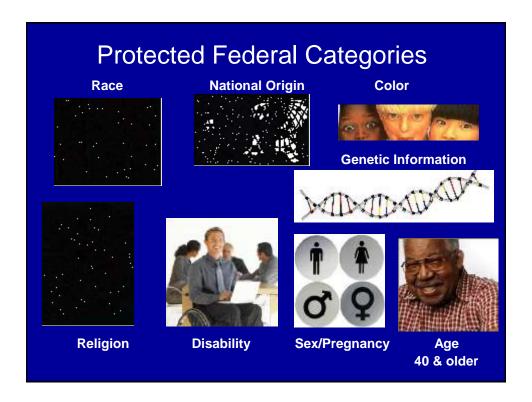
The ADA Amendments Act

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Equal Employment Opportunity Commission (EEOC)

 The key federal agency responsible for ensuring equal employment opportunity by enforcing federal laws prohibiting employment discrimination against individuals based on certain protected categories.



Other Federal Agencies (DOJ, DOE, HHS, DOL, etc.)

- Under Title II, a public school may not discriminate against individuals with disabilities.
- Under Title III, a private school is subject to the same restriction.
- Under Title IV, any institution receiving federal financial assistance may not discriminate against individuals with disabilities.

Definition of "Disability"

- A physical or mental impairment that substantially limits a major life activity;
- · A record of such an impairment;
- Being regarded as having such an impairment

Major Life Activities

These are basic activities that the average person in the general population can perform with little or no difficulty.

- Caring for Oneself
- Performing Manual Tasks
- Walking
- Seeing
- Hearing
- Speaking

- Breathing
- Concentrating
- Learning
- Working
- Sitting
- Standing
- Lifting

Major Life Activities (cont.)

 The term "major life activities" also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"Regarded As" Disabled

- Broader definition of "regarded as" disabled that would cover anyone subjected to an action "prohibited by this Act" because of a real or perceived physical or mental impairment
- "Regarded as" would exclude impairments that are transitory (less than six months) and minor
- Individuals "regarded as" disabled not entitled to reasonable accommodation

Job Applicants – Before a Job Offer is Made:

An employer may NOT:

- ask questions about an applicant's medical condition,
- nor require an applicant to have a medical examination before it makes a conditional job offer.

Job Applicants - After a Job Offer is Made

 Similarly, an employer may require a medical examination after making a job offer, as long as it requires the SAME medical examination of other applicants offered the same type of job.

Reasonable Accommodations

Any changes in the work setting that enable qualified workers to accomplish their tasks, without significant difficulty or expense.

Examples of Accommodations that are NOT Reasonable

- Eliminating essential functions of the job
- Lowering production standards
- Providing personal use items (e.g. prosthetic limb, eyeglasses, hearing aids, wheelchair, hot pot or refrigerator)
- Creating a job
- Promoting an employee
- Bumping another employee from his/her job

EEOC Coverage for Undocumented Employees

 EEOC and Castrejon v. Tortilleria La Mejor: despite the passage of IRCA in 1986, undocumented workers are covered by Title VII; Title VII makes no exception based on immigration status for workers in the U.S. and its territories

Retaliation: Attempts to Deport

- EEOC v. Queen's Medical Center: initiated deportation proceedings for national origin complaint, 4 years after hire of doctor; \$150,000 for retaliation
- EEOC v. Holiday Inn Express: employer reported workers to INS after they engaged in protected activity under NLRA and Title VII

Protective Orders to Stop Immigration Status Inquiry

 Rivera v. NIBCO: in national origin, termination case, court issued protective order to bar company lawyer's inquiry into immigration status, place of birth, place of education;