

Bay Employers Troubled Over Disabilities Act

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Bay Area employers expressed concern yesterday that the landmark Americans With Disabilities Act could hamper their flexibility in making personnel decisions, depending on how narrowly or broadly the measure is interpreted.

When President Bush signed the act this summer, it was hailed as the most significant civil rights legislation in decades.

The statements made yesterday came in testimony before a panel from the San Francisco office of the Equal Employment Opportunity Commission, which is charged with promulgating regulations and guidelines on how to implement those portions of the statute.

The commission is holding hearings around the country and is expected to issue final regulations by July. Provisions of the act become effective the following year.

Representatives from Chevron, Wells Fargo and the University of California expressed strong support for the act but said they were troubled that it could leave them open to unfair charges of discrimination.

"It is important that the EEOC not pursue a claim of illegal discrimination without evidence that the employer knew of the disability beforehand," said William Hill, an affirmative action adviser for Chevron.

Carmen Estrada, director of affirmative action at the University of California, said that an employer may be negligent under state law if it rehires an injured employee for a position that exacerbates the injury.

But the employer could potentially be required to do just that under the federal disability bill, she said, so "these two bodies of law are on a direct collision course."

The act requires employers to make a "reasonable accommodation" for "qualified individuals with disabilities" unless an "undue burden" is placed on the employer. At issue for both employers and advocates for people with disabilities are how these and other terms are interpreted by the EEOC.

Jo Anne Frankfurt, a lawyer from the Employment Law Center, a public interest firm that represents workers, said that although the act incorporates a broad definition of disability and reasonable accommodation, some gray areas remain.

She said the EEOC should state specifically that the act covers people suffering from such syndromes as environmental illness, in which a person with allergies may become incapacitated by low levels of chemicals found in the workplace.

Cynthia Goldstein, a lawyer with the San Francisco Human Rights Commission, urged the EEOC to consider expediting the complaint and investigation process for those suffering from AIDS and other terminal or degenerative illnesses.

And Prudence Poppink, a lawyer with California's Fair Housing and Employment Commission, said the EEOC regulations should clearly state that employers cannot use an applicant's or worker's potential future disability as a factor in personnel decisions.

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