

HR Insights

Workplace Flexibility as a Reasonable Accommodation

In recent years, more employers have become adaptable to remote and hybrid work environments. While some employers have continued to embrace flexible work arrangements, many are requiring employees to return to in-person work. Even though some organizations do not offer flexible work arrangements, there may be situations when they need to allow workers flexibility as an accommodation under various employment laws, including the Americans with Disabilities Act (ADA).

This article explores workplace flexibility and its benefits and explains how it can act as a reasonable accommodation under the ADA.

What Is Workplace Flexibility?

Workplace flexibility usually refers to employees being free to decide when, where and how they perform their work. Instead of employers dictating rigid schedules and work environments, workplace flexibility prioritizes employees' individual needs, circumstances and productivity. This often means that employers who allow for such flexibility define work differently than organizations that implement traditional work environments because workplace flexibility embraces the idea that employees can be productive no matter where or when they perform work.

Flexible work arrangements can take several forms, including the following:

- **Flexible work**—This approach allows employees to customize their schedules within a range of hours, often deciding when they start and end their workdays.
- **Remote work**—Also known as telecommuting, remote work lets employees work from their homes or other locations. These employees connect with their employer and co-workers electronically via the internet using tools such as email, instant messaging, webcams and conference calls. Telecommuting can range from working exclusively from home to working at home for a few hours each week.
- **Unlimited paid time off (PTO)**—Unlimited PTO is similar to a standard PTO policy; however, employers do not restrict the number of days employees may take off each year.

Other forms of workplace flexibility can include compressed workweeks (e.g., working less than five days per week), part-time employment and summer hours.

Benefits of Workplace Flexibility

Flexible work environments can provide organizations and their employees with several benefits, such as:

- Increased employee satisfaction, engagement and productivity
- Improved work-life balance
- Strengthened attraction and retention
- Enhanced autonomy for employees

While workplace flexibility provides several benefits to all employees, it can be particularly helpful to workers with disabilities. This is because workplace flexibility offers employees more freedom in terms of when, where and how they perform work. As a result, workers with disabilities who are provided with workplace flexibility can experience additional benefits, including the following:

- Needed breaks
- Control of individual work environments and limited distractions
- Protection for susceptible workers from illness or pathogens

- Accommodations for transportation needs

Workplace Flexibility as a Reasonable Accommodation

The ADA requires a covered employer to provide reasonable accommodations to employees or job applicants with disabilities unless doing so would impose an undue hardship on the operation of the employer's business. A reasonable accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

Under the ADA, flexible work arrangements, including working from home, can be a reasonable accommodation for employees with disabilities, according to [guidance](#) from the U.S. Equal Employment Opportunity Commission. Workplace flexibility can accommodate workers by reducing and removing distractions in their work areas. It can also accommodate employees' scheduling needs, such as frequent breaks or leave for medical visits. In some situations, employers may need to increase or decrease an employee's access to natural light, permit them to listen to music to block out workplace distractions, or erect soundproofing or visual barriers. Employers can accommodate these needs by allowing workers the flexibility to work from home or other locations.

If employers offer flexible work arrangements to all employees, then when an employee with disabilities requests similar flexibility as a reasonable accommodation, it is unlikely that the employer would be able to show that providing the requested flexibility would impose an undue hardship. This is especially true if employers allowed or required employees to work remotely during and after the COVID-19 pandemic. Therefore, employers should proceed with caution before denying accommodation requests that may involve workplace flexibility if they allow or have allowed remote and hybrid work arrangements in the past.

Moreover, if an employer allows workers without disabilities to work remotely without having to provide any information or documentation, requiring an employee with disabilities to provide medical information or documentation when a similar request is made may violate the ADA and other anti-discrimination laws.

Employer Takeaway

Understanding how workplace flexibility can be a reasonable accommodation allows employers to better comply with the ADA, reduce the risk of costly errors and ensure employee rights are protected. Employers who offer workplace flexibility as a reasonable accommodation to individuals with disabilities are not just meeting their legal obligations but also creating an inclusive work environment where all workers can thrive.

For more workplace resources, contact Risk Strategies today.

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