Employee-Friendly Telework Accommodation Guide for Federal Employees

Purpose and design choices

Disclaimer

This guide is written from an employee-facing perspective. It is designed to help federal employees understand how disability-related telework (including remote work) can fit into the reasonable accommodation framework under the Rehabilitation Act (which applies ADA standards). We aim to be accurate, cite primary authority where possible, and translate dense rules into practical steps. Even so, this is not an official government document and is not legal advice.

- Information only; not legal advice. This document provides general legal information and practical issue-spotting. It cannot substitute for advice from a qualified attorney who can analyze your specific facts, documents, agency policies, and forum-specific procedures.

- No attorney-client relationship. Reading or downloading this document does not create an attorney-client relationship with any law firm, attorney, or author. Do not send confidential information unless and until you have a signed engagement agreement.

- Fact-specific and forum-specific. Reasonable accommodation outcomes depend heavily on the job's essential functions, your functional limitations, the agency's operational needs, available technologies, and the evidence in the record. Different processes (reasonable accommodation program, EEO process, negotiated grievance/arbitration, and merit systems processes) can have different rules and consequences.

- Law and policy can change. Statutes, regulations, agency policies, collective bargaining agreements, and case law can change. Always confirm the most current authorities for your situation.

- Protect your privacy. Limit medical disclosures to what is reasonably necessary to explain your functional limitations and the need for accommodation. Use secure channels, and avoid sharing medical records on social media or with individuals who do not have a need to know.

When it is often worth talking to a qualified federal employee attorney (or your union):

- Your agency has denied, rescinded, or reduced a telework/remote-work accommodation and is ordering an immediate return to the worksite, especially if management is raising AWOL, performance, conduct, or "failure to follow instructions."

- Your agency is not engaging in the interactive process in good faith (e.g., repeated delays, "take it or leave it" decisions, or refusal to consider alternatives).

- Your agency is demanding overly broad medical records, or making disability-related inquiries that feel unrelated to your job or functional limitations.

- You believe you are being retaliated against because you requested or used an accommodation, or because you participated in EEO activity.

- You need to decide among overlapping processes or remedies (for example, EEO complaint vs. negotiated grievance procedures), or you are concerned about short deadlines.

Tip: Many federal-sector rights have short deadlines. If you think you may need to file something, get advice early. You generally have 45 days to contact an EEO counselor in many cases, for instance.

Purpose

The core legal framework is straightforward: federal agencies must provide reasonable accommodation to the known physical or mental limitations of a qualified employee with a disability unless the agency can show undue hardship. 29 U.S.C. § 791(g); 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a). In practice, telework disputes usually turn on evidence (medical/functional limitations), essential functions, the interactive process, and whether the agency can show that an in-office alternative would be effective or that telework would pose undue hardship.

- Translate the accommodation rules into plain language without watering down the legal standards.

- Help employees prepare an evidence-based request and participate effectively in the interactive process.

- Clarify what employees generally must show (disability + nexus + ability to perform essential functions with accommodation) and what agencies must show when denying (e.g., why a proposed accommodation is not effective or would cause undue hardship).

- Provide practical, "what you can do today" steps: how to frame the request, what documentation is usually most persuasive, and how to respond to common agency objections.

- Flag red flags and common missteps (for both employees and agencies), with case anchors so readers can see how adjudicators analyze similar fact patterns.

Design choices

This outline mirrors the EEOC/OPM FAQ's question numbering so readers can compare positions directly. But the structure is intentionally employee-facing: it emphasizes clarity, documentation, and the burdens the agency must meet in real disputes.

- "Plain English" request framing: Employees do not need to use the words "reasonable accommodation" or cite statutes to request accommodation. A request can be oral or written as long as it links a need for change at work to a medical condition. See Norberto G. v. Brennan, Postmaster Gen., U.S. Postal Serv., EEOC Appeal No. 0120180261 (Mar. 26, 2019); Complainant v. Vilsack, Sec'y, Dep't of Agric., EEOC Appeal No. 0120133244 (July 28, 2015), reconsideration denied, Req. No. 0520150495 (Jan. 15, 2016); EEOC Policy Guidance on Exec. Order No. 13164 (Oct. 20, 2000) (Question 1); EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (Oct. 17, 2002).

- Interactive process emphasis: The guide treats the interactive process as a core compliance obligation (communication and good-faith exploration of options), and it highlights how delays or refusal to explore options can create liability where a reasonable accommodation was possible. See Barnett, 228 F.3d at 1116; Humphrey, 239 F.3d at 1137.

- Evidence-forward approach: Each question includes a short list of "evidence to gather" (job duties, performance metrics, telework history, medical/functional limitation support, technology/workflow facts) because telework disputes are usually won or lost on the record.

- Agency-burden checkpoints: Where agencies deny telework, the guide spotlights the agency's need to articulate a job-related rationale, consider effective alternatives, and support any undue hardship claim with specifics, not conclusory statements. See 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).

- Case anchors (EEOC OFO decisions): Where useful, the guide includes short, accurate "what the decision turned on" summaries tied to the fact patterns frequently seen in federal-sector telework disputes (e.g., trial telework, consistent telework days, situational telework during inclement weather). These case anchors are tools for issue-spotting, not guarantees of outcome.

Finally, this guide is intentionally neutral about any particular administration's return-to-office preferences. Its focus is on what the Rehabilitation Act/ADA standards require in individualized, evidence-based accommodation decisions.

Section 0 - Telework Accommodations for Disabilities (Federal Employees)

0.1 "Do I have a telework accommodation issue or something else?"

Before you argue "telework," first sort out what legal bucket your situation fits into. Different rules apply depending on whether you are asking for (1) disability-related reasonable accommodation, (2) routine telework under agency telework programs, (3) remote work arrangements, or (4) a different EEO accommodation.

A. Telework as a disability-related reasonable accommodation (Rehabilitation Act / ADA standards).

This is the EEO route. You are asking for a change at work because of a medical condition that creates functional limitations and a workplace barrier. Federal agencies generally apply the ADA reasonable-accommodation standards through the Rehabilitation Act. If you are a qualified individual with a disability, the agency must provide a reasonable accommodation unless it would impose an undue hardship. (42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a); 29 U.S.C. § 791(g).) Generally, an agency is not required to provide an adjustment that is primarily for personal benefit rather than to remove a workplace barrier. (29 C.F.R. pt. 1630 app. § 1630.9.)

B. Routine telework eligibility (Telework Enhancement Act / agency telework policy).

This is not an EEO accommodation by itself. It is a workplace flexibility program governed by 5 U.S.C. Chapter 65 and your agency's telework policy. It typically depends on position eligibility, performance, discipline status, and management approval. If you do not have a disability-related need, or you are not tying telework to a workplace barrier, this may be your lane. The telework statute defines "telework" as a work-flexibility arrangement where an employee performs duties from an approved worksite other than the location from which the employee would otherwise work. (5 U.S.C. § 6501(3).)

C. Remote work agreement (duty station away from the agency worksite) not tied to disability.

Remote work is often treated differently from telework (for example, different duty-station and locality pay rules). If your request is primarily "make my home my duty station," and not tied to disability, it may be governed by agency remote-work policy rather than the reasonable-accommodation framework.

D. Other EEO accommodation categories (flag them early).

This guide focuses on disability. But some telework disputes arise from other protected bases (for example, religion, pregnancy-related limitations, or retaliation). Those involve

different statutes and standards. If you suspect another basis, preserve the facts and get targeted advice.

Key threshold questions (plain English):

- Do I have a medical condition that causes functional limitations at work or related to the worksite (for example, symptoms triggered in the office, barriers created by the workspace, or limitations that make commuting to the worksite unsafe)?
- Am I "qualified" for my job — meaning I can perform the essential functions, with or without accommodation? (See 29 C.F.R. § 1630.2(n) (essential functions factors).)
- Is the telework/remote-work request tied to removing or reducing a workplace barrier (not just preference or convenience)?

If you can answer "yes" to all three, you likely have a reasonable-accommodation issue that should be handled through the interactive process. You do not need to use the magic words "reasonable accommodation" to trigger that process, and a request can be made in plain English and in any form. (Norberto G. v. Brennan, Postmaster Gen., USPS, EEOC No. 0120180261 (Mar. 26, 2019); Complainant v. Vilsack, Sec'y, Dep't of Agric., EEOC No. 0120133244 (July 28, 2015); EEOC Policy Guidance on Exec. Order 13164, Question 1 (Oct. 20, 2000); EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the ADA (Oct. 17, 2002).)

