

Federal Court: Teacher's Anxiety About Losing her job was an ADA Disability

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Could an employee's anxiety over the possibility of being fired be a disability under federal law? Yes it can, according to one federal court in South Dakota.

In an opinion issued late last month in the case of [Huiner v. Arlington School District, et al., Case No. 11-4172-KES \(D.S.D. Sep. 26, 2013\)](#), the judge specifically ruled that an employee's severe anxiety after she was placed on a performance improvement plan qualified her as disabled under the Americans with Disabilities Act (ADA), and that her employer, therefore, may have violated the law by not accommodating her anxiety. The decision suggests a tricky new form of ADA liability for employers — failure to accommodate an employee's anxiety caused by the employer's own scrutiny of the employee's performance.

The case involved a K-12 art teacher whom the administration felt was displaying a negative attitude and poorly managing her class. The teacher was placed on a 4-month "plan of assistance" designed to help her improve, including close scrutiny of her work and frequent classroom observations. As a result of the program and her fear of losing her job, the teacher developed extreme anxiety that affected her eating, sleeping, and ability to care for her children. She, therefore, obtained a letter from her physician recommending 13 job modifications intended to reduce her anxiety, including several modifications to the plan of assistance itself, such as reduced classroom observation and permission for the teacher to "walk away from stressful confrontations with supervisors." The modifications were not made and, at the end of the 4-month plan of assistance program, the administration recommended that the teacher's contract not be renewed. The school board agreed and declined to renew her contract, citing "neglect of duty and poor job performance."

The teacher subsequently filed a lawsuit against the school district alleging, among other things, that the school had violated the ADA by failing to accommodate her anxiety. The school district filed a motion for summary judgment on the teacher's claim, arguing that she was not disabled under the ADA and that the requests she had made were not appropriate ADA accommodations. In a short decision, the court summarily rejected both of the school district's arguments and permitted the case to move forward to a jury trial. First, the judge performed a routine analysis and found that the teacher had presented "sufficient facts to make a *prima facie* showing that her anxiety constitutes a disability under the ADA," particularly in light of the "relaxed standards" for defining

disabilities imposed by the ADA Amendments Act of 2008. Notably, the judge made no reference whatsoever to the source of the teacher's anxiety, i.e., the plan of assistance program. Second, the judge found that the teacher's requests for job modifications – including her requests that the plan of assistance program be modified —were potentially reasonable accommodations that should have been addressed by the school administration. Again, the judge made no reference at all to the fact that the accommodations, if granted, would have affected the plan of assistance.

This decision will be greeted warmly by plaintiffs and their attorneys. Most likely, it also will lead to new and increased ADA litigation involving employees' anxiety stemming from fear of termination. Employers, therefore, need to take steps to avoid liability. Most importantly, all accommodation requests should be taken seriously – the school district, in this case, could very well have avoided this lawsuit by addressing each of the teacher's requests directly and promptly, either by providing the accommodation or explaining why it was not reasonable.

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Topics

ADA, Anxiety, Disability, South Dakota