



The ADA and Workplace Accommodations The Impact of COVID-19

Department of Accessibility Services
Emory University

What will be covered

- Current practices for employee accommodation requests
- Equal Employment Opportunity Commission (EEOC) guidance on COVID-19
- ADA medical documentation during COVID-19
- Accommodations for employees with higher risk of COVID-19 due to a preexisting disability
- Teleworking and the Home Office: Considerations relating to COVID-19
- Accommodations for employees whose physical or mental health has been impacted by COVID-19



Current Practices for Accommodation Requests

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Current Practices for Accommodation Requests

- The Department of Accessibility Services is fully operational despite working remotely.
- Employees are encouraged to continue to submit requests, even if workplace accommodations will not be needed until the employee returns to the workplace
- All documentation/information can be gathered to assist with future decision-making
- If accommodations are approved, the department can be proactive in making certain arrangements for the accommodation in advance of the employee's return to the workplace.

Equal Employment Opportunity Commission (EEOC) Guidance on COVID-19

<https://www.eeoc.gov/coronavirus>

EEOC Resources on Impact of COVID-19

- EEOC Guidance: Pandemic Preparedness in the Workplace and the Americans with Disabilities Act
https://www.eeoc.gov/facts/pandemic_flu.html
- EEOC News: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act and Other EEO Laws
<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
- Accommodation and Compliance: Coronavirus Disease 2019 (COVID-19)
<https://askjan.org/topics/COVID-19.cfm>
- The ADA and Managing Reasonable Accommodation Requests from Employees with Disabilities in Response to COVID-19
<https://askjan.org/blogs/jan/2020/03/the-ada-and-managing-reasonable-accommodation-requests-from-employees-with-disabilities-in-response-to-covid-19.cfm>

Key Clarifications

- Coronavirus alone is not presently considered a disability under the ADA, due to the illness being transitory and having limited impact on major life activities in ordinary circumstances.
- Employees who may be at higher risk for developing complications associated with the coronavirus due to a disability or chronic medical condition are covered under the ADA. Emory must provide reasonable accommodations to reduce risk of exposure to the coronavirus upon notification to Emory of this risk.
- Employees who may be at higher risk for developing complications associated with the coronavirus due to age or ordinary pregnancy are not covered under the ADA, but Emory should consider whether accommodations are appropriate under other federal, state and local requirements.



ADA Medical Documentation during COVID-19

ADA Medical Documentation during COVID-19

- Healthcare providers are overloaded, so employees may not be able to access their provider simply to obtain ADA documentation.
- Risk of exposure to the virus from visiting a healthcare provider and the requirement to practice social distancing or sheltering in place, may impede individuals from accessing an appropriate professional who can provide ADA documentation.
- DAS is taking a pragmatic and flexible approach with regard to ADA documentation requests.

ADA Medical Documentation during COVID-19

- DAS will ask employee for specific information about their impairment, limitations, and need for accommodations
- Documentation submitted for a previous accommodation request will be considered, even if it is not recent documentation.
- Personal medical record information from a past visit to a health-care provider will be accepted if it establishes the impairment.
- A telemedicine consult with an appropriate provider, a form or stamped note from a clinic, or an e-mail from a health-care provider that establishes the impairment and need for an accommodation will be accepted.
- May consider proceeding with the accommodation request without obtaining formal documentation, if DAS has appropriate evidence to support the presence of the impairment for which the employee is requesting an accommodation.

The background of the slide is a soft, teal-colored landscape. It features a calm body of water in the foreground, with misty mountains and hills in the distance. The overall atmosphere is serene and slightly hazy.

Accommodations for Employees with Higher Risk of COVID-19 due to a Preexisting Disability

Accommodations for Employees with Higher Risk of COVID-19 due to a Preexisting Disability

- Providing additional/enhanced personal protective equipment (PPE)
- Changes to the work environment
 - Designating one-way foot traffic aisles
 - Using physical barriers (i.e. plexiglass, screens, tables) to ensure minimum distances between co-workers whenever feasible
 - Relocating workstation of vulnerable employee
- Temporary job restructuring of marginal jobs duties
- Temporary transfer to a different position
- Modifying a work schedule or shift assignment of vulnerable employee



Teleworking and the Home Office

Considerations relating to COVID-19

Telework for Emory University

- Between March 13-30, 2020, all Emory employees who were able to work remotely were instructed to begin to do so on a routine basis until further notice to help slow the spread of the coronavirus pandemic. Guidelines for Remote Work were provided: <https://www.hr.emory.edu/eu/working-covid-19/index.html>
- On May 15, 2020, Emory leadership announced that the University will commence a multi-phased plan to gradually return staff to campus for research and teaching. Some of these employees will transition from working remotely 100% of the time to partial work on campus and partial teleworking.
- Leadership members across Emory are in the midst of difficult conversations regarding both temporary and long-term teleworking for many staff who reported to campus full-time prior to pandemic-related telework. It is possible that many positions may continue to telework full time for an undetermined time period.

