

Regular Attendance as an Essential Function

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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Courts have held that regular attendance is an essential function of many jobs. Therefore some cases of chronic absenteeism can prevent an employee from being able to perform the essential functions of the job. However, it is important to look at the individual's position and duties and determine how much absenteeism or leave can be accommodated. Courts have ruled that certain positions such as bank manager or restaurant manager simply require more regular attendance in order to be able to fulfill the essential job functions. If the severity of absences requires the organization to hire a new staff member, incur unreasonable overtime costs, it may not be a reasonable accommodation. Courts emphasize that there is no specific formula for determining length of leave as a reasonable accommodation. It is important to look at each position on a case-by-case basis.

Note: *Please use caution with using regular attendance as an essential function of the job. Some employers are under the false notion that adding a line to each job description listing regular attendance as an essential function means that they will not have to accommodate unprotected and extended absences.*

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