

## Telecommuting: Is It Reasonable?

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Last week's [blog post](#) explored the interactive process between employers and employees when considering a job accommodation for an employee with a disability. But what happens if during the interactive process, an employee requests to telecommute? Can the request be denied if no other employees are permitted to telecommute? Well that depends on the nature of the employee's job and disability.

In considering the employee's request, employers should first determine what are the essential functions of the employee's job (i.e. those tasks that are required to perform the job) and whether they can be performed at home. Employers may want to specifically consider:

- The degree of supervision the employee's job requires and the ability to supervise the employee at home;
- Whether the employee needs access to special equipment that cannot be provided in the at-home setting; and
- The degree of face-time the employee needs to have with coworkers and customers.

### **When can an employer deny an employee's request?**

Employers can deny a request to telecommute if an essential function of an employee's job cannot be done from home. However, the inability to perform a minor, non-essential job duty at home is not a sufficient reason to deny the request. Instead, a minor duty can be reassigned to another employee and the disabled employee can be given a different minor duty that can be performed at home to keep work assignments balanced.

Employers are also not required to grant an employee's request to work from home if an effective alternative accommodation is available, such as altering the hours an employee works.

Additionally, employers do not need to allow an employee to telecommute if doing so creates an undue hardship. An undue hardship typically equates to significant difficulty or expense.

### **What if an employer already has a telecommuting policy in place and the disabled employee does not meet the eligibility requirements?**

Employers with telecommuting policies already in place may have to waive their policy's eligibility requirements in order to accommodate someone with a disability. For example, if an employer has a policy that an employee must be employed for one year before he is eligible to work from home, the employer may have to allow a disabled employee who has only been employed for six months to work from home as a reasonable accommodation.

Ultimately, while an employer may simply want to deny an employee's request to work from home, they should instead engage in the interactive process, exploring the reasons the employee needs the accommodation, the essential functions of the employee's job, and the alternative accommodations available. This will ensure that the employer and the employee reach a reasonable solution.

### **Attorney**

- Tracy Armstrong