Telework Scenario 1:

Employees Seeking Continued Telework Arrangements after Public Health Measures No Longer Necessary

- *Is the employer automatically required to grant telework as a reasonable accommodation to every employee with a disability who wishes to continue teleworking? ...NO*

Scenario 1 Considerations:

- If there is a disability-related limitation that can be addressed with another form of reasonable accommodation, the employer can choose that alternative over telework.
- If teleworking during the pandemic was permitted to slow the spread of COVID-19 and it excused the employee from performing an essential function of the job during that time, the employer does not need to continue to excuse that function after public health measures are lifted.

Telework Scenario 2:

Prior to COVID-19, an employee requested telework as a reasonable accommodation and the request was denied due to concerns the employee would not be able to remotely perform the essential functions of the position.

The employee has now been teleworking for an extended period as a measure to slow the spread of COVID-19 and has been able to complete the essential functions of the position remotely.

Scenario 2 Considerations:

If the employee renews their request to telework (i.e., continue to telework) as a reasonable accommodation after the COVID-19 crisis subsides and temporary telework ends, the employee's performance and ability to perform their job, including the essential functions, during the COVID-19 temporary telework situation, should be considered when reevaluating the request. That time served as a "trial period" and the manager may draw a new conclusion.

Home Office Equipment as an ADA Accommodation

- When an employee with a disability has been accommodated in the workplace and will need reasonable accommodation to work at home during a pandemic health-related situation, like the coronavirus, then the employer should provide that accommodation, barring undue hardship. In the event of undue hardship, the employer and employee should cooperate to identify an alternative reasonable accommodation.
- The fact that the period of telework may be of a temporary or unknown duration may render certain accommodations either not feasible or an undue hardship.
- Each request is evaluated based on the employee's unique circumstances, so there is no one-size-fits-all approach to determining if home office equipment can be obtained as an ADA accommodation.

Telework and Home Office Equipment Considerations

The following considerations will be taken into account when determining whether requests for home office equipment for teleworking can be honored as an ADA reasonable accommodation during COVID-19

1. Is the employee teleworking as a public health consideration during COVID-19 or is the employee teleworking as a reasonable accommodation due to a disability?
2. What is the predicted period of time the employee will be teleworking? Can all of the essential functions of the job be completed remotely (*i.e. likely longer term teleworking*) or will the employee transition back to campus for partial or full-time work upon reduction of public health measures?

Telework and Home Office Equipment Considerations

3. How many days will the employee be teleworking versus working on campus?
4. Does the employee have the needed equipment at their campus office and what is the size of the equipment? *(there is potential for temporary relocation of equipment based on size)*
5. What is the cost of the recommended equipment? Are there any effective alternatives to the ideal home office equipment that would not be cost-prohibitive?
6. What is the nature of the employee's condition and what would be the risk of negative health outcomes if the ideal equipment is denied due to undue hardship?

New Requests for Ergonomic Home Office Equipment

- A remote ergonomic assessment can be completed our vendor (CESSI) and equipment recommendations will be made.
- The department will have the opportunity to propose alternatives to the recommended equipment.
- DAS will apply all appropriate considerations and coordinate with the department and employee to determine the most reasonable accommodation.
- Any equipment delivered to the employee's home can be relocated to their office by CESSI upon the employee's return to the office setting.

Relocating or Duplicating Equipment

What if an employee with a disability requests for their ergonomic equipment to be relocated to their home office or duplicated for their home office?

- Emory may not allow employees to relocate desks, chairs or other larger equipment from their offices to their homes. However, employees may arrange with their department/HR to retrieve and relocate smaller office equipment to their home offices while teleworking.
- Replicating an employee's office equipment accommodations at the employee's home office would be considered an undue hardship given the temporary or unknown duration of teleworking, so duplicate equipment will not be purchased. DAS can work with employees and their departments to be creative and flexible in the approach to reasonable alternatives that will serve as a temporary accommodation for the employee while teleworking.



