

Telework: Is Forever a Reasonable Accommodation?

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Has the COVID-19 pandemic changed the reasonable accommodation standards under the Americans with Disabilities Act?

As employers reopen their physical locations, the Equal Opportunity Employment Commission this week [released guidance](#) that said simply because employers complied with Gov. Tom Wolf's business closure and telework orders during the pandemic, that does not mean companies must automatically grant every telework request going forward. Instead, the normal pre-pandemic ADA interactive process must be followed, considering the essential functions of the position and undue hardship concerns.

The EEOC's guidance specifically states that because employers permitted their employees to telework in order to help stop the spread of COVID-19, that "does not mean that the employer permanently changed a job's essential functions, that telework is always a feasible accommodation, or that it does not pose an undue hardship." These, according to the EEOC, are fact-specific determinations.

The topic has become a hot one as employers begin to open their physical locations to their employees once again. Employers are now asking whether the temporary move to telework during the pandemic requires them to grant every request to telework as a reasonable accommodation under the ADA going forward.

The EEOC's answer was strong on Tuesday. "The employer has no obligation under the ADA to refrain from restoring all of an employee's essential duties at such time as it chooses to restore the prior work arrangement, and then evaluating any requests for continued or new accommodations under the usual ADA rules," according to the guidance.

The ADA requires employers to provide disabled workers with "reasonable accommodations." But an employer is not required to eliminate an essential function of the position, nor grant an accommodation that poses an undue hardship. While employers may determine teleworking is an appropriate accommodation for some employees, the EEOC clarified Tuesday that employers are not required to automatically offer telework as an accommodation.

If you have any questions regarding reasonable accommodations during or post-pandemic, please [contact me](#) or any other member of the [Barley Snyder Employment Practice Group](#).