

Possible Accommodation for "Regarded as"

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Reference Number: MTAS-1055

According to the Federal Register, in the final regulations from 2011, the commission added a new provision to the final regulations (o)(4) in § 1630.2(o) which states that a covered entity is not required to provide a reasonable accommodation to an individual who meets the definition of a disability solely under the "regarded as" prong (§ 1630.2(g)(1)(iii)). However, if the individual meets the "regarded as" prong and one or both of the other two prongs of the definition of disability, the employer is required to provide reasonable accommodations.

Impairments that are short term (six months or less) are considered transitory and do not fall under the "regarded as" part of the definition. For example, an employer may choose not to hire an individual for a temporary position due to impairment such as a sprained ankle because it would prevent the individual from being able to perform an essential function of the job for the next four to six weeks.

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