

# Reasonable Accommodation of a Disability Does Not Require Elimination of an Essential Job Function

---

## Working Together

02.18.2015

The federal Americans with Disabilities Act prohibits discrimination in employment against a qualified individual on the basis of disability, and discrimination includes failing to make a reasonable accommodation. The Connecticut Supreme Court has recently ruled that the Connecticut Fair Employment Practices Act also imposes a reasonable accommodation requirement on employers, even though not explicitly stated in the statute. *Desrosiers v. Diageo North America, Inc.*, 314 Conn. 773 (decided December 16, 2014). [See my colleague Rachel Ginsburg's post about the case [HERE](#).]

However, reasonable accommodation is only required to assist a "qualified individual" to perform a job, and to be a qualified individual, an employee must be able to perform the essential functions of the job with or without accommodation. The employer has the right to define the functions of the job according to its needs, and is not required to dispense with essential job functions in order to accommodate an employee's disability. In other words, an employee may not force an employer to eliminate an essential function under the guise of reasonable accommodation.

So the first question in assessing an employee's request for a reasonable accommodation is whether the employee is asking for elimination of an essential job function rather than some modification which will enable the employee to perform the function. If the employee is asking to be relieved of the essential job function, the accommodation is *by definition* not reasonable. As one court decision stated: "A reasonable accommodation can never involve the elimination of an essential function of a job."

In a federal court decision recently affirmed by the Second Circuit Court of Appeals [and discussed by my colleague Mark Sommaruga [HERE](#)], a special education teacher who worked with potentially aggressive children and claimed to be disabled asked to be excused from participation in restraining activities, which happened infrequently and which the school was able to accommodate. However, the teacher then asked to be relieved of the obligation to work closely with children who can become aggressive, although even she admitted that two-thirds of her job involved the direct instruction of potentially aggressive children. The school declined to grant this "accommodation," and was upheld by the courts.

In effect, the teacher was asking the school to remove her from her job and find some other tasks for her to perform, presumably at the same rate of pay. She even suggested that she replace a colleague in a less strenuous position, but the courts ruled that reasonable accommodation can only include a possible

---

**[pullcom.com](http://pullcom.com)**  [@pullmancomley](https://twitter.com/pullmancomley)

**BRIDGEPORT**  
203.330.2000

**HARTFORD**  
860.424.4300

**SPRINGFIELD**  
413.314.6160

**WAKEFIELD**  
401-360-1533

**WATERBURY**  
203.573.9700

**WESTPORT**  
203.254.5000

**WHITE PLAINS**  
914.705.5355

## Reasonable Accommodation of a Disability Does Not Require Elimination of an Essential Job Function

---

reassignment to a *vacant* position, not displacing another employee.

The lesson to be learned is that an employer reviewing a request for a reasonable accommodation should determine if the request leaves the essential functions of the job in place. If so, the employer goes on to assess whether the requested accommodation is reasonable. But an employer need not redesign a job to be one that the employee can perform instead of the job that the employer needs done.

**Tags:** CT Fair Employment Practices Act (CFEPA), Reasonable Accommodation