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Federal Agencies Offer Guidance on When Employers Must Allow Disabled Employees to Work from Home

This update discusses five key takeaways from the guidance that private sector employers should consider when assessing requests for telework as a reasonable accommodation.

On February 11, 2026, the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Office of Personnel Management (OPM) issued non-binding guidance, consisting of 20 questions and answers, to assist federal agencies in assessing telework as a reasonable accommodation for employees with disabilities under the Rehabilitation Act of 1973 (which applies to federal employees and contractors) and the Americans with Disabilities Act (ADA).

The guidance is directed to federal agencies to help them manage the federal workforce following the President's return-to-office directive and does not have the force of law. It does, however, reflect how the Administration interprets and intends to apply federal antidiscrimination law regarding reasonable accommodations. The following are five key takeaways from the guidance that private sector employers should consider when assessing requests for telework as a reasonable accommodation.

First, the guidance emphasizes that each request for telework should be assessed individually with a focus on whether telework as an accommodation enables the disabled employee to perform the essential functions of their job. As part of that inquiry, the guidance underscores the need for an "individualized assessment" for each request as opposed to a "blanket approach" of rescinding or denying all telework accommodations. The guidance indicates that each individualized determination must be fact specific and consider whether telework is the "*only*"

effective accommodation. The guidance explains that if there is more than one reasonable and effective option, an employer may choose an accommodation other than telework, including, but not limited to, offering "assistive devices, modified equipment, environmental modifications (sound, smell, light, etc.), job restructuring, modified or flexible work scheduling" or a "reduction in telework, combined with in-office accommodations."

Second, the guidance instructs that employers should engage in evidence-based decision-making. It stresses that employers are "entitled to sufficient information" from the employee to render an informed decision. This includes the ability to ask a health care professional about potential accommodation measures "and whether they would permit the employee to work in the office." According to the guidance, employers also need not "turn a blind eye" to evidence (such as public social media posts of outside-of-work activities) showing an employee does not need an accommodation or otherwise acted in bad faith in requesting one.

Third, the guidance recognizes that federal agencies—like many private-sector employers—granted telework accommodations for employees during the COVID-19 pandemic, often in tandem with temporarily relieving employees from certain essential job functions. Although the guidance specifically cautions "against revoking previously granted telework without first making an individualized determination," it also indicates that employers are allowed to reassess the continued need for an existing telework accommodation.

Fourth, the guidance addresses how to respond to employee requests for "telework due to anxiety or similar distress in the workplace," and emphasizes that neither the Rehabilitation Act nor the ADA "create a general right to be free from all discomfort and distress in the workplace, including anxiety." Instead, the guidance provides that the relevant inquiry is whether an employee's disability-related symptoms "impose a material barrier to the employee's ability to work in the office or enjoy a benefit or privilege of employment." If they do not, the guidance explains, a telework accommodation is not required.

Fifth, the guidance counsels that situational telework, which is "by its nature infrequent and conditional," might be appropriate during an employee's temporary illness or course of treatment, where temporary telework is preferable to a leave of absence. Similarly, the guidance states that although situational telework may not be required when an employee experiences periodic flare-ups of a condition (as an employer may choose between effective reasonable accommodations, including leave), an employer may choose to grant situational telework during a periodic flare-up "when the result is a net efficiency gain."

The following Gibson Dunn lawyers prepared this update: Jason Schwartz, Naima Farrell, Anna McKenzie, Benjamin Saul, and Emma Eisendrath.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. To learn more, please contact the Gibson Dunn lawyer with

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