

LEGALLY BLIND TEACHING APPLICANT DEEMED NOT QUALIFIED UNDER THE ADA: 3 LESSONS FOR SCHOOLS

Insights
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A school district in Texas recently prevailed in a failure-to-hire lawsuit when the court ruled that a legally blind applicant for a teaching position could not demonstrate that she'd have been able to manage student behavior. The federal judge deciding the case determined that the prospective teacher was not a "qualified individual" under the Americans with Disabilities Act (ADA), meaning she could not perform the essential functions of her job with or without a reasonable accommodation. This case provides another data point for schools – both private and independent – to use as they navigate the complex world of reasonable accommodations and the essential functions of teaching positions. What are the three biggest lessons you can learn from this case?

Legally Blind Applicant Sought Teaching Position

The Galveston Independent School District interviewed Suzonne Kakoolaki for a teaching position for the 2021-2022 school year. Following this virtual interview, the School District offered her a position as a sixth grade social studies teacher. Kakoolaki then disclosed that she had a visual impairment, but claimed that it would not have any effect on her ability to perform the essential functions of a classroom teacher. However, she is legally blind and cannot identify faces or read facial expressions.

During a second interview, a district employee allegedly asked her how she planned on hiding her blindness. And, during the third and final interview, district employees reviewed classroom expectations and the responsibilities

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that teachers have regarding classroom management, safety, and security. Kakoolaki believed that she could perform these essential functions with accommodations, such as advanced screen-reading software, a closed-circuit TV, a tablet, and a guide dog.

The district ultimately hired another applicant for the position, and Kakoolaki filed a lawsuit claiming that the school district had discriminated against her on the basis of her disability and that it had failed to reasonably accommodate her disability.

Court Sides With School District Because of Student Behavior Concerns

In an October 1 decision, the federal court in the Southern District of Texas ruled in favor of the school district on both claims, holding that Kakoolaki was not a “qualified individual” under the ADA. The court concluded that she was unable to perform an essential function of being a teacher – managing student behavior – with or without a reasonable accommodation.

To arrive at this conclusion, the Court analyzed what the essential functions of the position were, whether the applicant could perform these functions in spite of her disability, or, if she could not, whether a reasonable accommodation would have enabled the applicant to perform such essential functions.

Essential Functions of Position

The school district asserted that **managing student behavior and taking precautions to protect students** were essential functions of the teaching position.

Applicant’s Ability to Perform Functions

Citing Kakoolaki’s testimony in deposition, the court concluded that she was unable to perform these functions. It then turned to examine whether she would be able to perform them with reasonable accommodations.

Reasonable Accommodation Requests

The court first examined whether Kakoolaki’s proposed accommodation of having a **teacher’s aide** in the classroom with her was reasonable. The court concluded it was not a reasonable accommodation because it would essentially

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shift essential functions of the teaching position to another employee. Under the ADA, eliminating an essential function is never a reasonable accommodation.

The applicant also suggested that her **classroom could be videotaped** and that she could review the tapes after class to address any behavioral concerns. The court also rejected this accommodation, noting that student behavioral issues needed to be addressed in real time.

Alternative Arguments

Finally, the court discussed other essential functions of teaching: supervising hallways during classroom changes, and enforcing the dress code. Kakoolaki also conceded she could not perform these tasks. Instead, she offered to help teachers who performed these duties for her in other ways, such as helping them with administrative tasks. The court rejected this, noting again that it would be equivalent to reassigning essential duties to other employees.

Court Decision

Because the applicant could not present a reasonable accommodation that would allow her to monitor her classroom effectively, the court found that she did not meet the requirements of the ADA and thus could not prove her claims.

3 Lessons for Schools

- **Always engage in the interactive process:** It is critical to engage in the interactive process if an employee or applicant discloses that they have a disability. Certain accommodations are considered unreasonable in all circumstances, like being forced to hire an assistant to help a teacher manage their classroom. But in most cases, what is reasonable and what would allow an employee to perform the essential functions of their job is going to be a case-by-case determination.
- **Do not ask disparaging questions during an interview:** Even though the school won its lawsuit, the court found that the question asking the disabled applicant how she would “hide her disability” was direct evidence of discrimination. Because of this, the district was in a compromised defense position having to rebut allegations of discrimination. Make sure you train all personnel

involved in the interviewing process on the finer points of human resources do's-and-don'ts.

- **Classroom management is an essential teaching function:** Tasks such as being able to monitor students in real time to address student behavior, assess potential threats, and ensure adherence with academic honesty policies were all highlighted as examples of classroom management, which was determined to be essential to the role of a classroom teacher. All applicants, whether disabled or not, must be able to perform the essential functions of their position, with or without an accommodation. Schools never have to eliminate these functions to comply with the ADA. Consider updating your job descriptions to include aspects of classroom management as an explicit essential function.

Conclusion

Any teacher will tell you that the ability to manage the classroom is an essential part of teaching, and now schools have another court case to point to in support of that. As always, we will continue to monitor developments in this area of the law, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or [any member of our Education team](#).