

EEOC BRINGS CLAIM FOR TEACHER WHOSE DAUGHTER HAS A DISABILITY: 5 ANSWERS FOR EMPLOYERS ABOUT ASSOCIATION-BASED BIAS

Insights
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A recent lawsuit against a private school focuses on a lesser-known aspect of the Americans with Disabilities Act (ADA) and serves as a reminder that the law also protects employees and job applicants *who have a relationship with a person with a disability*. Specifically, the Equal Employment Opportunity Commission (EEOC) is asserting “associational discrimination” on behalf of a teacher who claims she was offered a less desirable role because of her daughter’s disability. While litigation has just begun and the school has not admitted to any wrongdoing, this lawsuit provides a good opportunity to explore the ADA’s lesser-known association provision. Here are the answers to your top five questions stemming from this case about associational discrimination.

1. What Happened in this Case?

The EEOC filed suit against Chesapeake Montessori School on behalf of a former teacher who claims the school discriminated against her because of her daughter’s disability. According to the complaint, which was filed in federal court in Maryland, the school offered her a non-faculty, non-teaching position for the 2021-2022 school year, rather than have her return in her role as a primary teacher. The EEOC claims that this staffing decision was made by the school due to concerns that the teacher would not be able to “fully commit to her teaching position in the upcoming year” because of her daughter’s disability. The EEOC is seeking monetary damages to compensate the teacher for lost wages, among other remedies.

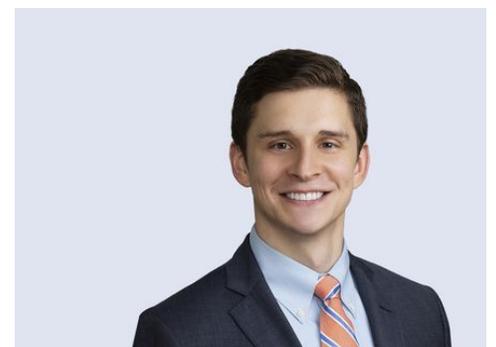
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Susan M. Guerette

Partner

610.230.2133



Brian Guerinot

Associate

713.292.5627

2. How Does the ADA Apply?

As you likely know, the ADA prohibits employers from discriminating against employees and job applicants based on a disability. The law applies to workers who themselves have disabilities, and it also protects employees and applicants who have a relationship with someone who has a disability. For example, if an employee's spouse or parent has a disability, the ADA would protect them, even though they themselves may not have a disability. Notably, the ADA does not mandate a familial relationship for an employee or applicant to be protected under the association provision. Rather, the ADA asks whether the employer, in making its adverse employment decision, was motivated by the employee or applicant's relationship with a person who has a disability.

3. What Employment Actions Are Unlawful?

An employer cannot take an adverse action based on unsupported concerns about the disability of a family member or other person with whom the employee or applicant is associated. The ADA prohibits an employer from terminating or refusing to hire someone because they associate with someone who has a disability, according to the EEOC. Employers also may not withhold promotional or other advancement opportunities or deny an employee benefits because of their relationship with a person who has a disability.

4. Do Employers Have to Provide a Reasonable Accommodation?

While employers have to provide "reasonable accommodations" to employees who have disabilities so they can perform the "essential functions" of their job, employers do not have to provide accommodations to employees because of their relationship to someone who has a disability. So, by way of example, the ADA does not require an employer to change its leave policy to allow an employee more time off to care for a spouse or parent who has a disability (although this leave may be covered by the Family and Medical Leave Act (FMLA) or similar state laws). The ADA only requires that employers treat employees the same, whether or not they have an association with a person who has a disability.

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5. How Can Employers Best Comply with the ADA's Association Provision?

It is important not to make assumptions about an employee's ability to perform their job because of their relationship with a person who has a disability. An employee may be caring for a family member but also may be a superstar employee who goes above and beyond.

Employers should do their best to measure and evaluate employee performance uniformly, regardless of any connections to a person with a disability. This is not to say that you need to make special allowances, but you should let actual, documented performance drive your decision making.

Conclusion

We will continue to monitor developments in this area and provide updates as warranted. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. Please consult your Fisher Phillips attorney, the authors of this Insight, or any attorney on [our Education Team](#) to obtain practical advice and guidance on this and other related topics.