

Second Circuit Clarifies Standard for Reasonable Accommodation Requests Under the ADA

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The Second Circuit's decision in *Tudor v. Whitehall Central School District* is a significant ruling that clarifies the standard for reasonable accommodation requests under the Americans with Disabilities Act (ADA).

This decision is significant because it establishes that an employee may qualify for a reasonable accommodation even if they can perform the essential functions of their job without the accommodation.

This ruling has important implications for employers, particularly in New York, Connecticut, and Vermont, as it emphasizes the need for employers to carefully evaluate accommodation requests and not deny them solely based on the employee's ability to perform their job without the accommodation.

Case Background

The plaintiff, a teacher for the Whitehall Central School District (Whitehall), had long suffered from post-traumatic stress disorder (PTSD) related to sexual harassment and sexual assault she experienced at a former workplace. In 2008, the plaintiff sought and received an accommodation from Whitehall permitting her to leave the school's campus for a 15-minute break during her morning and afternoon "prep periods," when she was not responsible for overseeing students.

In 2016, following a change to the school's administration, a new policy was instituted prohibiting teachers from leaving school grounds during prep periods. When the plaintiff attempted to leave campus during her prep periods, she was reprimanded for insubordination. She was also informed that the documentation that Whitehall had on file was insufficient to establish her right to a reasonable accommodation. The plaintiff took paid sick leave and then requested leave for the fall semester under the Family and Medical Leave Act (FMLA).

When the plaintiff returned from her FMLA leave in January 2017, Whitehall allowed her to have her morning and afternoon breaks if a school librarian could watch her students. This arrangement lasted through the 2017-2018 and 2018-2019 school years.

However, during the 2019-2020 school year, no staff members were available to cover the plaintiff's afternoon study hall so she could take her 15-minute break. Nonetheless, the plaintiff left campus for her break on 91 out of 100 school days. The plaintiff claimed that her violation of the school's policy heightened her anxiety.

Lawsuit

The plaintiff sued Whitehall for failure to accommodate her disability in violation of the ADA. During discovery, the plaintiff admitted that she was able to "perform the essential functions of her job" without an accommodation.

Case Decision

District Court's Ruling

The Northern District of New York granted summary judgment for Whitehall on the plaintiff's failure to accommodate the claim. The district court held that because the plaintiff admitted that she was able to perform the essential functions of her job without an accommodation, she was unable to establish the third element of her failure to accommodate the claim.

Issue on Appeal

The issue before the Second Circuit was whether the plaintiff's ability to perform the essential functions of her job without a reasonable accommodation was fatal to her failure to accommodate her claim under the ADA.

Second Circuit's Ruling

The Second Circuit vacated the district court's judgment and held that an employee may qualify for a reasonable accommodation even if they can perform the essential functions of their job without the accommodation.

To establish a prima facie case for failure to accommodate under the ADA, a plaintiff must show that: (1) her employer is subject to the ADA; (2) she was disabled within the meaning of the ADA; (3) she was otherwise qualified to perform the essential functions of her job, with or without reasonable accommodation; and (4) her employer refused to make a reasonable accommodation.

In reaching its decision, the court relied on the plain text of the ADA and found that the district court's holding did not align with the ADA's plain text. The ADA defines a **"qualified individual"** as an "individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individuals hold or desires."

The Second Circuit determined that "[u]nder a straightforward reading of the phrase 'with or without,' the fact that an employee can perform her job responsibilities without a reasonable accommodation does not mean that

she must: she may be a ‘qualified individual’ entitled to reasonable accommodation even if she can perform the essential functions of her job without one.”

Therefore, the court rejected that an accommodation must be strictly necessary for an employee’s performance of the essential functions of their job to be required under the ADA. The court found that absent undue hardship, an employer must offer a reasonable accommodation to an employee with a disability if that employee is capable of performing the essential functions of her job with or without the accommodation.

The court then cited decisions entered from other federal appellate courts that reached the same conclusion, including the First, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits.

Takeaways

Employers in New York, Connecticut, and Vermont should reexamine their process for evaluating reasonable accommodation requests under the ADA.

Absent undue hardship, employers should not deny an employee’s reasonable accommodation request because the employee is able to perform the essential functions of their job without an accommodation.

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