Target of Reasonable Accommodation

For many years now, employers with more than 15 employees have had a legal duty to make “reasonable accommodations” that allow qualified workers with disabilities to successfully perform their jobs. Such accommodations – everything from ramping stairs to TTYs to adjusted work hours – are meant to level the playing field. There are limits to this mandate, of course: employers may not be asked to suffer “undue hardship” in order to provide accommodations. Courts and commentators have written millions of pages about what’s reasonable and what’s an undue hardship, but in the end it’s always a fact-specific analysis. The question that has to be answered, each time a worker with a disability seeks an accommodation, is whether this employer, under these circumstances, can reasonably be expected to provide this accommodation. There is lots of guidance available, but facts and circumstances always matter.

20 years ago, there were far fewer assistive technologies available. Even five years ago, voice recognition software, text-to-speech translators, real-time closed-captioning, touch-screen monitors, and sit-stand workstations, if they existed at all, were often prohibitively expensive. Making such accommodations available might well have been an undue hardship, even for large organizations. Today, such technology may be well within an employer’s means. Tomorrow, something that sounds revolutionary now may be readily available and may be a reasonable accommodation an employer is required to provide. For example, [exoskeletal technology can now be used to help employees perform physical tasks requiring strength or endurance.](#)

It’s important for employers to stay generally aware of the inventions and developments that can make their workplace accessible to talented workers with disabilities – but it’s not enough. Frequently, necessary accommodations are not high-tech. An American Sign language interpreter, or a table lowered 8 inches to allow seated work, don’t depend on technological advances. Adjusting work hours or reassigning non-essential duties may result in no cost at all to the employer. It’s critical for both employers and employees to remain flexible, open-minded, and creative as they work to eliminate barriers create workplace access.