

Employers Asserting “Essential Job Function” Defense Need a Clear Job Description

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Just a few months ago, we wrote about a case where a federal district court denied summary judgment to an employer who had asserted that attendance at work was an essential job function. The Court held that although regular attendance at work was set out in the job description, that was not enough to obtain summary judgment. In a slight twist, today we discuss a case in which the court focused on the adequacy of the job description itself and found it lacking. For that reason and others, it denied the employer’s motion for summary judgment.

In *Ammons v. Chicago Board of Education*, the dispute centered on Plaintiff’s plantar fasciitis and her request to sit for brief periods of time while working as a security officer in a troubled school. The school district wanted the Plaintiff to “walk constantly” and therefore denied her requested accommodation of a chair and desk where she could rest her feet for ten minutes of every hour. In her lawsuit the Plaintiff disputed that constant walking was an essential job function.

The School Board moved for summary judgment on the essential function issue. To determine whether constantly walking is an essential function, the court considered (1) the employee’s job description; (2) the employer’s opinion; (3) the amount of time spent performing the function, (4) the consequences for not requiring the individual to perform the duty, and (5) past and current work experiences.

The court concluded that there were material factual disputes concerning whether constant standing and walking are essential functions of the security officer position. The court turned first to the job description and noted that it did not specify how much standing and walking is required, leaving that specific issue open to interpretation. While the job description required security officers to perform sweeps and actively respond to fights or other issues in the school that threaten the safety of students, staff, and/or guests, the Court found that “it is not clear from the record that a security officer who sits for a few minutes each hour cannot perform these tasks. The Court also found that because one of the job description’s listed duties is “maintaining an orderly post and remaining at the post at all times unless otherwise directed by a supervisor,” this suggested that for some period of time the security officer is expected to remain in one stationary place.” The Court found, therefore, that the job description was not sufficient to carry the District’s burden under the first factor.

The Court also found the second factor—The Employer’s Opinion—to be inconclusive. The School

District relied on its policy (adopted three years prior to the claim) that all security officers would no longer be allowed to sit while on duty “because a seated security officer has reduced capacity to respond to security threats.” Notwithstanding this policy, the court found that because there was testimony in the record that other security officers had not been disciplined for occasionally sitting while on duty, there was “still a factual dispute about whether the administration at the school actually applied the policy to all security officers.”

Finally, the Court found that there were material questions of fact surrounding the final three factors.

This case serves as a reminder that job descriptions need to be reviewed regularly to make certain that essential functions are clearly spelled out and that the requirements are uniformly enforced with all employees. Although this will not guarantee success at the summary judgment stage, its absence will almost certainly make summary judgment very difficult.

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