0.2 "The 5 things employees should document immediately"

Your chances go up when your request is concrete, evidence-based, and tied to job requirements. Start building your file before the situation becomes urgent.

1) The barrier

Write down (with dates and specifics) what happens in-office that blocks you from doing the job or accessing a benefit or privilege of employment. Avoid generalities like "the office triggers my symptoms." Instead: what task, what exposure, what symptom/limitation, and what the impact is.

2) The nexus

Document why telework (or a hybrid schedule) reduces/removes the barrier. Your medical documentation should describe your functional limitations and connect them to the workplace barrier. If the record already establishes disability/limitations and nexus, the EEOC has found further documentation demands unjustified. (Estate of Doria R. v. Cordova, Dir., Nat'l Sci. Found., EEOC Appeal No. 0120152916 (Nov. 9, 2017).)

3) Your essential functions

Pull your current position description, performance plan, vacancy announcement, and any written expectations. Identify the "fundamental job duties" (not marginal tasks). If management claims in-person presence is essential, ask: essential for what function, and what evidence supports that? The EEOC has rejected denials that rest only on generalized "face-to-

face supervision" or vague labels like "physically available," without a job-specific showing. (See 29 C.F.R. § 1630.2(n); Therese Blocher v. Shinseki, Sec'y, Dep't of Veterans Affs., EEOC Appeal No. 0120111937 (Apr. 17, 2013).)

4) Your performance proof

Save concrete evidence that you can perform the job while teleworking: performance ratings, output metrics, emails showing deliverables, customer feedback, and examples of work completed successfully on prior telework. If the agency argues telework will hurt productivity, require specifics — not assumptions. (Estate of Doria R., EEOC Appeal No. 0120152916; Alejandrina L. v. Tillerson, Sec'y, Dep't of State, EEOC Appeal No. 0120152145 (Nov. 16, 2017).)

5) A timeline log

Keep a dated log: when you requested help; who you notified; what the agency asked for; when you provided it; and how long the agency took to respond. Unreasonable delays can violate the reasonable-accommodation duty — especially where the accommodation is needed immediately to avoid medical harm. (Estate of Doria R., EEOC Appeal No. 0120152916 (noting a 10-month delay was unreasonable on those facts).) If the agency changes course, document every step of the interactive process. Courts have held that both sides must communicate and explore options in good faith. (Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1114–16 (9th Cir. 2000); see also Natalie S. v. McDonald, Sec'y, Dep't of Veterans Affairs, EEOC Appeal Nos. 0120140815, 0120142049 (Jan. 26, 2018) (discussing trial telework to test effectiveness).)

Practical tip:

If your supervisor denies a request verbally, follow up in writing the same day: "Confirming our conversation: I requested [X] because of [workplace barrier linked to medical condition]. Please let me know the next step in the reasonable-accommodation process." This creates a clean record and starts your timeline. You might have 45 days to challenge this before the EEOC by making counselor contact.

Section 1 – Legal Foundation - Telework as a Reasonable Accommodation (Federal Employees)

Employee-readable guidance grounded in the ADA and the Rehabilitation Act (litigation-safe; fact-specific).

This section explains the legal framework that governs disability-related telework accommodations in the federal sector. It is general information, not legal advice. Outcomes depend on the specific facts, the employee's medical limitations, the job's essential functions, and the agency's operational needs.

1.1 The legal standard (core rule)

Federal employees generally litigate disability accommodation issues under the Rehabilitation Act, which incorporates the ADA's substantive standards for employment discrimination, including reasonable accommodation. [2]

Core rule: an employer must provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate the accommodation would impose an undue hardship on the operation of its business. [1]-[2]

- Qualified individual: you can perform the job's essential functions with or without reasonable accommodation.
- Known limitation: the agency is on notice of a disability-related need for an adjustment or change at work.
- Reasonable accommodation: a workplace change that is effective for the disability-related barrier at issue.
- Undue hardship: if the agency denies on this basis, it must be able to prove undue hardship with evidence (not speculation). [1]

1.2 Requests: "no magic words" + broad triggers

You do not need to say "reasonable accommodation," cite a statute, or use a particular form to start the process. EEOC decisions hold that employees are not required to use magic words to request accommodation. [3]-[4]

A request can be made in any form (e.g., in conversation, by email, or through medical documentation). The EEOC's Enforcement Guidance explains an employer may later ask for a form or written confirmation, but it cannot ignore the initial request. [5]

Plain-English examples that may qualify as accommodation requests in the federal sector include:

- "I need light duty because of my medical condition." [7]
- "My condition is flaring up and I can't do this part of the job right now." [8]
- "I need disability-related leave (paid or unpaid) to address my condition." [9]

- "My disability is why I'm having trouble getting here on time." [10]
- "I need to move workstations because my asthma is being triggered." [11]

Practical tip: Tie your request to (1) a medical condition and (2) a work impact (what you cannot do, or what barrier you face at work). If you can, propose a solution (e.g., telework, equipment, schedule change) and ask to begin the interactive process. [6]

1.3 Interactive process = mandatory, good-faith, timely

Once the agency has notice of a disability and the desire for accommodation, it must engage in an informal interactive process to clarify what you need and identify an appropriate accommodation. [12]

Courts describe the interactive process as a communication-and-good-faith exploration of possible accommodations, and warn that neither side should delay or obstruct it. [13]

Failure to participate in good faith can create liability if a reasonable accommodation would have been possible. [12]

What "good-faith and timely" usually means in practice:

- The agency asks focused questions about limitations and job barriers (not unrelated medical fishing expeditions).
- You provide reasonable documentation when the disability/need is not obvious, and respond to reasonable follow-ups.
- Both sides consider more than one option (including trials or adjustments) and document what was tried and why.
- The agency avoids unnecessary delay, especially where delay itself creates harm (e.g., worsening symptoms or inability to work).

1.4 Essential functions: how they're determined (and why agencies often lose)

A key threshold question in telework cases is whether in-person presence (or specific on-site duties) is truly an essential function of the job. "Essential functions" are the fundamental job duties - not marginal tasks. [14]

Regulations list multiple kinds of evidence that can show whether a function is essential, including:

- The employer's judgment as to which functions are essential. [14]
- Written job descriptions prepared before advertising or interviewing for the job. [14]
- The amount of time spent performing the function. [14]
- The consequences of not requiring the incumbent to perform the function. [14]
- The terms of a collective bargaining agreement (if any). [14]
- The work experience of past incumbents in the job. [14]
- The current work experience of incumbents in similar jobs. [14]

Employee-friendly framing (and courtroom reality): labels like “face-to-face,” “physically available,” or “must be on-site” are not self-proving. Decisionmakers typically look for evidence that ties the claimed essential function to real job duties, current operations, and what actually happens in practice.

What employees should gather early (for your request and, if needed, litigation):

- Your position description, vacancy announcement, and performance plan (especially anything written before the dispute).
- Examples of work performed successfully while teleworking (metrics, deliverables, emails, customer outcomes).
- Evidence of how similarly-situated employees perform the same duties (including any agency telework practices).
- A clear description of which tasks truly require on-site presence, and why those tasks cannot be done remotely or reassigned.

1.5 Burdens in telework cases (employee-facing)

In general, an employee must be able to show: (1) a covered disability, (2) that they are qualified for the position, and (3) that the requested accommodation could be effective in addressing a disability-related barrier at work.

If the agency denies telework, it should be prepared to support its decision with evidence. Depending on the facts, an agency typically defends a denial by showing one (or more) of the following:

- The in-office alternative offered is reasonable and effective for the disability-related limitation at issue; or
- Telework would eliminate an essential function of the job; or
- Telework would impose undue hardship on the agency’s operations. [1]

EEOC decisions in telework cases emphasize individualized assessment and evidentiary support. For example, the Commission has found an agency should consider a trial period of telework to test effectiveness, and should not deny based on generalized claims without showing undue hardship through an individualized assessment. [15]

Similarly, the Commission has cautioned that an agency should not deny telework solely because a job involves contact or coordination with other employees; the question is whether the particular job’s essential functions truly require in-person presence and whether effective alternatives exist. [16]

Key authorities cited (for reference)

[1] 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).

