

Telework as a Reasonable Accommodation

It is the policy of Northern Virginia Community College to allow or require employees, in appropriate situations, to telework. Telework can improve work performance, increase employee retention, reduce commuting costs, reduce departmental costs, allow temporary or permanent job modifications for Return-to-Work and/or the Americans with Disabilities Act compliance, and improve employee's quality of work life.

According to the Equal Employment Opportunity Commission, allowing an employee with a disability to work at home may be a form of reasonable accommodation when the person's disability prevents successfully performing the job on-site and the job, or parts of the job, can be performed at home without causing significant difficulty or expense.

Does the ADA require employers to have telework programs?

No. The ADA does not require an employer to offer telework. However, if an employer does offer telework, it must allow employees with disabilities an equal opportunity to participate.

May permitting an employee to work at home be a reasonable accommodation?

Yes. Changing the location where work is performed may fall under the ADA's reasonable accommodation requirement of modifying workplace policies, even if the employer does not allow other employees to telework. However, an employer is not obligated to adopt an employee's preferred or requested accommodation and may instead offer alternate accommodations as long as they would be effective.

How should an employer determine whether someone may need to work at home as a reasonable accommodation?

This determination should be made through a flexible "interactive process" conducted by the Office of Fair Practices (OFP). The employee must first inform the employer that s/he has a medical condition that requires some change in the way a job is performed. The employee does not need to use special words, such as "ADA" or "reasonable accommodation" to make this request. The employee should submit this request to ada@nvcc.edu.

OFP will discuss the request with the employee to understand why the disability might necessitate the employee working at home. The employee must explain what limitations from the disability make it difficult to do the job in the workplace, and how the job could still be performed from the employee's home. OFP may request information about the employee's medical condition (including reasonable documentation) if it is unclear whether it is a "disability" as defined by the ADA. OFP will also discuss the request with the employee's supervisor, and may discuss other types of accommodations that would allow the employee to remain full-time in the workplace.

How should an employer determine whether a particular job can be performed at home?

The employer needs to identify and review all of the essential job functions. The essential functions or duties are those tasks that are fundamental to performing a specific job. An employer does not have to remove any essential job duties to permit an employee to work at home.

After determining what functions are essential, the employer and the employee with a disability should determine whether some or all of the functions can be performed at home. For some jobs, the essential duties can only be performed in the workplace. For example, food servers, cashiers, and truck drivers cannot perform their essential duties from home. But in many other jobs some or all of the duties can be performed at home.

Several factors should be considered in determining the feasibility of working at home, including the employer's ability to supervise the employee adequately and whether any duties require use of certain equipment or tools that cannot be replicated at home. Other critical considerations include whether there is a need for face-to-face interaction and coordination of work with other employees; whether in-person interaction with outside colleagues, clients, or customers is necessary; and whether the position in question requires the employee to have immediate access to documents or other information located only in the workplace. See NOVA's Telework Policy for additional information.

How frequently may someone with a disability work at home as a reasonable accommodation?

An employee may work at home only to the extent that his/her disability necessitates it, and that the employee can perform the essential functions of the job. For some people, that may mean a regularly scheduled day or two half-days per week, for example. In other instances, the nature of a disability may make it difficult to predict when it will be necessary for an employee to work at home. For example, the employee's medical condition may result in flare-ups that occur on an irregular basis and prevent an employee from getting to the workplace. In these instances, an employee might need to work at home on an "as needed" basis, if this can be done without undue hardship.

As part of the interactive process, the employer and employee need to decide on a telework schedule that meets both their needs. For example, an employee may need to meet face-to-face with students as part of a job, but other tasks may involve reviewing documents and writing reports. Clearly, the meetings must be done in the workplace, but the employee may be able to review documents and write reports from home.

May an employer make accommodations that enable an employee to work full-time in the workplace rather than granting a request to work at home?

Yes, the employer may select any effective accommodation, even if it is not the one preferred by the employee. Reasonable accommodations include adjustments or changes to the workplace, such as: providing devices or modifying equipment, restructuring jobs, and modifying work schedules and policies. An employer can provide any of these types of reasonable accommodations, or a combination of them, to permit an employee to remain in the workplace. For example, an employee with a disability who needs to attend a medical treatment appointment two mornings a week may be allowed to begin his or her eight-hour shift at 10:00 a.m., rather than granting the request to work at home.

Information for this fact sheet is excerpted from guidance prepared by the Equal Employment Opportunity Commission at <https://www.eeoc.gov/facts/telework.html>.

For additional information, contact the Office of Fair Practices at 703-323-3284 or ada@nvcc.edu.