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By the EdLawGroup at Lindabury

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Two Recent Rulings Involving ADA Accommodations

By Lisa M. Gingeleskie

“Essential Functions” in Job Descriptions Can Help Determine Reasonableness of ADA Accommodations Requests

A recent First Circuit Court ruling involving a Rhode Island school district highlights the importance of clearly identifying “Essential Functions” in job descriptions. In the case, *Francis v. Providence School Board*, the Court ruled that a teacher’s accommodation requests would pose an undue burden on the school because they conflicted with an essential function of the job description for the teacher.

In *Francis*, the plaintiff-teacher claimed that she had suffered from cervical spine and neck injuries, which interfered with her ability to stand, sit, and lift. She requested that the school board provide her with a full-time teacher’s aide and allow her to arrive a half-hour late to school each day. The district responded by affording the teacher a parking space closer to the school entrance, a locked storage area for her teaching material, and assistance by a custodian in lifting heavy objects. The district, however, refused to accommodate the teacher’s request to come into work a half-hour late each day because it would conflict with her ability to cover first period home room each morning and be available to students as they arrived for the day. The teacher responded by filing a lawsuit and claiming that the district discriminated against her by not accommodating her disabilities.

The Court ultimately determined that the teacher was not disabled within the meaning of the Americans with Disabilities Act (“ADA”). The Court further found that her requests would have “substantially alter[ed] the essential functions of [her] teaching job, which included covering first period home room each morning.” The effect of the Court’s ruling is to require employers to provide “effective” or “reasonable” accommodations only, and not necessarily the accommodation sought, when an accommodation is required. (➔)

Moreover, the accommodation is not required if it imposes an undue or unreasonable burden on the employer.

Qualifications and Experience of Experts Can Make a Difference

A recent decision by the South Dakota Supreme Court reinforced the importance of having a highly qualified and experienced expert when contesting an issue under the Americans with Disabilities Act (“ADA”). The case, *In Re: Reasonable Testing Accommodations of Terry Lee LaFleur*, ruled that a licensed psychologist with more experience in testing and ADA accommodations trumped a psychologist with fewer qualifications.

The plaintiff was attending law school when he began experiencing problems maintaining his academic standing. He was later diagnosed with attention deficit hyperactivity disorder and major depressive disorder and, in turn, the law school provided him with additional test taking time and a private testing room. After failing the bar examination three times, he was tested again and diagnosed with attention deficit disorder and a reading disorder. The plaintiff therefore requested the following accommodations from the South Dakota Board of Bar Examiners (“Board”), a four-day testing period, a private room, colored pens, scratch paper and testing only in the morning until early afternoon. When the Board refused to accommodate him in this manner, the plaintiff filed suit under Title II of the ADA.

In its defense the Board called upon a licensed psychologist and associate professor of psychology. The expert was also an author and consultant for 16 state boards of bar examiners, and was known for his presentations on the ADA. He testified that the plaintiff was entitled to extra time on his bar examination, but not to the extent to which it was requested. Rather, the Board’s expert felt that the only accommodation to which the plaintiff was entitled was one and a half the test-taking time and a private room.

The plaintiff’s side retained an expert that was a doctoral student and a licensed psychologist.

After evaluating the qualifications and testimony of these experts, the Court adopted the defense expert’s opinion over that of the plaintiff’s expert. In doing so, the Court noted that the defense expert was more “qualified, knowledgeable and experienced...in determining ADA accommodations for bar examinations.” Accordingly, the Court ruled in favor of the Board, finding that the plaintiff was entitled only to time and a half on his state bar examination. The Court rejected the remaining accommodation requests.



The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarrillo of the Education Law Group at edlawgroup@lindabury.com.

