PROTECTIONS AGAINST EMPLOYMENT DISCRIMINATION

Individuals with Autism Spectrum Disorder (ASD) can make great employees. However some individuals never have the opportunity to succeed at employment because of discrimination in the workplace.

The Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 both prohibit discrimination in employment. (They prohibit other forms of discrimination as well.) The ADA applies to state and local governments and to private employers with 15 or more employees. The Rehabilitation Act applies to the federal government. Under these laws, disability discrimination occurs when an employer treats a qualified employee or job applicant unfavorably because of a disability.

In order to be protected by the ADA and Rehabilitation Act, a person must be qualified for the job and have a disability. A person is considered disabled if he or she has a physical or mental condition that substantially limits a major life activity, for example, ASD. (Individuals who are thought to have a disability and individuals with a history of past disability are also protected.)

As defined by the law, “substantially” should be construed broadly, and it does not mean that a person’s disability must be “severe” or that a life activity must be “significantly restricted.” Even a minor impairment may qualify a person. With the exception of corrective lenses, the determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures, such as medication or assistive technology.

Major life activities include, but are not limited to: caring for oneself, performing manual tasks, communicating, learning, reading, concentrating, thinking, and working.

The ADA states that, “No covered entity shall discriminate against a qualified
individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.” (The Rehabilitation Act adopts the ADA’s language.) Discrimination can take the form of harassment, refusing to make reasonable accommodations to an otherwise qualified individual with a disability, or using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out individuals with disabilities (unless they are shown to be job-related for the position in question). Activities constituting harassment must be so frequent or severe that they create a hostile or offensive work environment or must result in adverse employment decisions, such as being fired, denied a promotion, or demoted. Teasing and isolated incidents are not considered harassment.

The ADA also protects people from discrimination based on their relationship with a person with a disability. The rationale for protecting those with a relationship to someone with a disability is to protect them from unfounded assumptions that the relationship would affect their job performance, due, for example, to needing to leave work to care for the person with a disability. These protections may benefit parents or spouses of individuals with ASD, in particular.

Related Articles:

- The Right to Accommodations in the Workplace

Additional Resources:

- Disability Discrimination from the Equal Employment Opportunity Commission (EEOC)
- EEOC Website
- The Americans with Disabilities Act
- The Rehabilitation Act of 1973
- An Autistic View of Employment

The Center for Autism Research and The Children's Hospital of Philadelphia do not endorse or recommend any specific person or organization or form of treatment. The information included within the CAR Autism Roadmap & trade; and CAR Resource Directory & trade; should not be considered medical advice and should serve only as a guide to resources publicly and privately available. Choosing a treatment, course of action, and/or a resource is a personal decision, which should take into account each individual's and family's particular circumstances.