[2] 29 U.S.C. § 791(g).

[3] Norberto G. v. Brennan, Postmaster Gen., U.S. Postal Serv., EEOC No. 0120180261 (Mar. 26, 2019).

[4] Complainant v. Vilsack, Sec'y, Dep't of Agric., EEOC No. 0120133244 (July 28, 2015), reconsideration denied, EEOC Req. No. 0520150495 (Jan. 15, 2016).

[5] U.S. Equal Emp. Opportunity Comm'n, Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (Oct. 17, 2002).

[6] U.S. Equal Emp. Opportunity Comm'n, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (Oct. 20, 2000) (Question 1, Section II.A.1).

[7] Waneta F. v. Brennan, Postmaster Gen., U.S. Postal Serv., EEOC No. 0120151508 (Feb. 10, 2017).

[8] Kreger v. Donahoe, Postmaster Gen., U.S. Postal Serv., EEOC No. 0120080621 (Mar. 7, 2011).

[9] Corbett v. Davis, Sr., Acting Admin'r, Gen. Servs. Admin., EEOC No. 03A10017 (Apr. 12, 2001).

[10] Cottrell v. Henderson, Postmaster Gen., U.S. Postal Serv., EEOC No. 07A00004 (Feb. 2, 2001).

[11] Pernell v. Weinstein, Archivist, Nat'l Archives & Records Admin., EEOC No. 0120051935 (Oct. 31, 2006).

[12] Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1112, 1114, 1116 (9th Cir. 2000).

[13] Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128, 1137 (9th Cir. 2001).

[14] 29 C.F.R. § 1630.2(n).

[15] Natalie S. v. McDonald, Sec'y, Dep't of Veterans Affs., EEOC Nos. 0120140815 & 0120142049 (Jan. 26, 2018).

[16] Blocher v. Shinseki, Sec'y, Dep't of Veterans Affs., EEOC No. 0120111937 (Apr. 17, 2013).

Section 2 - What We Are Fixing (A Short, Credible Critique of the EEOC/OPM Telework FAQ)

The EEOC/OPM FAQ is a useful starting point: it correctly emphasizes individualized assessment, the interactive process, and the fact-specific nature of telework as a reasonable accommodation. But several passages compress nuanced standards into broad statements that can be read as a green light for agencies to deny or rescind telework without the discipline the law requires. This guide is designed to correct those overstatements and understatements with an employee-facing, case-driven explanation of what the ADA and Rehabilitation Act standards actually demand in practice.

Overstatements and understatements we will correct

- Agency 'choice' language needs guardrails. Agencies often repeat that they may choose among accommodations, but discretion is not a substitute for effectiveness. The governing standard requires reasonable accommodation to the known limitations of a qualified individual with a disability unless the employer proves undue hardship (42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a)). When an agency selects an alternative to telework, it still must show - with evidence tied to the employee's functional limitations and job duties - that the chosen option is effective, not merely preferable for management. EEOC OFO decisions illustrate that 'partial' or 'conditional' telework can be ineffective when it fails to address the disability-related barrier to performing the job (e.g., Alejandrina L. v. Tillerson, EEOC Appeal No. 0120152145 (Nov. 16, 2017)).

- Undue hardship is not a talking point; it is an evidentiary burden. If an agency denies telework on the theory that in-person work is essential or telework would harm operations, it must support that position with specific, job-connected facts - not conclusions. In multiple federal-sector accommodation cases, the Commission found violations where agencies asserted performance, supervision, or operational concerns without demonstrating undue hardship with record evidence (e.g., Natalie S. v. McDonald, EEOC Appeal Nos. 0120140815 & 0120142049 (Jan. 26, 2018); Clayton C. v. Foxx, EEOC Appeal No. 0120120350 (Nov. 17, 2015); Selma D. v. Duncan, EEOC Appeal No. 0720150015 (Apr. 22, 2016); Complainant v. Castro, EEOC Appeal No. 0720130029 (Feb. 12, 2015)). Our guide will translate 'undue hardship' into the kinds of proof agencies typically need (and the kinds of unsupported assertions employees can challenge).

- Trial periods and interim accommodations are underused - and endorsed by EEOC OFO when effectiveness is disputed. When an agency and employee disagree about whether telework will work, the most defensible path is often a defined trial period or interim arrangement, with clear performance expectations and a planned check-in. The Commission has criticized agencies for declining to test telework where the record showed other accommodations were not working; in Natalie S., the Commission explained the agency

could have provided a trial period of full-time telework to evaluate effectiveness and only later discontinue if it proved ineffective (Natalie S., EEOC Appeal Nos. 0120140815 & 0120142049).

- Delay can function as a denial - especially when medical risk is time-sensitive. A central feature of reasonable accommodation is timely, good-faith engagement in the interactive process. Courts have recognized that employers who delay or obstruct the process risk liability when an accommodation was possible (Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1114-16 (9th Cir. 2000); Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128, 1137 (9th Cir. 2001)). In the federal sector, the Commission has likewise treated prolonged delay as unreasonable, particularly when the employee faced urgent medical risk. In Estate of Doria R. v. Cordova, the Commission found a 10-month delay in responding to a telework request unreasonable where the record reflected escalating medical danger (Estate of Doria R. v. Cordova, EEOC Appeal No. 0120152916 (Nov. 9, 2017)).

- Commute issues: 'generally no' is not the whole story in federal-sector outcomes. It is true that commuting is often framed as outside the employer's control, but federal-sector decisions show that commute barriers can become workplace-access barriers when the employee's disability makes travel to the duty station unsafe or effectively impossible without modification. The Commission has ordered telework (or criticized denial of telework) where the record showed disability-related commuting risk and the agency lacked evidence that telework was infeasible or an undue hardship, including in cases involving severe weather and mobility impairment, extreme pain and medical deterioration, and acute risk of catastrophic injury (Jody L. v. Wilson, EEOC Appeal No. 0120151351 (Jan. 17, 2018); Complainant v. Castro, EEOC Appeal No. 0720130029; Estate of Doria R., EEOC Appeal No. 0120152916). Our guide will show employees how to frame these facts as access-to-worksite and job-performance issues, supported by medical documentation, rather than as a general preference to avoid commuting.

- Leave vs. telework: leave can be an option, but it is not automatically an 'effective' substitute. Leave can sometimes be a reasonable accommodation, but it does not become automatically effective just because it is available. Where telework enables an employee to continue performing essential functions and leave does not, substituting leave for telework can deny equal employment opportunity. In Jody L., the Commission concluded that requiring the employee to use accrued leave on days he could not safely commute was not an effective accommodation because it did not allow him to perform his job (Jody L., EEOC Appeal No. 0120151351). And where medical risk is urgent, delays or forced leave can compound harm, underscoring why the accommodation analysis must be evidence-based and time-sensitive (Estate of Doria R., EEOC Appeal No. 0120152916).

Taken together, these corrections are not about lowering standards for telework. They are about applying the existing standards carefully: individualized assessment, evidence, and an accommodation that actually works.

Section 3- Questions and Answers

Q1. What is telework and what are the different types of telework?

In federal law, "telework" generally means performing your job duties from an approved worksite other than the location from which you would otherwise work (often your home). See 5 U.S.C. § 6501(3).

Common telework labels (and what they usually mean):

- Situational telework: temporary or as-needed telework for a defined circumstance (for example, inclement weather, recovery from a medical procedure, or episodic symptoms).
- Recurring (routine) telework: telework on a regular schedule that is less than full time (for example, 1–3 set days per week).
- Full-time telework (often called "remote work"): performing the position's duties away from the agency worksite on a full-time basis.

Why the label matters less than the function: For Rehabilitation Act/ADA purposes, the key questions are not what your agency calls the arrangement, but whether the arrangement is an effective accommodation for your disability-related limitations and whether you can perform the position's essential functions with that accommodation.

Q2. What is a reasonable accommodation? When does telework constitute a reasonable accommodation?

A reasonable accommodation is a workplace adjustment or change that enables a qualified applicant or employee with a disability to have equal employment opportunity. Under the ADA (and, for federal employees, the Rehabilitation Act through incorporation of ADA standards), an employer must provide a reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can show the accommodation would impose an undue hardship. 42 U.S.C. § 12112(b)(5)(A); 29 U.S.C. § 791(g); 29 C.F.R. § 1630.9(a).

