

Disability discrimination and osha laws



**ASSIGN
BUSTER**

Disability Discrimination and OSHA Laws Question Under the American Disabilities Act, there is no question that Davis has a disability. The American Disabilities Act defines a disability as a person who is limited in one or more major life activity. Hearing impairment qualifies under a limited major life activity. In this case, the Postal Service is claiming a defense of undue hardship.

The Postal Service would win with the undue hardship defense. The first basis of the Postal Service's undue hardship defense would be the unfeasibility of changing the phone system, not for just the Postal Service, but the community calling the Post Office. This would create an undue hardship for the Postal Service. The Postal Service could also claim that Davis is not qualified for the clerk position. Since she is deaf, Davis cannot answer the phone. That is a major requirement of the job. Under the American Disabilities Act, a disabled American must be qualified for the desired position.

Question 2

In the case of Halsey, as defined before by the American Disabilities Act, he is also disabled. The question becomes how disabled is Halsey? He could fail the vision test for a driver's license, but still see well enough to service vending machines. Coca-Cola Bottling Company hired him as a vending machine serviceperson. Since they hired him, one assumes he was qualified for the job.

The issue then becomes if it would be an undue hardship for Coca-Cola to accommodate Halsey. Coca-Cola is a large corporation, with almost unlimited resources. It would not be an undue hardship to provide transportation for Halsey, or even elect to have Halsey to service the

vending machines other employees bring back to the Coca-Cola plant. An accommodation could be reached between the two parties.

Question 3

In the case of Whirlpool, Whirlpool knows of the hazardous condition caused by the conveyor belt above the employees' work station. The wire mesh guard screen was placed to safeguard employees. The company policy is for the employees cleaning the mesh to stand on the wire frames. Not all of the items can be reached by standing on the wire frames, forcing the employees to stand on the wire mesh. Keller has a few options. Keller can stop doing a job he feels is dangerous. He can stop retrieving objects out of reach of the wire frame, due to the dangerous situation. If Whirlpool knows the job cannot be performed without going on the wire mesh, other safety measures should be put into place.

If Whirlpool demands Keller to do the job or else, Keller can call OSHA and become a whistleblower. When an employee becomes a whistleblower, the company must not discriminate against them. Until the situation is resolved, Keller should be allowed to do another job. The company would also be responsible for any safety measures OSHA deems necessary.

Question 4

OSHA has a general duty clause that states an employer must provide a safe working environment for their employees. OSHA also has laws about how specific chemicals are used. When General Dynamics used Trichloro for cleanup, they followed the OSHA created laws for Trichloro. Under these conditions General Dynamics could argue that OSHA should have done more research on Trichloro. They were only following OSHA's guidelines.

The first accident at General Dynamics could be excused, but any further

accidents should be General Dynamic's responsibility. Even though OSHA might not change their rules on Trichloro, General Dynamic is now aware of the danger. They must protect their employees under the general duty clause.