Accommodation Ideas for Employees whose Physical or Mental Health has been impacted by COVID-19

Accommodations for Employees with New or Exacerbated Disability Due to COVID-19

- Pre-existing Mental Health Disorder with increased symptoms
- New Mental Health Disorder as a result of COVID-19 Pandemic
- Sleep Disorder that emerged or increased
- Pre-existing Medical Condition that has worsened due to contracting COVID-19
- New Medical Condition emerged after recovering from COVID-19

Mental Health Disorders and COVID-19

- Those with depression/mood disorders may struggle with the social isolation that accompanies staying home
- Those with obsessive compulsive disorder (OCD) or phobias may have increased symptoms related to germs and/or the fear of contracting the virus, impacting ability to cope at home and work.
- Sudden change in routine and need to quickly adapt might contribute to issues with concentration, memory, increased fatigue, and irritability.
- Feelings of loneliness, apprehension, and frustration may continue for the foreseeable future.
- PTSD may result from the employee or an employee's loved one contracting COVID-19

Accommodations for Managing Mental Health

- Identify and Reduce Triggers
- Flexible Schedule
- Modified Break Schedule
- Rest Area/Private Space

Reducing Triggers of Mental Distress

- Can prevent exacerbation of symptoms
- Accommodations are specific to the trigger
- Common examples:
 1. Noise – environmental sound or white noise machine, noise cancelling headphones
 2. Light – alternative lighting, shades
 3. Stress – stress reducing apps, modified break schedule

Schedule Accommodations

Flexible schedule

- Shifting arrival/departure times in response to disturbance in employee's sleep/wake cycle or medication timing/side effects

Modified telework

- If symptoms flare up, permit employee to leave and continue work day at home

Modified schedule

- To accommodate therapist appointments, employee will make up hours missed on another day within the week

Modified Break Schedule/Rest Area

Modified Break Schedule

- Some employees can benefit from taking their breaks at a different rate than what may be considered standard to accommodate certain conditions, symptoms, and habits they have in order to perform their job at their optimal level.

Rest Area/Private Space

- Place to retreat to prevent symptoms from exacerbating when triggered
- For use when recovering from a panic attack or other symptoms
- Meditation or use of apps designed to reduce stress response

Web Applications for Stress Reduction

Google Play

- Brainwaves
- Breathe2Relax
- DBSA Wellness Tracker
- End Anxiety Hypnosis
- Headspace
- iMood Journal
- Relax Melodies
- Self-Help for Anxiety Management (SAM)
- Stop, Breathe & Think
- Talk Space

iTunes

- AnxietyCoach
- Equanimity-Meditation Timer & Tracker
- Health Mapper
- In Flow - Mood and Emotion Diary
- Optimism
- Relax Melodies
- Spire
- T2 Mood Tracker
- Worry Watch

Emory Faculty Staff Assistance Program (FSAP)

www.fsap.emory.edu

- Online self-assessment available
- Mental health assessment tools can be administered anonymously
- Tele-mental Health Services available by appointment (including evenings 5:00-9:00pm)
 - Grief and Loss
 - Depression
 - Stress and Anxiety
 - Alcohol and Drug Abuse
 - Domestic/Intimate Partner Violence
 - Work-Related Challenges

Sleep Disorders

Employees with sleep disorders may experience a variety of symptoms that impact their work, including:

- Challenges with attentiveness/concentration
- Decreased stamina/fatigue
- Challenges with organizing, planning or prioritizing
- Difficulty staying awake
- Stress intolerance
- Memory loss
- Challenges managing time
- Residual effects of use of sleep aids

Accommodations for Sleep Disorders

- Flexible/Modified Schedule
- Modified Break Schedule/Periodic Rest Breaks
- Teleworking
- Apps for concentration, memory, organization, time management
- Apps for sleep/fatigue

Accommodations for Medical Conditions Impacted by Coronavirus

- Interactive process occurs in the same manner as if unrelated to coronavirus.
- Dependent on how the condition impacts their ability to complete the essential functions of their job
- Employees with respiratory impairments may need accommodations aimed at:
 - Protection from environmental triggers and/or air purification
 - Reduced activity that causes exertion
 - Modified work schedule/location

Department of Accessibility Services

Workplace Accommodations – Information for Employees and Managers

accessibility.emory.edu/workplace-access

Forms to Register with DAS

accessibility.emory.edu/workplace-access/employees/forms

Contact for Questions and Consultation

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