Three commonly recognized reasonable accommodation categories:

- Application process accommodations: changes that enable an applicant with a disability to participate in the application process.
- Essential functions accommodations: changes that enable an employee with a disability to perform the essential (fundamental) duties of the position.
- Benefits and privileges accommodations: changes that enable an employee with a disability to enjoy equal benefits and privileges of employment as employees without disabilities.

See 29 C.F.R. § 1630.2(o); 29 C.F.R. pt. 1630 app. § 1630.9. "Essential functions" means the fundamental job duties (not marginal tasks). See 29 C.F.R. § 1630.2(n).

Some courts have also described accommodations that enable a disabled employee to pursue therapy or medical treatment as a distinct (fourth) category. See Sanchez v. Vilsack, 695 F.3d 1174, 1181 (10th Cir. 2012); Fedro v. Reno, 21 F.3d 1391, 1395–96 (7th Cir. 1994); Buckingham v. United States, 998 F.2d 735, 740 (9th Cir. 1993). In practice, many treatment-related accommodations overlap with the categories above (for example, leave, flexible scheduling, or temporary telework that keeps the employee working or employed while receiving treatment).

When telework qualifies: Telework can be a reasonable accommodation when it is an effective way to remove a disability-related barrier to one of the three categories above—most often, enabling performance of essential functions. Telework is not "automatic" just because it would be convenient; it must be tied to a disability-related limitation and a work-related barrier. See 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.2(o).

Example (federal sector telework accommodation): The Commission has held agencies must consider whether telework program rules can be modified as an accommodation, including by offering a trial period to evaluate effectiveness. Natalie S., 2018 WL 703733, at *13–15.

Q3. Does the Rehabilitation Act require agencies to continue previously granted telework accommodations?

Not necessarily. Agencies can reevaluate reasonable accommodations over time and, where appropriate, select a different effective accommodation. Courts have repeatedly recognized that an employee is not automatically entitled to their preferred accommodation in perpetuity, so long as the agency provides an effective accommodation and complies with the Rehabilitation Act/ADA standards. See, e.g., Mullin v. Sec'y, U.S. Dep't of Veterans Affs., 149 F.4th 1244, 1255 (11th Cir. 2025); Noll v. Int'l Bus. Machines Corp., 787 F.3d 89, 95 (2d Cir. 2015); E.E.O.C. v. Agro Distribution, LLC, 555 F.3d 462, 471 (5th Cir. 2009); Emerson v. N. States Power Co., 256 F.3d 506, 515 (7th Cir. 2001).

But "can reevaluate" does not mean "can do it any way the agency wants." The employee protections matter, and they are enforceable.

Employee protections to emphasize when telework is being modified or ended:

- Individualized assessment: The agency must evaluate the employee's specific limitations, job duties, and work environment—not apply a blanket rule based on general return-to-office policy.
- Interactive process continues: Reevaluation is part of the ongoing interactive process; the agency must communicate in good faith and consider accommodations that are effective. See Barnett, 228 F.3d at 1114–16; Humphrey, 239 F.3d at 1137.

- Effective alternative if ending telework: If the agency ends or reduces telework, it should offer another effective accommodation (or a combination of accommodations) unless it can show undue hardship or the employee is not a qualified individual with a disability. 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).
- No "telework policy" shortcut: An agency may have to modify telework program eligibility rules as a reasonable accommodation if telework is effective and not an undue hardship. See Natalie S., 2018 WL 703733, at *13–15.

Past telework can be evidence (not a guarantee) that telework is feasible and effective. If you have performed successfully while teleworking, document it and use it during reevaluation.

Examples where prior telework history mattered (federal sector decisions):

- The Commission found no undue hardship where a blind EEO specialist had a longstanding telework arrangement and sought two telework days per week with flexibility. Clayton C. v. Foxx, EEOC Appeal No. 0120120350, 2015 WL 10521631 (Nov. 17, 2015).
- The Commission found that one telework day per week (plus inconsistent situational telework) was not effective where the record supported the need for two consistent telework days for debilitating fatigue. Alejandrina L. v. Tillerson, EEOC Appeal No. 0120152145, 2017 WL 5988721 (Nov. 16, 2017).
- The Commission held full-time telework could be required where a financial analyst could perform essential functions remotely and the agency did not show undue hardship. Lavern B. v. Castro, EEOC Appeal No. 0720130029, 2015 WL 780702 (Feb. 12, 2015).

Practical steps for employees when reevaluation starts:

1. Ask (in writing) what facts the agency believes have changed and what accommodation it proposes instead of telework.
2. Respond with job-specific facts: identify essential functions, describe how you performed them while teleworking, and attach objective metrics where possible (emails, deliverables, performance feedback).
3. If the agency proposes in-office alternatives, explain (with documentation where appropriate) why they would or would not remove the barrier. If you can, propose reasonable modifications to make an in-office alternative effective.
4. Consider proposing a time-limited trial period for either continued telework or the agency's alternative so effectiveness can be evaluated on evidence. See Natalie S., 2018 WL 703733, at *15.
5. Keep the process moving: prolonged delay can itself be unlawful when the need is time-sensitive. See Doria R. v. Cordova, EEOC Appeal No. 0120152916, 2017 WL

5564360 (Nov. 9, 2017) (discussing unreasonable delay in responding to a telework accommodation request).

Reminder: Even when an agency previously provided telework beyond what the law required, that past flexibility does not automatically become a permanent legal entitlement. See D'Onofrio v. Costco Wholesale Corp., 964 F.3d 1014, 1022 (11th Cir. 2020). At the same time, the history can still matter as evidence of feasibility, and the agency must still comply with the interactive process and provide an effective accommodation going forward.

Q4. Does the Presidential Memorandum require rescinding/denying all telework accommodations?

Bottom line: No. Agencies may not treat the Presidential Memorandum as a blanket command to rescind existing telework accommodations or deny all pending requests. The Memo itself (as summarized by EEOC/OPM) directs agencies to act "consistent with applicable law," which includes the Rehabilitation Act's reasonable-accommodation duty. U.S. Equal Emp. Opportunity Comm'n & Office of Pers. Mgmt., Frequently Asked Questions from the Federal Sector about Telework Accommodations for Disabilities (Feb. 11, 2026), https://www.eeoc.gov/FAQ-federal-sector-telework-accommodations-disabilities. See also 29 U.S.C. § 791(g) (incorporating ADA standards for federal-sector disability claims); 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).

What "consistent with applicable law" means in practice:

- Your agency must do an individualized assessment of your situation. A one-size-fits-all cancellation of telework accommodations is risky and can violate the Rehabilitation Act.
- If telework is the only effective way for you to perform essential functions (or to access benefits/privileges of employment) without undue hardship to the agency, the agency may still have to provide telework or an equally effective alternative.
- If there are multiple effective accommodations, the agency may choose among them, but it must choose an effective option and be able to explain why it works.

Employee tool: If your agency says "the memo made us do it," ask for (1) the written individualized analysis, (2) what effective in-office alternative they selected (and why it's effective for your limitations), and (3) whether the agency is asserting "undue hardship" (and what evidence supports that).

A practical framing for employees and advocates:

If the agency's decision is not individualized, not evidence-based, or not paired with an effective alternative, treat that as a red flag. Document the agency's rationale in writing and promptly re-engage the interactive process (RA coordinator, supervisor, EEO office as appropriate).

Q5. When/how may an agency reevaluate and modify telework accommodations?

Checklist for a lawful reevaluation/modification (use this to spot gaps and build your paper trail):

1. Legitimate triggers (the "why now?")

- Job change: new duties, new performance elements, or updated essential-functions analysis.
- Medical change: improvement, worsening, new restrictions, or new treatment plan affecting functional limitations.
- Operational change: staffing, mission needs, security requirements, workspace changes, or other material changes to how the work is performed.
- Legal/policy change: changes in governing rules, but still requiring individualized application to the employee.

2. Evidence required (what the agency should actually analyze)

- Current functional limitations and the nexus: what you cannot do (or cannot do safely) in-office, and why.
- Essential functions: which duties truly require on-site presence (and why), versus duties that can be performed remotely with appropriate safeguards.
- Effectiveness: why the proposed alternative will work for your limitations in the real world.
- Undue hardship (if claimed): specific, concrete operational impacts—unsupported generalities usually won't cut it.

