

Insubordinate employee ... or not?

Problem: An employee with bipolar disorder becomes angry with you during a meeting in which you provide some constructive criticism of her work. When she gets up to leave the meeting, you tell her that she cannot leave until you are finished discussing her work. She curses at you and leaves anyway. You fire her, the same punishment given to any employee who is insubordinate. If the employee's behavior was caused by her bipolar disorder, is the termination a violation of the Americans with Disabilities Act?

Answer: No. Employees with disabilities may be held to work rules that are job-related and consistent with business necessity, even if their disability caused them to violate the rule. Guidelines issued by the U.S. Equal Employment Opportunity Commission state that "ertain conduct standards that exist in all workplaces and cover all types of jobs will always meet this standard, such as prohibitions on violence, threats of violence, stealing or destruction of property. Similarly, employers may prohibit insubordination towards supervisors and managers..."

Since the employee had not requested an accommodation for her disability prior to the termination decision, the termination can stand. Even if the employee requests a reasonable accommodation for the future (e.g., permission to leave the premises if she feels that the stress may cause her to engage in inappropriate behavior), the ADA does not require employers to rescind a termination decision that was made prior to the accommodation request.