## EMPLOYEE AND STUDENT RIGHTS

VICTORIA PIETRUSZKA, M.S.

DREXEL UNIVERSITY JD/PHD CANDIDATE
PERC THERAPIST



#### A FEW STARTING POINTS



**NOT LEGAL ADVICE!** 



WHAT ARE YOU MOST INTERESTED IN WALKING AWAY FROM THIS PRESENTATION WITH?



#### AGENDA

Introduction to Americans with Disabilities Act (ADA)

**Employment rights** 

**Employment & the ADA** 

**Education Rights** 

Education & the ADA





PROHIBIT DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES

Education

U.S.
Department
of Education

**Employment** 

U.S. Equal Employment Opportunity Commission (EEOC) Government Services

U.S. Department of Justice

U.S. Department of Health and Human Services (HHS)

# WORKERS' RIGHTS

\$	Fair pay	Minimum wage (\$7.25/hr)*
		<ul><li>Overtime pay</li><li>No less than time and a half after 40 hours in a</li></ul>
		workweek
~		
	Rest & meal periods	Short rest periods (customary) count as hours worked
	Family & Medical Leave	Employers of 50+ employees give up to 12 weeks
AIA	railing & Medical Leave	of unpaid, job-protected leave
ATA		
	Misclassification	Contractor or employee?
		Without a contract, employer can let an employee
31-1	Wrongful discharge/termination	go "at will" (varies by state)
		Unfair treatment based on protected characteristics
	Discrimination & Harassment	Reasonable workplace accommodations
		Retaliation



## EMPLOYMENT & ADA



#### Applies to covered entities



Disability:

Physical or mental impairment

•Substantially limits 1+ life activities Record of impairment

Regarded as having impairment



Qualified employee

With or without reasonable accommodation can perform essential functions of the job



Reasonable Accommodations

Must be provided unless an undue



#### MEDICAL EXAMS & INQUIRIES

## Employers cannot ask job applicants about

- Existence
- Nature
- Severity

#### Employers can ask about

Ability to perform specific functions

#### Conditional job offer

- Results of medical exam, but only if required for all employees in similar jobs (and must be job-related)
- Must keep medical records confidential\*

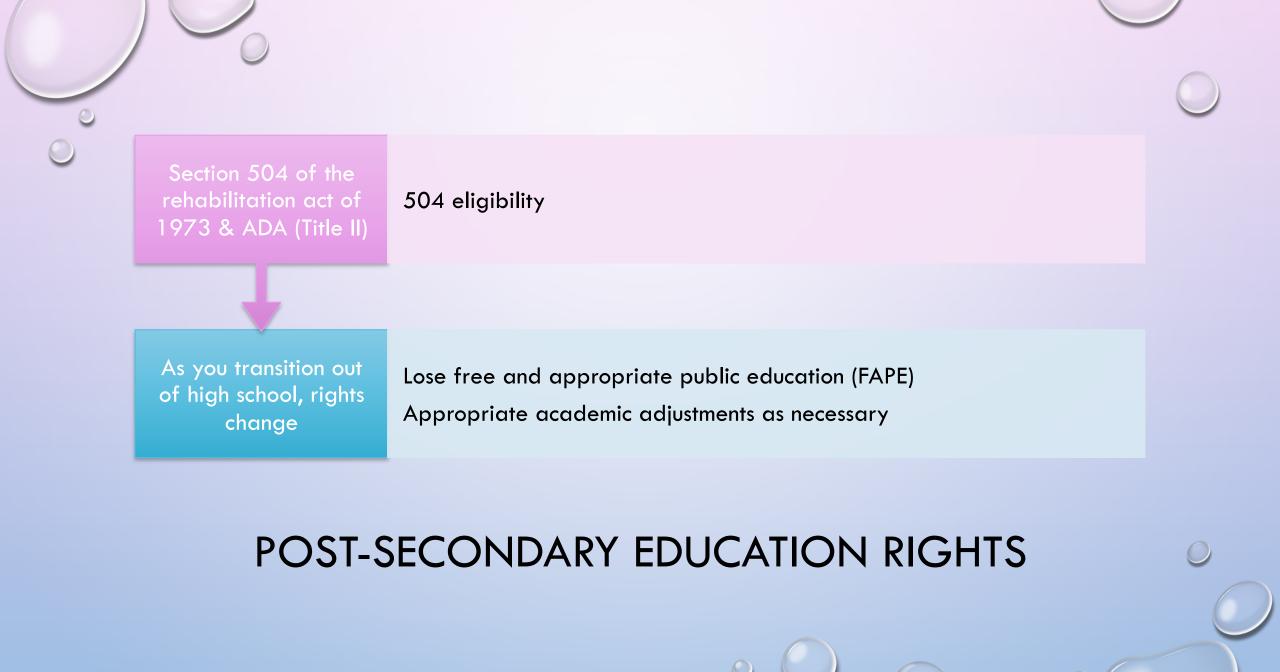
## REASONABLE ACCOMMODATIONS

#### Mental health conditions are covered

• What might be some reasonable accommodations?

#### Getting a reasonable accommodation

- Ask for one.
- Must be an interactive process!
- Employer must give you the reasonable accommodation\*





#### POST-SECONDARY ADJUSTMENTS

Identify self as having a disability & request academic adjustment May need to follow procedures Can request at any time May have to provide documentation School will review

### POST-SECONDARY ADJUSTMENTS - CONT'D

Expect an interactive process!

Adjustment Examples

## **QUESTIONS?**