3. Timelines (no open-ended stalling)

- Reevaluation must move promptly. Extended delay can itself be evidence of a failure to accommodate—especially when the employee's medical need is time-sensitive.
- If the agency needs more information, it should request it once, explain what is missing, and proceed once a sufficient record exists (rather than repeatedly moving the goalposts).

In Estate of Doria R. v. Cordova, the Commission faulted the agency's delay and repeated documentation demands where the nexus for telework was already substantiated and time was of the essence. Estate of Doria R. v. Cordova, Dir., Nat'l Sci. Found., EEOC Appeal No. 0120152916 (Nov. 9, 2017) (addressing unreasonable delay and documentation demands in telework accommodation process).

4. Interim measures while the agency reevaluates

- Trial periods: when an agency disputes whether telework (or an alternative) will be effective, consider proposing (or requesting) a short trial with objective success metrics.

- Stopgap options: partial telework, flexible scheduling, temporary workspace changes, or temporary leave can sometimes bridge the gap while the record is developed.

- No retaliation: reevaluation should not be used as cover for targeting employees who requested accommodations.

Natalie S. v. McDonald supports the concept of a trial telework accommodation (the Commission ordered a trial period of at least 30 days) where effectiveness was contested. Natalie S. v. McDonald, Sec'y, Dep't of Veterans Affs., EEOC Appeal Nos. 0120140815 & 0120142049 (Jan. 26, 2018) (ordering trial telework accommodation for not less than 30 days).

Q6. What medical documentation can be requested on reevaluation?

Employee rights (the guardrails): When an agency asks for medical documentation in an accommodation process, it must be reasonable in scope and connected to (1) the existence of a disability, (2) functional limitations, and (3) the nexus between those limitations and the accommodation sought. U.S. Equal Emp. Opportunity Comm'n, Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, No. 915.002 (Oct. 17, 2002), https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada.

Documentation should generally answer three questions:

- What are the relevant functional limitations (not just the diagnosis)?
- What job-related barriers do those limitations create in the current work setting (including the commute-to-duty-station issue only as it relates to access to the workplace and job performance)?
- Why is telework (or another specific modification) effective to address those barriers?

If there is an obvious disability and/or obvious need, there should be minimal documentation needed. EEOC/OPM acknowledge that when the disability, limitations, or need for accommodation are obvious, an agency typically needs little (if any) additional medical documentation. U.S. Equal Emp. Opportunity Comm'n & Office of Pers. Mgmt., Frequently Asked Questions from the Federal Sector about Telework Accommodations for Disabilities (Feb. 11, 2026), https://www.eeoc.gov/FAQ-federal-sector-telework-accommodations-disabilities.

Red flags (push back—politely—in writing):

- Repeated requests after you have provided sufficient documentation showing disability + functional limits + nexus (especially where the agency does not explain what is still missing).
- Requests untethered to functional limitations (e.g., broad demands for full medical files, unrelated history, or overly invasive inquiries).

- Requests that seem designed to delay rather than decide (for example, cycling through multiple "additional information" letters without moving the process forward).

In Estate of Doria R., the Commission found the agency lacked justification for repeated documentation requests once the employee's limitation and nexus were established, and treated delay as a serious problem in a time-sensitive medical situation. Estate of Doria R. v. Cordova, Dir., Nat'l Sci. Found., EEOC Appeal No. 0120152916 (Nov. 9, 2017) (addressing unreasonable delay and documentation demands in telework accommodation process).

How to respond (employee playbook):

- Ask the agency to specify exactly what it still needs and why it is relevant to functional limitations and the accommodation nexus.
- Offer targeted documentation (e.g., a clinician letter focused on limitations, restrictions, and recommended work modifications) rather than broad records.
- Propose an interim measure (temporary continuation of existing telework, partial telework, or a trial period) while the agency reviews updated information.
- Keep the process in writing (email is fine) and preserve timelines.

Q7. Can an agency ask about mitigating measures/self-accommodations to permit in-office work?

Bottom line: An agency can ask questions aimed at identifying an effective accommodation that would allow you to perform the essential functions of the job—potentially including questions about mitigating measures or steps you can take. But the agency must keep the inquiry tied to job-related functional limitations and the interactive process, and it generally cannot pressure you into medical treatment or shift the agency's accommodation obligations onto you.

A. What the law allows—and the limits

- Reasonable accommodation is required for a qualified individual with a disability unless the agency can show undue hardship. (42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).)
- Agencies may consider the positive and negative effects of mitigating measures when determining what accommodation is needed and whether an in-office option will be effective. (EEOC, Questions & Answers on the Final Rule Implementing the ADA Amendments Act of 2008, Q. 16 (Mar. 25, 2008).)
- Reasonableness is context-dependent; courts have described it as a comparative inquiry about costs and the parties' ability to avoid them. (Borkowski v. Valley Cent. Sch. Dist., 63 F.3d 131, 138 (2d Cir. 1995) (Calabresi, J.).)
- Separate point: whether you meet the definition of "disability" is determined without regard to the ameliorative effects of mitigating measures. (42 U.S.C. § 12102(4)(E)(i).)

B. Two concepts you should keep separate (and keep the agency honest about)

1. Medical treatment choices (your autonomy). The agency can ask about functional impacts and what would allow you to work, but it generally should not deny an accommodation because you decline a particular medical treatment (e.g., medication or surgery). Framing: treatment decisions are personal; accommodation decisions are workplace decisions.
2. Workplace accommodations vs. personal items. The agency's duty is to provide a workplace accommodation that is reasonable and effective. The ADA's statutory examples include, among other things, modifications to equipment and workplace policies. (42 U.S.C. § 12111(9).) If the agency's proposed "self-accommodation" is really a workplace tool or modification needed to do the job (or to access the workplace), treat it as an accommodation proposal and ask whether the agency will provide it, pay for it, or otherwise make it available.

C. Employee guardrails (practical)

- Ask the agency to identify the workplace barrier it believes can be resolved by an in-office accommodation, and what specific accommodation it proposes.
- If the agency suggests an item or change, ask: (1) Is the agency asserting this is an accommodation? (2) How will it be provided/implemented? (3) What is the implementation timeline?
- Keep medical documentation functional: diagnosis isn't the point; the barrier and functional restrictions are. If helpful, ask your provider to explain variability (e.g., symptoms may flare; capacity may differ day-to-day).
- Do not accept "self-accommodate" as code for 'you pay for it' when the item/change is actually needed to perform essential functions or to access the worksite.

D. Practical script you can use

"I'm open to discussing in-office options. To keep the interactive process focused, please confirm: (1) the specific workplace barrier you believe can be solved in-office; (2) the accommodation(s) the agency proposes to provide; and (3) what evidence you need from my provider to evaluate whether that in-office accommodation will be effective. If the agency is proposing equipment or other tools, please clarify whether the agency will provide them as part of the accommodation."

Q8. What if the agency claims there's conflicting evidence (social media, etc.)?

Bottom line: Agencies may consider reliable contradictory evidence, but they must avoid fishing expeditions and must not retaliate or interfere with your right to request or use an accommodation. Your best defense is consistency, a clear functional narrative, and—when needed—a provider explanation of symptom variability.

A. What agencies can do (and what "reliable" should mean)

- Agencies may consider conflicting evidence, giving due weight to reliable contradictions and discounting unreliable ones. (See, e.g., Fryson v. Fla. Agency for Health Care Admin., 696 F. Supp. 3d 1123, 1130 (N.D. Fla. 2023).)
- If documentation is insufficient, an agency may—in limited circumstances—seek an employer-directed medical exam or record review, so long as the inquiry is job-related and consistent with business necessity, and consistent with federal-sector rules. (42 U.S.C. § 12112(d)(4)(A); 5 C.F.R. pt. 339; see also EEOC, Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 26, 2000).)

B. What agencies cannot do

- No fishing expeditions. Evidence-gathering should have a reasonable purpose and be reasonably tailored; overly broad or invasive searches can cross the line.
- No retaliation or interference. It is unlawful to coerce, intimidate, threaten, or interfere with an individual for exercising ADA rights, including requesting or receiving an accommodation. (42 U.S.C. § 12203(b).)

