

2nd Circ. Ruling May Aid Consistent Interpretation Of ADA

By **Michelle Grant** (April 23, 2025)

In *Tudor v. Whitehall Central School District*, the U.S. Court of Appeals for the Second Circuit had to decide whether the Americans with Disabilities Act requires an employer to provide a reasonable accommodation to an employee with a qualifying disability who is able to perform the essential functions of their job without an accommodation.[1]



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On March 25, joining the majority of other circuits, the Second Circuit held that an employee's ability to perform the essential functions of their job without an accommodation does not disqualify them from requesting and receiving an accommodation under the statute.[2]

The U.S. District Court for the Northern District of New York had initially disposed of the case. It granted the school district's summary judgment motion on the grounds that the teacher did not meet her burden of proof under the ADA, because she was able to perform the essential functions of her job without an accommodation, and therefore was not a qualified individual under the statute.[3]

The Second Circuit reversed the district court's ruling, vacated the judgment and remanded the case back to the district court based on its plain reading of the ADA, clarifying that a "qualified individual" under the statute is one who can perform the essential functions of their job with or without a reasonable accommodation.[4]

The court further explained that a qualified individual's ability to perform the essential functions of their job is relevant to their failure-to-accommodate claim, but that the necessity of the requested accommodation, as it relates to their ability to perform, is not dispositive.[5]

For employers, the court's ruling underscores the importance of carefully and thoroughly applying the ADA's requirements regarding reasonable accommodations.

Background

Plaintiff Angel Tudor was a longtime employee of the defendant, Whitehall Central School District.[6] She worked as a substitute teacher for Whitehall for approximately 20 years, with her most recent position being a high school math teacher.[7]

According to the complaint, Tudor suffered from severe post-traumatic stress disorder for decades and Whitehall granted her a reasonable accommodation in 2008.[8]

The accommodation allowed her to take two 15-minute breaks when she had no scheduled responsibilities related to the students — one in the morning and one in the afternoon.[9] These breaks enabled her to remove herself from her work environment in order to effectively manage her PTSD.[10]

Tudor's therapist recommended the accommodation in conjunction with medication and therapy to manage her PTSD-related complications, which stemmed from sexual assault and

harassment from a supervisor at her previous employer.[11]

Tudor's accommodation became an issue after there was a change in the school's administration in 2016, and it implemented a policy that banned teachers from leaving school grounds during study hall periods.[12]

Based on this new policy, Tudor was granted a morning break but was only afforded an afternoon accommodation when the librarian or another member of the school's staff was available to relieve her.[13]

However, during the 2019-2020 school year, the time period at issue in this case, Tudor was often left without relief for her afternoon break.[14] As a result, she resorted to leaving the school for 15 minutes in the afternoon without authorization, which Tudor said increased her anxiety.[15]

Tudor was subsequently reprimanded for leaving the premises because the school's administration found that the documentation on file supporting her accommodation was insufficient.[16]

Tudor then filed a failure-to-accommodate case under the ADA, claiming that Whitehall failed to provide her with consistent afternoon relief so that she could maintain her accommodation by way of an afternoon break.[17]

Since Tudor admitted during discovery that she could perform the essential functions of her job without an accommodation, although it was "under great duress and harm," the district court granted Whitehall's summary judgment motion.[18]

There, the district court found that Tudor failed to meet the third prong of her prima facie case of discrimination — i.e., the ability to perform the essential functions of her job as a teacher without a reasonable accommodation.[19] Tudor appealed.[20]

Second Circuit Considerations and Findings

The Statute

Under the ADA, employers are prohibited from discriminating against a qualified individual based on their disability, concerning that employee's terms, conditions or privileges of employment.[21]

The statute defines "disability" as any "physical or mental impairment that substantially limits one or more major life activities" and includes documented impairments, as well as individuals whose employers perceive them as having an impairment.[22]

Here, "substantially limits" is broadly construed to be more inclusive than exclusive, and is based on a comparison between the qualifying individual and members of the general population.[23]

According federal regulations, "substantially limits" does not require that the disability "prevent, or significantly or severely restrict" the ability to perform any major life activity, but rather that it noticeably affects an individual's ability to perform at least one major life activity in a way that disadvantages them compared to an ordinary member of the public.[24]

According to the statute, "major life activities" refers to any task or series of tasks that support an individual's ability to exist or to perform basic daily life functions.

