

## **EMPLOYMENT DISCRIMINATION**



### **WHAT LAWS PROTECT EMPLOYEES WITH DISABILITIES?**

- Titles I & II of the Americans with Disabilities Act (“ADA”), The Colorado Anti-Discrimination Act, and Section 504 of the Rehabilitation Act

### **WHAT IS A DISABILITY?**

- A physical or mental impairment that substantially limits one or more major life activities of an individual, or
- A record of such impairment, or
- Being regarded as having such an impairment

### **WHAT ARE MY RIGHTS AS AN EMPLOYEE WITH A DISABILITY?**

- You have the right not to be discriminated against because of your disability
- You have the right to reasonable accommodations for your disability (however, you must be able to perform the essential functions of the job)

### **WHAT ARE REASONABLE ACCOMMODATIONS?**

- Changes in the work environment or the way things are usually done that give an employee *equal* employment opportunities
- Accommodations are considered reasonable if they are feasible and not an undue burden or fundamental alternation of the employer or its business
- Accommodations may be needed during the application/interview, to perform essential functions of the job, and for the enjoyment of equal terms, conditions, and privileges of employment

### **WHEN MUST AN EMPLOYER MAKE A REASONABLE ACCOMMODATION?**

- When an employer knows an employee has a disability, unless the employer can show that accommodations would cause an undue financial burden or hardship on the operation of its business, or that providing the accommodation would pose a direct threat to the health or safety of the employee or others

### **WHAT IS THE PROCESS FOR REQUESTING & CREATING REASONABLE ACCOMMODATIONS?**

- The employee requests accommodation (this may be oral or in writing)

- Employer and employee engage in a productive and interactive exchange to determine the appropriate accommodations – this process is individualized and will vary from person to person
- Accommodations must be provided so as to enable the employee to perform the essential functions of the job (but the accommodation need not be the employee’s first choice)

### **WHAT SHOULD I DO IF I BELIEVE I WAS DISCRIMINATED AGAINST?**

- You have the right to file a charge of discrimination with the Equal Employment Opportunity Commission or Colorado Civil Rights Division, but it is a good idea to pursue alternative routes first, such as union advocacy, the employer’s ADA coordinator, internal process, negotiation or mediation
- Be sure to know the deadlines for filing – if you miss a deadline, you may lose your right to file a claim or charge
  - **CCRD:** Must file with in **180 days** from the date of discrimination
  - **EEOC:** Must file within **300 days** from the date of discrimination
- Be aware that you may have mandatory prerequisites that must be completed prior to these deadlines, and that these prerequisites may be required to occur within a few days after the date of discrimination

### **WHAT IS THE PROCESS FOR FILING A CHARGE OF DISCRIMINATION WITH EEOC/CCRD?**

- Be prepared to provide the who, what, where, when, and how of discrimination
- After you file, you will be assigned a charge number – you should call to get this number for later reference
- An investigator will have primary responsibility for handling your complaint
- Your employer will have an opportunity to respond to your allegations of discrimination
- You may be required to submit additional information
- You may be offered the chance to mediate, but both you and the employer must voluntarily agree to mediation
- After the investigation is complete, EEOC/CCRD will determine if there is “cause” or “no cause” to believe discrimination occurred
- If you receive a “Right to Sue” letter, you may file a complaint of discrimination in state or federal court, but *must* do so within 90 days from the date of the letter

### **WHAT IF I STILL HAVE QUESTIONS ABOUT EMPLOYMENT DISCRIMINATION?**

- Please contact Disability Law Colorado at (303) 722-0300 for a copy of their ***Employment Information Packet***

**\*\*\* DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only. Always consult a lawyer if you have questions about your legal rights. \*\*\***

#### References:

Disability Law Colorado – [www.disabilitylawco.org](http://www.disabilitylawco.org)

Equal Employment Opportunity Commission – [www.eeoc.gov](http://www.eeoc.gov)

Colorado Civil Rights Division – [www.dora.state.co.us/civil-rights/complaints\\_process.html](http://www.dora.state.co.us/civil-rights/complaints_process.html)