C. Employee best practices (how to respond without oversharing)

- Ask for specifics: what evidence, what date range, and what exact limitation the agency claims is contradicted.
- Offer context, not your entire medical file. Many conditions vary; a single photo or clip rarely shows whether you can sustain essential functions on an in-office schedule.
- If social media is involved, clarify: (1) what the activity actually was; (2) whether it was on a 'good day'; (3) what happened before/after (recovery time, flare).
- Where helpful, provide a brief provider statement addressing variability and why an activity outside work does not translate into sustained in-office capacity.
- If the agency hints at "bad faith," respond calmly and narrowly. You can dispute the inference and offer functional clarification without volunteering sensitive details.

D. Template response (short, professional)

"I understand the agency believes there may be conflicting information. Please identify the specific evidence you're relying on and the work-related functional limitation you believe it contradicts. My accommodation request is based on my ability to perform the essential functions of my position on a sustained basis. If needed, I can provide additional functional documentation from my treating provider addressing symptom variability and the workplace barriers at issue. I also request that any inquiry remain reasonably tailored, job-related, and consistent with business necessity."

Q9. Who in the agency should reevaluate telework accommodations?

Bottom line: Agencies likely may centralize review (including for telework) or allow decentralized decisions, but the process must still be individualized, conducted in good faith without unreasonable delay, and not otherwise violate the law. This centralized review should not be designed to or actually intimidate employee participation in the interactive process or restrict it or that could be found to be bad faith.

A. Centralization is allowed—but it can't become a delay machine

- Agencies may use centralized review for high-impact accommodations (including telework) and may require higher-level sign-off, but the process should still involve an individualized assessment and should not cause or excuse unreasonable delays. (EEOC/OPM Telework Accommodations FAQ, Q9.)
- Further, the centralized review should not restrain the interactive process. Courts have emphasized that once an employee puts the employer on notice of a disability and desire for accommodation, the interactive process requires good-faith communication and exploration, and neither side may delay or obstruct. (Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1114, 1116 (9th Cir. 2000); Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128, 1137 (9th Cir. 2001).)

B. Red flags (practical)

- Weeks pass with no written acknowledgement of your request, no request for targeted documentation, and no proposed interim plan.
- Repeated requests for the same documents (or ever-expanding requests) without explaining what is missing or why it is necessary.
- A 'central review' rationale that produces inconsistent instructions, unclear decision-maker identity, or no timeline.
- The agency rescinds or modifies telework first and tells you to "reapply," instead of continuing the interactive process with you.
- There is not an interactive nature to the process.
- The Agency should not intimidate the employee from participating in the process.

Q10. What if telework removed essential functions during COVID-era operations?

Sometimes, during COVID-era disruptions, agencies temporarily changed how work was performed (or temporarily paused certain tasks). Going forward, agencies may argue that in-person attendance is now "essential" again. The law is more nuanced: essential functions are determined by current, job-specific evidence—not by slogans, and not solely by what happened during an emergency.

A practical "essential functions" framework

- Step 1: Identify the job's current essential functions (the fundamental duties). Under the ADA/Rehabilitation Act framework, the core question is whether you can perform those essential functions with a reasonable accommodation. (See 29 C.F.R. § 1630.2(n) (essential functions factors).
- Step 2: Separate "how we used to do it" from "what must be done." COVID-era workarounds may show tasks can be done differently—but they do not automatically redefine the job forever. At the same time, your successful performance while teleworking can be strong evidence that certain functions are feasible remotely.
- Step 3: Tie the requested telework (or hybrid schedule) to specific functions and specific limitations. The strongest requests explain (a) what functions are impacted by your disability in the office, (b) why telework addresses that barrier, and (c) how you will still meet performance and mission needs.
- Step 4: Treat "teamwork," "collaboration," and "supervision" as hypotheses—then demand specifics. Agencies must explain what work truly requires physical presence and why remote tools (video meetings, secure systems, scheduled in-person touchpoints) cannot achieve the same essential outcomes.

What evidence matters now (and what you can gather)

- Current performance plan and standards: What are you actually rated on? Are there objective, measurable outputs that can be produced remotely?
- Position description (and whether it's current): Outdated or generic descriptions often omit the duties later claimed to be "essential." Compare the written description to what you actually do day-to-day.
- Actual work output: Examples of deliverables, response times, production metrics, customer service outcomes, and quality measures from your telework period.
- Systems and access: VPN, secure enclaves, phone systems, case management tools, and any documented ability to access them from an approved alternative worksite.
- Operational reality: Who else performs similar work remotely or in a hybrid model? What work is already done by phone/video? What tasks truly require physical presence (and how often)?

Why "teamwork/supervision" is not a magic phrase

The Commission has cautioned that agencies cannot deny telework just by asserting the job involves contact, coordination, or "face-to-face" supervision. They must analyze feasibility and engage in the interactive process to explore effective options. (Blocher v. Shinseki, EEOC Appeal No. 0120111937, 2013 WL 1787126 (Apr. 17, 2013)).

Employee-friendly practice tips

- Ask the agency to list (in writing) the specific essential functions it believes require on-site presence, and what concrete problem telework creates for each function.

- Respond with a "function-by-function" plan: how each duty will be performed while teleworking (tools, workflows, check-ins, response times).
- Offer targeted solutions before accepting a categorical "no": hybrid schedules, set in-office days for tasks that truly require presence, or periodic on-site visits.
- If the agency is concerned about performance, propose objective metrics and regular check-ins (and consider a trial period—see Q11).

Authority note: The ADA requires reasonable accommodation for a qualified individual with a disability unless it would impose an undue hardship. 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).

Q11. If the employee says an in-office alternative will be ineffective, what should happen?

A reasonable accommodation must be effective. When an agency proposes an in-office alternative, and you believe it will not work, the next step is not a stalemate—it is a better, evidence-based interactive process.

Employee-friendly model for responding

- Explain the failure mechanism: Describe exactly how the proposed in-office accommodation still leaves a barrier (e.g., triggers symptoms, prevents safe commuting, undermines concentration, causes predictable performance breakdowns).
- Connect to functions and outcomes: Identify the essential functions or workplace benefits/privileges you will be unable to perform or enjoy even with the proposed alternative.
- Propose modifications: Suggest adjustments that could make the in-office option workable (different equipment, different office location, flexible schedule, reduced exposure triggers, periodic breaks, etc.).
- Bring evidence when you can: medical documentation focused on functional limitations and nexus; past performance data; and practical examples of why the alternative fails.

Critical fix: trial periods cut both ways

Agencies sometimes say: "Come in and try it first." Trial periods can be appropriate—but the choice of the trial should be reasonable and safe for the employee, not just convenient for the agency.

When an in-office trial may be reasonable

- The proposed in-office modification is low-risk and can be evaluated quickly.
- You can safely commute and safely remain on-site without medical jeopardy.
- There are clear, objective success criteria (productivity, quality, response time, symptom impacts) and an agreed timeline for reassessment.

When a trial telework period may be the more reasonable interim step

- Returning in-person presents a credible risk of medical harm or significant exacerbation (including when commuting itself is the barrier).
- The agency's asserted concerns are about performance, supervision, or productivity—issues that can be tested with objective metrics while teleworking.
- A short, defined telework trial is the least disruptive way to test effectiveness while preserving health and continuity of operations.

The Commission has endorsed trial telework as a way to test whether full-time telework is effective and whether agency concerns persist; if ineffective after a defined trial, the agency need not continue it. (Natalie S. v. McDonald, EEOC Appeal Nos. 0120140815 & 0120142049, 2018 WL 703733 (Jan. 26, 2018).

Cases on "telework effectiveness" (what to emphasize)

- Consistency matters when it is medically and operationally relevant. In one case, the Commission found that giving an employee only inconsistent, "situational" telework did not effectively address a documented need for two consistent telework days per week. (Alejandrina L. v. Tillerson, EEOC Appeal No. 0120152145, 2017 WL 5988721 (Nov. 16, 2017).
- Flexibility can be part of effectiveness. The Commission faulted an agency that did not show undue hardship where an employee sought to telework two days per week with occasional flexibility in choosing which days. (Clayton C. v. Foxx, EEOC Appeal No. 0120120350, 2015 WL 10521631 (Nov. 17, 2015).

A practical "trial plan" template you can propose

- Duration: 2–6 weeks (or another defined period appropriate to the job; 30 days is often workable).
- Success metrics: deliverables completed, quality measures, response times, customer impacts, meeting attendance, collaboration touchpoints.
- Communication plan: daily/weekly check-ins, availability blocks, and documented channels (Teams/Zoom/phone/email).
- Technology and access: confirm equipment, system access, and security rules in advance.
- Reevaluation date: calendar the reassessment meeting before the trial begins, and commit to sharing data both ways.