This includes, but is not limited to "caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working," and major bodily functions, such as immune, reproductive, respiratory, neurological, circulatory, and other related physical or mental bodily function.[25]

Applying the above definitions to a failure-to-accommodate case, the statute prohibits failing or refusing to accommodate "the known physical or mental limitations" of an employee who meets the statute's definition of a "qualified individual," absent proof that doing so would pose an undue hardship on the employer.[26]

The statute defines a "qualified individual" as a person "who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires." [27]

A reasonable accommodation, pursuant to the statute, can include making existing facilities that are used by employees readily accessible to, and usable by, individuals with disabilities, job restructuring, reduced or altered work schedules, and other similar accommodations necessary to facilitate equitable access to persons with disabilities.[28]

In the context of an ADA-sufficient reasonable accommodation, an undue hardship is any overly burdensome action imposed on an employer in order to facilitate the requested accommodation, measured in terms of expense and difficulty against the employer's type of business and available resources.[29]

Analysis

A prima facie case for failure to accommodate under the ADA requires a plaintiff to prove by a preponderance of the evidence that the employer is a covered employer, the plaintiff suffers from a covered disability, the plaintiff was qualified to perform the essential functions of the job with or without accommodation, and the employer failed or refused to provide a reasonable accommodation.[30]

An employer is excused from providing any accommodation that poses an undue burden on the employer.[31]

In the Tudor case, the Second Circuit found that the district court's interpretation of a qualified individual — i.e., an employee who can perform the essential functions of their position with accommodation — was misaligned with the plain language of the ADA.[32]

The Second Circuit also found that the district court failed to apply each element required to prove a prima facie case of a failure-to-accommodate claim in Tudor's case against Whitehall.[33]

The court's analysis of the district court's application of the ADA found that the district court's ruling was based on a presumption that Tudor had a qualifying disability.[34] This presumption caused the district court to find that Whitehall's directive that Tudor cover study hall in the afternoons infringed on her reasonable accommodation.[35]

The lower court nevertheless concluded that no reasonable fact finder could resolve that

Tudor could establish the third element of her prima facie case because she was able to perform the essential functions of her job without her afternoon breaks, as she had done on a number of occasions.[36]

In reversing the district court's decision, the Second Circuit rejected that conclusion. The district court's findings amounted to an interpretation of the ADA that a reasonable accommodation must be strictly necessary before an employee can be granted a work accommodation.[37] The Second Circuit disagreed.[38]

The Second Circuit Decision

The Second Circuit, applying a literal interpretation of the ADA, reasoned that the terms "with or without" meant "the fact that an employee can perform her job responsibilities without a reasonable accommodation does not mean that she must." [39]

According to the Second Circuit, an employee is a qualified individual under the statute and is entitled to a reasonable accommodation "even if she can perform the essential functions of her job without the accommodation." [40]

The Second Circuit found that the ADA's language was unambiguous in this regard and not subject to any other reasonable interpretation.[41]

The Second Circuit acknowledged that the majority of circuit courts have already considered this very issue — whether a plaintiff's ability to perform the essential functions of their job without an accommodation extinguished their failure-to-accommodate claim under both the ADA and the Rehabilitation Act of 1973.[42]

The Second Circuit readily joined the circuit majority.[43] The interpretation and application of the ADA's plain text here easily could have resolved the appeal, according to the Second Circuit.[44]

The court reiterated the ADA's original mandate to eradicate disability discrimination, while simultaneously providing a gentle reminder that complete elimination of all disability-related shortcomings is not required under the statute.[45]

Applying these findings to Tudor's case, the Second Circuit found that the district court improperly disposed of her failure-to-accommodate case, based on the fact that she was able to perform the essential functions of her job without accommodation.[46]

The Second Circuit held that the district court's interpretation of a qualified individual included a requirement that the 15-minute breaks be strictly necessary to Tudor's ability to perform the essential functions of her job as a math teacher, which was contrary to both the plain language of the ADA and Congress' intent behind creating the statute.[47]

The court further held that, while weight should be given to Tudor's admitted ability to teach without the accommodation, it cannot be a dispositive consideration that extinguishes her failure-to-accommodate claim because doing so violates the plain text of the ADA.[48] The court ruled that Tudor met this definition and thus established the third prong of her case.[49]

The Second Circuit remanded the case to the district court for further proceedings consistent with its ruling, in addition to considering whether Tudor suffered from a qualifying disability under the ADA, whether her requested accommodation was reasonable

and whether the accommodation would pose an undue hardship on Whitehall.[50]

Conclusion

The significance of this ruling is twofold. First, the definition of a "qualified individual" has been clarified to be in direct alignment with the plain language of the ADA and for consistent application by courts within the circuit.

Second, the court joins the majority of circuits in its application of the ADA's definition of a "qualified individual" as a person who can perform the essential functions of their current or prospective job with or without a reasonable accommodation.

The following are some best practices for employers and practitioners reviewing accommodation requests.

Before engaging in the interactive process, establish whether the requesting employee meets the ADA's definition of an individual with a qualifying disability, i.e., a person who can perform the essential functions of their job with or without a reasonable accommodation, which was a key takeaway from the Tudor case.

If the employee has a qualifying disability, consider the reasonableness of the request — whether it essentially constitutes a request to create a new position, fails to state a tangible duration or consists of a simple arrangement that will meet the employee's request, such as creating an alternative work schedule or providing specialized work equipment.

