



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Office of Federal Operations**  
**P. O. Box 77960**  
**Washington, D.C. 20013**

Memo to Federal EEO Directors  
December 26, 2023

Telework or Remote Work as a Reasonable Accommodation for a Disability

Many federal agencies increased the use of telework and remote work in response to the COVID-19 pandemic. As the critical phase of the pandemic ended, agencies required employees who had been working remotely or teleworking full-time to return to the workplace, whether full-time or part-time. Since then, many agencies continue to refine their telework and remote work policies, with some increasing the amount of time employees must spend in the workplace.

Against this backdrop, an increasing number of employees are requesting telework or remote work as a reasonable accommodation for a disability. These employee requests may seek additional days of telework beyond the agency's policy or full-time telework as a reasonable accommodation. Alternatively, these requests may seek remote work (reporting to an alternative worksite or working from home full-time) as a reasonable accommodation. See [What is remote work? - OPM.gov](#). EEOC has made clear that such requests do not need to be automatically granted<sup>1</sup> but it also has stated that an employee's experience teleworking in a particular position during the COVID-19 pandemic may be relevant evidence as to whether it is an effective accommodation for performance of all essential functions.<sup>2</sup>

Agencies cannot deny such reasonable accommodation requests from qualified individuals solely because employees seek telework or remote work beyond the agency's general policy. Telework and remote work have long been recognized as a form of reasonable accommodation under the Rehabilitation Act.<sup>3</sup> Furthermore, modifying workplace policies is a common form of reasonable accommodation.<sup>4</sup> Therefore, an agency's general telework or remote work policy is subject to modification (i.e., an exception) if a qualified employee requires remote work or additional days of telework as a reasonable accommodation for a disability, unless the agency can show that granting it would cause an undue hardship. Additionally, an agency cannot

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<sup>1</sup> See Question D.15. in What You Should Know About COVID-19, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

<sup>2</sup> See Questions D.16. in What You Should Know About COVID-19, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

<sup>3</sup> See Question 34 in the EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>; see also Work at Home: Telework as A Reasonable Accommodation, <https://www.eeoc.gov/laws/guidance/work-hometelework-reasonable-accommodation>.

<sup>4</sup> 29 C.F.R. 1630.2(o)(2)(ii).

refuse to provide remote work or telework as a reasonable accommodation solely because the agency's policy does not mention it as a possible exception to the policy. Also, the fact that the requested accommodation goes beyond what is permitted under the general policy is not sufficient, in itself, to show that remote work or additional telework would be an undue hardship.<sup>5</sup>

If granting telework/remote work as a reasonable accommodation will result in the employee being unable to perform one or more essential functions (such as use of equipment or tools that cannot be replicated at home), then an agency does not have to provide this form of reasonable accommodation under the Rehabilitation Act. (It may have to provide another accommodation, however.) In some instances where an increased amount of telework is requested as a reasonable accommodation, this may necessitate additional reasonable accommodations to ensure that all essential functions are performed. For example, if one essential function can only be performed in the workplace, an agency may be required as a reasonable accommodation to adjust when the employee will perform that function in order to grant telework as a reasonable accommodation (unless such an adjustment would cause an undue hardship).

As part of the Rehabilitation Act's interactive process, an agency may ask why the disability requires the amount of telework being sought and whether there are any other forms of reasonable accommodation that will meet the employee's disability-related needs.<sup>6</sup> If an employee seeks remote work as a reasonable accommodation, the agency may explore whether the disability-related needs can be met with a certain number of telework days (and perhaps additional forms of reasonable accommodation provided in the workplace).<sup>7</sup> If an agency has concerns about the efficacy of telework or remote work as a reasonable accommodation, but no firm evidence of undue hardship or inability to perform all essential functions with this accommodation, it may want to try the accommodation on a trial basis. If the individual successfully performs the position's essential functions during the trial period, then the agency should grant the accommodation. If remote work or telework alone does not permit performance of all the essential functions, then the agency should explore if there are

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<sup>5</sup> See generally the "Undue Hardship" section in the EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada#undue>.

<sup>6</sup> See generally Questions 5 and 6 in the EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>. See also Question 6 in Work at Home: Telework as A Reasonable Accommodation, <https://www.eeoc.gov/laws/guidance/work-hometelework-reasonable-accommodation>.

<sup>7</sup> See Question 9 in the EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>.

additional accommodations that, when combined with remote work or telework, would address the disability-related needs and allow performance of the essential functions.

Agencies should make clear these important legal considerations to all supervisors and managers who may be involved in assessing requests for telework or remote work as a reasonable accommodation. This is in addition to Disability Program Managers, Reasonable Accommodation Coordinators, Human Capital and EEO staffs, and any other key personnel who may play a role in handling requests for reasonable accommodation.

Finally, EEOC is aware that an increase in disability related requests for reasonable accommodation may cause delays in processing these requests. Agencies may wish to consider providing an interim accommodation<sup>8</sup> in such circumstances – including telework or remote work – if there is no indication that full performance of essential functions will be impacted.

If an agency has questions about telework/remote work as a reasonable accommodation, it may contact our team for further technical assistance. Our primary contact for this issue is Wendy Doernberg, Senior Attorney Advisor - [Wendy.Doernberg@eeoc.gov](mailto:Wendy.Doernberg@eeoc.gov) .

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<sup>8</sup> 29 C.F.R. 1614.203(d)(3)(Q); see also Questions D.7. and D.17. in What You Should Know About COVID-19, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.