Interactive process reminder: courts have described the interactive process as requiring communication and good-faith exploration of accommodations; unnecessary delay or obstruction can create liability when a reasonable accommodation was possible. (Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1112, 1114–16 (9th Cir. 2000); Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128, 1137 (9th Cir. 2001).

Q12. What if the employee refuses to comply with an order to report back—AWOL/discipline?

We do not advise employees to disobey orders. In many agencies, a refusal to report to the official duty station after an accommodation is modified or rescinded may be treated as absent without leave (AWOL) and can trigger discipline. The employee-friendly goal is to protect your health and your legal rights while minimizing avoidable disciplinary risk.

A risk-managed playbook (disability reasonable accommodation focused)

1. Get the decision in writing: Ask for the accommodation decision (approval/denial/modification) and the agency's rationale, including which essential functions allegedly require on-site work.
2. Request an interim accommodation pending review: Propose a short, defined interim arrangement (temporary telework, situational telework, or a hybrid schedule) while the agency reevaluates based on updated information.
3. Ask for clarification and propose a structured trial: If the agency insists on an in-office trial, ask for a defined duration, objective metrics, and a scheduled reassessment. If in-person poses medical risk, propose a telework trial instead (see Q11).
4. Keep working (and document willingness): If you are able to work, make clear in writing that you are ready and willing to perform your duties and are seeking a safe, effective accommodation—not time off.
5. Preserve EEO rights: You may initiate EEO counseling and file a complaint challenging the accommodation denial/modification. Keep copies of all requests, medical notes, and agency responses.

Critical nuance: how to contest the decision without creating an "automatic AWOL" narrative

- Use written, time-stamped communication. Confirm phone conversations by email.
- Escalate through the accommodation chain (RA coordinator, HR, EEO office) while remaining respectful and professional.
- If you cannot safely report in person, say so clearly and explain why (functional limitations, commuting barrier, risk of medical harm), and propose a concrete interim alternative.
- Consider leave only as a last-resort stopgap when you truly cannot work safely; leave may protect you from AWOL but can also undermine your message that you can work with an accommodation.

What not to do

- Do not simply "no-show" without documentation or communication.
- Do not rely on verbal understandings; insist on written confirmation of interim arrangements.

- Do not delay providing requested, relevant medical documentation that explains functional limitations and nexus—unless the request is overly broad or improper.

Note: This section is intentionally disability-accommodation centered. In practice, AWOL and discipline disputes can also implicate MSPB/collective bargaining procedures and agency-specific rules; coordinate with counsel or a representative for strategy in those forums.

Q13. Is telework required for reasons unrelated to work?

Bottom line: Not automatically. Telework must be tied to a disability-related workplace barrier, but 'work-related' is broader than a single task - it can include stamina, predictable functioning, access to the worksite, and preventing exacerbation that would impair work performance.

Agencies sometimes argue that telework is 'for personal benefit' when an employee explains that telework would reduce symptoms or improve well-being. That framing can be incomplete. Under the ADA/Rehabilitation Act framework, the question is functional: does the requested telework address a disability-related barrier to performing essential functions or to enjoying an equal benefit or privilege of employment?

Symptom management can be relevant when it is the mechanism that makes work possible (for example, reducing fatigue so the employee can reliably meet expectations, or preventing exacerbation that would predictably derail performance). In Alejandrina L. v. Tillerson, EEOC No. 0120152145 (Nov. 16, 2017), the Commission found that one day of telework was not effective where the record supported a need for two consistent telework days per week to address debilitating fatigue and prevent exacerbation.

Telework can also be 'work-related' when it is needed for safe and reliable access to work in a way that preserves the employee's ability to perform. In The Estate of Doria R. v. Cordova, EEOC No. 0120152916 (Nov. 9, 2017), the Commission concluded the agency failed to reasonably accommodate an employee whose medical condition created a serious risk of injury from commuting; telework should have been provided on that record.

At the same time, an agency generally is not required to provide telework (or any accommodation) solely because it would be more comfortable or improve quality of life if the employee can already perform and access the job without a disability-related barrier. See 29 C.F.R. pt. 1630 app. § 1630.9 (accommodations primarily for personal benefit are not required).

Practice tips (how to frame your request):

- Describe the barrier, not just the diagnosis. Identify what happens in the office (or on the commute) that prevents reliable performance or access (e.g., debilitating fatigue after commuting; symptom flares triggered by the office environment; medically documented risk from commuting).

- Link the barrier to job impact. Explain how the barrier affects essential functions (accuracy, timeliness, stamina, predictable attendance, concentration) or a benefit/privilege (e.g., attending required meetings, accessing training) and how telework would remove or reduce that barrier.
- Provide targeted medical support. Ask your clinician to address functional limitations and the nexus to the requested schedule (frequency, duration, triggers), not to opine on legal conclusions.
- Offer an evidence-based structure: a defined telework schedule (e.g., two fixed days), measurable performance expectations, and a trial period where appropriate.

Key authorities:

- 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a); 29 C.F.R. pt. 1630 app. § 1630.9.
- Alejandrina L. v. Tillerson, EEOC No. 0120152145 (Nov. 16, 2017)
- The Estate of Doria R. v. Cordova, EEOC No. 0120152916 (Nov. 9, 2017)

Q14. Anxiety or similar symptoms in the office - must the agency provide telework?

Bottom line: Sometimes, but not by default. The agency must assess whether the anxiety-related limitations create a material barrier to doing the job or to equal workplace access, and must consider telework when other reasonable options are ineffective.

Anxiety and other mental health impairments can qualify as disabilities, and they can create functional limitations that are highly workplace-specific (for example, panic symptoms triggered by a particular environment, concentration limits in a noisy layout, or predictable decompensation from in-office exposure). The key is not whether the workplace feels unpleasant; it is whether disability-related limitations create a barrier to equal employment opportunity.

Agencies should not use a 'prove it by suffering' approach as a substitute for the interactive process. Employees may be asked for reasonable documentation, but agencies must engage in good faith communication to identify effective options. See Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1112-16 (9th Cir. 2000); Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128, 1137 (9th Cir. 2001).

One employee-protective way to test disputed telework requests is a defined trial period rather than a flat denial based on assumptions. In Natalie S. v. McDonald, EEOC Nos. 0120140815 & 0120142049 (Jan. 26, 2018), the Commission found the agency failed to reasonably accommodate when it did not consider modifying telework guidelines or providing a trial period of full-time telework to determine effectiveness.

Telework is not the only possible accommodation for anxiety-related symptoms. Depending on the limitation, effective in-office options can include a quieter workspace or

private office, changes to seating/location, modified schedules, or other environmental modifications. But if the evidence shows those options do not remove the barrier, telework remains a legally relevant option. See Selma D. v. Duncan, EEOC No. 0720150015 (Apr. 22, 2016).

Practice tips (how to frame your request):

- Be specific about triggers and limitations. Identify what in the office causes symptoms (crowding, noise, proximity, lighting, unpredictability) and how that translates into work impact (missed deadlines, inability to concentrate, inability to attend required meetings).
- Propose and evaluate alternatives in good faith. If you are open to in-office modifications, say so and document whether they work. If you need telework because alternatives have failed or are medically contraindicated, make that nexus explicit.
- Consider a trial arrangement. When the agency doubts effectiveness, propose a defined trial (e.g., 30-60 days) with objective metrics, similar to the approach the Commission described in Natalie S.
- Keep documentation contemporaneous. Preserve emails, symptom logs tied to work impact (not general distress), and any feedback showing performance differences between in-office and telework settings.

Key authorities:

- Barnett v. U.S. Air, Inc., 228 F.3d 1105 (9th Cir. 2000); Humphrey v. Mem'l Hosp. Ass'n, 239 F.3d 1128 (9th Cir. 2001).
- Natalie S. v. McDonald, EEOC Nos. 0120140815 & 0120142049 (Jan. 26, 2018)
- Selma D. v. Duncan, EEOC No. 0720150015 (Apr. 22, 2016)

Q15. Difficult or lengthy commutes - must the agency provide telework?

Bottom line: Commute length alone usually is not enough. But when a disability creates a substantial commute barrier (unsafe, infeasible, or medically risky access), agencies may have to consider telework or other measures that enable reliable access to work.

