

Explain why you're adding essential functions

Business needs or employees' personal circumstances sometimes change, necessitating a revision of a job's essential functions to include additional tasks or qualifications.

What happens if that means the incumbent holding the job can no longer perform those essential functions—especially if she's disabled?

Recent case: Christine worked as a retail pharmacist at a Price Chopper grocery store. She developed an autoimmune disorder, but it didn't interfere with her ability to do her job.

The pharmacy business began to evolve. Price Chopper began providing immunization services for customers after New York state regulators approved immunizations by pharmacists in retail settings.

After an experimental trial, the company decided to require all pharmacists to get certified for immunization services. Christina objected. She was terrified she might accidentally suffer a needle stick and then require treatment to prevent infection. That treatment, she argued, might kill her. She requested a reasonable accommodation of not immunizing customers.

Price Chopper offered to transfer Christine to a technician position instead. Otherwise, she would be unable to perform the essential job function of administering immunizations. Christine rejected the offer and was terminated. She sued, alleging failure to accommodate.

But the court said Price Chopper was entitled to change essential job functions. In this case, it had clearly explained why it was necessary. Since no accommodation was possible, Christine's lawsuit was dismissed. (*Mainella v. Price Chopper*, ND NY, 2018)

Final note: Christina's husband, also a Price Chopper employee, complained about her treatment. Then he was terminated, too. He also sued, alleging retaliation for engaging in protected activity. The court said his retaliation claim could move forward.