



Abogados & Notarios

RIGHTS OF HANDICAPPED PEOPLE AT WORK

RIGHTS OF HANDICAPPED PEOPLE IN COSTA RICA - EMPLOYMENT OF DISABLED PEOPLE -EQUAL OPPORTUNITIES - LAW 7600 - EMPLOYMENT AND LABOR LAW COSTA RICA - COSTA RICA CORPORATE LABOR LAW - By: Rogelio Navas Rodríguez, Esq., Costa Rica Labor Law Attorney - Under the Costa Rican Constitution, all people are considered equal and no discriminations should be made or allowed for any reason. Additionally, everyone has the right to work and move freely within the national territory. Of course, handicapped people are incumbents of these constitutional rights, which cover not only their private life, but also extend to their work. Law 7600 was issued precisely to guarantee equal opportunities for people with any kind of disability and provides that they have the right to obtain a job. It also states that if such an individual should meet all the requirements for certain position, the employer must not deny him or her the opportunity of applying for a position and being hired only by reason of his or her disability.

Additionally, all employers are obliged to guarantee all handicapped people access to all premises of the work place so that they have the same opportunities as anyone else of applying and being hired in any position. The lack of proper facilities that would allow a handicapped employee to access certain areas of his or her workplace can be considered a kind of discrimination. For instance, not having access ramps at the work place not only limits the ability of certain handicapped employees to move freely at the employer's premises, but may also imply that certain people may not be allowed to work for that company or that they may not be able to apply for certain positions, regardless of other abilities or capacities.

If the employer has already hired handicapped employees and any of them suffers an accident because the premises were not adapted to properly allow mobility, the employer may not only be found liable for the loses and damages resulting from such accident, but could also be criminally liable for the injuries suffered by the employee. Nevertheless, in order to consider that there has been discrimination or segregation of handicapped people, and to actually be penalized for not having all the necessary conditions to allow access and mobility of handicapped people within the employer's premises, at least one of the following circumstances must be present: 1) that the premises are open to the public's access (i.e. stores, supermarkets, shopping malls, government offices, etc.); 2) that there are actually handicapped employees working for the company or that someone was in fact, at some point, impeded from applying for a job because of the lack of proper premises or facilities; and 3) that an accident has indeed occurred. In simple words, it is necessary for someone to be actually affected by the lack of proper facilities for the employer to be at risk of being penalized. It must be kept in mind, however, that even when no one has been affected or injured as a result of a lack of proper conditions, such circumstance still represents a risk of someone being injured and a contingency in terms of being found responsible of discrimination.



It must be understood as well that ramps are not the only necessary facilities that an employer's premises must include to guarantee proper access to handicapped people. There must also be telephones installed at a maximum height of one meter (aprox. 3 feet), special sinks and toilets, security fences and handrails, and any other devices that guarantee safety and access to all services.

It is very important for all employers who are leasing their premises, or who are about to enter into a lease agreement, to know that landlords are currently obliged to provide all the necessary facilities in their buildings or constructions as to allow safe access and mobility of handicapped people, even if the premises were built before Law 7600 became effective. Said Law was issued in 1996 and, since then, all owners had a 10 year term to adapt their constructions to the needs of disabled people.

The main entity in charge of verifying compliance of all conditions for handicapped people at work is the Ministry of Labor; however, we must not forget that if someone feels that an employer is not complying with the law, a complaint before the "Defensoría de los Habitantes" (ombudsmen) or the Constitutional Court can be filed.

If you should need further information or assistance with this matter, please contact us at: rogelionavas@navaslaw.com or navas.rogelio@gmail.com.