Employers and practitioners should also suggest comparable accommodations as an alternative for unreasonable accommodation requests.

Additionally, determine whether the request poses an undue hardship on the employer. For example, will the request require costly or substantial alteration of the employer's current operations?

Further, make a good faith attempt to reasonably accommodate the employee, unless faced with undue hardship, and promptly inform the requesting employee in writing if the request poses an undue hardship.[51]

Lastly, and importantly, communicate early and often concerning the accommodation request, preferably in writing, to guard against potential constructive denial or constructive failure-to-accommodate claims.[52]

By becoming the ninth federal appellate court to adopt a literal interpretation of a qualified individual, the Second Circuit's decision is a notable step toward a uniform application of the ADA nationwide. This will help eliminate the general confusion and irregular interpretation surrounding the ADA, particularly for multistate employers and practitioners.

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[1] No. 23-665-cv, 2025 U.S. App. LEXIS 6879 (2d Cir. Mar. 25, 2025).

[2] *Id.* at fn. 2 (citing notable circuit court cases comprising the majority position including *Hill v. Assocs. for Renewal in Educ., Inc.*, 897 F.3d 232, 239, 437 U.S. App. D.C. 379 (D.C. Cir. 2018); *Bell v. O'Reilly Auto Enters., LLC*, 972 F.3d 21, 24 (1st Cir. 2020); *Feist v. Louisiana*, 730 F.3d 450, 453 (5th Cir. 2013); *Gleed v. AT&T Mobility Servs., LLC*, 613 F.App'x 535, 538 (6th Cir. 2015); *Hopman v. Union Pac. R.R.* 68 F.4th 394, 402 (8th Cir. 2023); *Buckingham v. United States*, 998 F.2d 735, 740 (9th Cir. 1993); *Sanchez v. Vilsack*, 695 F.3d 1174.1182 (10th Cir. 2012); *Beasley v. O'Reilly Auto Parts*, 69 F.4th 744, 757 (11th Cir. 2023)(internal quotations omitted).

[3] *Id.* at *2-3.

[4] *Id.* at *2-3, *12-13.

[5] *Id.* at *2-3, *12-13.

[6] *Id.* at *3.

[7] *Id.* at *3.

[8] *Id.*

[9] *Id.*

[10] *Id.* at *4.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.* at *4-5.

[15] *Id.* at *5.

[16] *Id.*

[17] *Id.* at *5-6.

[18] *Id.* at *6.

[19] *Id.* (citing *Tudor v. Whitehall Central Sch. Dist.*, 2023 WL 2587946, at *3 (N.D.N.Y., Mar. 21, 2023).

[20] *Id.*

[21] *Id.* at *7 (citing 42 U.S.C. §12112(a)).

[22] 42 U.S.C. § 12102(1).

[23] 29 C.F.R. § 1630.2(j).

[24] *Id.*

[25] 42 U.S.C. § 12102(2).

[26] *Id.* at *8 (citing 42 U.S.C. § 12112(b)(5)(A)).

[27] *Id.* (citing 42 U.S.C. § 12111(8)) (emphasis added).

[28] 42 U.S.C. § 12111(9).

[29] 42 U.S.C. § 12111(10).

[30] *Id.* (citing *Woolf v. Straada*, 949 F.3d 89, 93 (2d Cir. 2020) (per curiam)).

[31] *Id.* at *8 (citing 42 U.S.C. § 12112(b)(5)(A)).

[32] *Id.* at *8.

[33] *Id.* at *6.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.* at *11.

[38] *Id.* generally.

[39] *Id.* at *9.

[40] *Id.*

[41] *Id.* at *10.

[42] *Id.* at *9.

[43] *Id.* at *9-10.

[44] *Id.* at *10.

[45] *Id.* (citing *Noel v. N.Y.C. Taxi & Limousine Comm'n*, 687 F.3d 21, 24 (1st Cir. 2020), and *Id.* at *12. (citing *Fink v. N.Y.C. Dep't of Pers.*, 53 F.3d 565, 567 (2d Cir. 1995)).

[46] *Id.* at *2.

[47] *Id.* at *10.

[48] *Id.* at *2-3,12-13.

[49] Id. at *2.

[50] Id. at *13.

[51] U.S. Equal Emp. Opportunity Comm'n, EEOC-CVG-2003-1, Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA(2002).

[52] An employer's intentional delay in providing a reasonable accommodation predicated on a discriminatory motive. Tudor v. Whitehall Cent. Sch. Dist., 2022 U.S. Dist. LEXIS 122299, at *5 (N.D.N.Y. Jul. 12, 2022) (Tudor's underlying claim at the lower level included a constructive denial claim based on Whitehall's alleged resistance, failure, and/or four-month delay in responding to her reasonable accommodation request.).