Many agencies treat commuting as categorically 'outside the workplace.' Courts often say employers generally have no duty to eliminate an employee's commute where the means and length are outside the employer's control. See E.E.O.C. v. Charter Commc'ns, LLC, 75 F.4th 729, 738 (7th Cir. 2023).

However, federal-sector decisions show that commute-related barriers can still be part of the reasonable accommodation analysis when they are disability-driven and they prevent reliable, safe access to the job. In Jody L. v. Wilson, EEOC No. 0120151351 (Jan. 17, 2018), the Commission held that situational telework was required during extreme cold/inclement weather for an employee with paralysis where commuting posed serious safety risks, and that using

leave was not an effective alternative when it did not allow the employee to perform the essential functions.

Similarly, in The Estate of Doria R. v. Cordova, EEOC No. 0120152916 (Nov. 9, 2017), the Commission found that telework should have been granted where commuting created a serious risk of injury tied to the employee's medical condition.

And in Complainant v. Castro, EEOC No. 0720130029 (Feb. 12, 2015), req. for recons. denied, Req. No. 0520150357 (Oct. 1, 2015), the Commission affirmed that full-time telework could be a viable accommodation for a financial analyst whose condition was exacerbated by a lengthy commute, rejecting the agency's attempt (on that record) to avoid the analysis by arguing that commuting was not a major life activity.

The practical takeaway is not 'telework whenever commuting is hard.' It is: show how the disability turns commuting into a barrier to showing up and doing the job, and show that the proposed telework schedule is effective and does not remove essential functions. Agencies cannot deny telework based solely on generalized assertions that face-to-face supervision or presence is required. See Blocher v. Shinseki, EEOC No. 0120111937 (Apr. 17, 2013).

Practice tips (how to frame your request):

- Separate inconvenience from disability barrier. Explain why the commute is unsafe or infeasible because of disability-related limitations (risk of injury, inability to use adaptive equipment in certain conditions, medically documented restrictions).
- Show that you can perform the job while teleworking. Describe how duties will be performed remotely, how you will communicate, and how performance can be measured.
- Tailor the request. For some employees, situational telework (e.g., during inclement weather or flare-ups) or flexible scheduling is more defensible and can be highly effective. Jody L. is a strong anchor for situational telework tied to safety and access.
- Anticipate agency alternatives. Be prepared to discuss other effective options (flexible start times, closer parking, equipment, reassignment) and why those options do or do not address the barrier in your specific circumstances.

Key authorities:

- E.E.O.C. v. Charter Commc'ns, LLC, 75 F.4th 729 (7th Cir. 2023).
- Jody L. v. Wilson, EEOC No. 0120151351 (Jan. 17, 2018)
- The Estate of Doria R. v. Cordova, EEOC No. 0120152916 (Nov. 9, 2017)
- Complainant v. Castro, EEOC No. 0720130029 (Feb. 12, 2015), req. for recons. denied, Req. No. 0520150357 (Oct. 1, 2015)
- Blocher v. Shinseki, EEOC No. 0120111937 (Apr. 17, 2013)

Process reminder. You do not need to use the words 'reasonable accommodation' to trigger the agency's duty to engage the interactive process; any communication that links a workplace adjustment to a medical condition can be enough. See, e.g., Norberto G. v. Brennan, EEOC No. 0120180261 (Mar. 26, 2019); Complainant v. Vilsack, EEOC No. 0120133244 (July 28, 2015).

Q16. When can an agency offer situational telework?

Situational telework is time-limited telework tied to a specific, short-term circumstance. It can be a strong reasonable-accommodation option when it removes a temporary barrier and lets you keep working.

Common situations where situational telework is worth raising

- Post-procedure recovery or convalescence, when you can work but temporarily cannot commute or tolerate the physical office environment.
- Short-term restrictions (e.g., you must avoid certain movements, exposure triggers, or prolonged sitting/standing) but can still perform core duties remotely.
- Temporary safety barriers connected to disability (for example, extreme weather creating unique mobility/safety risks). See Jody L. v. Wilson, EEOC Appeal No. 0120151351, 2018 WL 619160 (Jan. 17, 2018).
- Trial or interim accommodation while the agency evaluates what will work long-term. See Natalie S., 2018 WL 703733 (endorsing a trial period concept for telework as an interim measure).

"Better than leave" — but fact-specific

Sometimes an agency will suggest leave instead of situational telework. Leave can be a reasonable accommodation in the right case, but it is not automatically an effective substitute. The key question is functional: can you perform the essential functions (or key parts of them) during the limited period if allowed to telework?

- If you can work (even at reduced capacity) and telework removes the barrier, situational telework may preserve productivity and maintain continuity.
- If your medical condition means you cannot work at all during the period (e.g., you need rest or cannot safely perform job tasks), leave may be the more effective accommodation.
- A mixed approach is often practical: situational telework for duties you can perform and leave for the time you truly cannot work.

How to frame a strong request (employee checklist)

- Connect the barrier to work: identify what you cannot do (e.g., commute safely, tolerate an environmental trigger, sit/stand for long periods in the office).
- Explain what you can do: list your core duties you can perform remotely and what tools/systems you need access to.

- Propose a clear duration and trigger: e.g., “for two weeks post-procedure,” or “on days where travel is unsafe due to [disability-related reason].”
- Offer reasonable guardrails: check-ins, measurable deliverables, or a short trial period. See Natalie S., 2018 WL 703733.

Q17. Flare-ups — must an agency offer situational telework?

Not always—but an agency also cannot treat “use leave” as a one-size-fits-all answer. The Rehabilitation Act/ADA framework is about an effective accommodation, not a default preference.

The practical legal rule

If you are able to work during a flare-up but the flare-up creates a temporary barrier to getting to (or safely functioning in) the office, situational telework may be an effective accommodation—and sometimes the only effective one. If you are not able to work during the flare-up, leave may be effective.

In Jody L., the Commission held that allowing the employee to use accrued leave on extreme-cold days was not an effective accommodation because it did not allow him to perform the essential functions of his position; situational telework was the workable solution under those facts. Jody L. v. Wilson, EEOC Appeal No. 0120151351, 2018 WL 619160 (Jan. 17, 2018).

Employee-friendly moves during episodic flare-ups

- Be specific about the flare-up pattern (frequency/typical duration) and the work impact. Avoid vague “I’m not feeling well.”
- Explain whether the flare-up affects commuting, stamina, mobility, concentration, or exposure tolerance—and how telework removes that barrier.
- If the agency proposes leave, ask (politely) how leave is “effective” if you can perform essential functions from home. Use Jody L. as your anchor.
- If you truly cannot work, treat leave as the accommodation for those days—and document that it is disability-related.

Q18. Retaliation and interference protections

Requesting or using a disability-related reasonable accommodation (including telework) is protected activity. The ADA also prohibits interference with those rights.

The ADA makes it unlawful to “coerce, intimidate, threaten, or interfere” with an individual for exercising ADA rights. 42 U.S.C. § 12203(b). In the federal sector, these standards apply through the Rehabilitation Act. 29 U.S.C. § 791(g). The EEOC likewise recognizes that a request for reasonable accommodation can be protected activity for reprisal purposes. See Alejandrina L. v. Tillerson, EEOC Appeal No. 0120152145, 2017 WL 5988721 (Nov. 16, 2017).

Practical red flags employees should take seriously

- Sudden “performance” nitpicking or moving goalposts immediately after you request or use accommodation.
- Shifting your duties to emphasize “face-to-face,” “physically present,” or “not a team player” narratives without a clear, role-based explanation.
- Punitive schedule changes, loss of opportunities, exclusion from meetings, or social/organizational isolation tied to your accommodation.
- Overbroad “gotcha” information-gathering that seems designed to discourage or punish accommodation use rather than evaluate effectiveness.

What to do if you suspect retaliation/interference

- *Document: keep a timeline (dates, who said what, and what changed after the request).*
- *Confirm in writing: if instructions or denials are verbal, follow up by email summarizing your understanding and asking for confirmation.*
- *Stay engaged in the interactive process: propose alternatives and ask for a written explanation of why an option is considered ineffective or an undue hardship.*
- *Seek help early: EEO counseling deadlines can be short; talk with counsel/your union/your EEO office promptly if things escalate.*