



EMPLOYMENT BLOG

Attendance at Work May Not Be An Essential Function of a Job

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There have been a lot of court cases over the years that have acknowledged that attendance at work is a critical (and logical) essential function of someone's job. A recent decision by the Sixth Circuit Court of Appeals has raised a caution about this conclusion. In its decision, the Court of Appeals reversed a summary judgement granted to Wooster College and suggested that working full-time in person may not be an essential function of a Human Resource generalist employee of the College.

The Sixth Circuit, while not making a final decision, acknowledged that the College needed to make a "fact specific analysis" in the case of each position when arguing that full-time presence at work was an essential function of the job being performed by the employee. In this case, the facts suggested the employee was able to perform all of her tasks while working a part-time schedule, and in fact, was given a very glowing evaluation during the time she was working a partial schedule after conclusion of her 12 week maternity leave. The Court concluded that an employer cannot simply declare that a modified or partial work week is unacceptable, because of the normal expectation of working a full work week for all positions. The Court did not say an employer must always grant a partial work schedule accommodation request, but did direct that a specific analysis must be made whether or not such a request could result in a reasonable accommodation.

Employers are again cautioned that an analyses of an ADA reasonable accommodation request must be made on a case-by-case basis, and based upon the tasks of the particular position, the condition experienced by the employee and the work expectations of the employer. A failure to conduct that "fact specific inquiry" can result in a finding that the employer did not reasonably accommodate the employee with a disability.

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