

PUBLICATION

Title VII and ADA May Apply to Domestic Violence, Sexual Assault and Stalking Victims

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In a series of Questions and Answers entitled, "Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking," the Equal Employment Opportunity Commission (EEOC) has asserted that Title VII of the Civil Rights Act of 1964 (Title VII) and the Americans with Disabilities Act (ADA) may apply to applicants and employees who are the victims of domestic or dating violence, sexual assault, stalking or sexual stereotyping.

In its Q&As, the EEOC includes as an example of unlawful behavior a hiring manager who fails to select a male applicant who obtained a restraining order against a male domestic partner, because the manager believes that "men should be able to protect themselves." It also includes an example of a supervisor who makes sexual advances toward an employee who recently was subjected to domestic abuse and is now living in a shelter.

Likewise, the Commission's Q&As remind employers that the ADA prohibits differential treatment or harassment based on an impairment which may result from domestic or dating violence, sexual assault or stalking. In addition, the EEOC advises that the ADA may require employers to provide reasonable accommodations for disabilities such as anxiety or depression stemming from a traumatic incident. Finally, the Q&As remind employers that the ADA prohibits the disclosure of confidential medical information.

The EEOC's guidance, when viewed in conjunction with its recent Draft Strategic Enforcement Plan, reveals that the agency is committed to utilizing Title VII to protect members of the Lesbian, Gay, Bisexual and Transgender community, as well as the ADA to require employers to accommodate pregnant employees.

If you have questions about how this new EEOC guidance may affect your business, please contact any of our more than 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.