

CBIA EMPLOYMENT LAW CONFERENCE

Prepared by: Attorney John M. Letizia & Attorney Phyllis M. Pari
Presented by: Attorney John M. Letizia, Managing Partner
Letizia, Ambrose & Falls, P.C.
667-669 State Street
New Haven, CT 06511
(203) 787-7000
letizia@laflegal.com

REMOTE WORK CHALLENGES

With today's technology, employees could work from anywhere at any time for certain positions. Allowing employees to work remotely (or sometimes called "telecommuting") offers them flexibility, which according to many studies, helps businesses increase productivity, reduce turnover and aid in retention and recruitment efforts, but there are risks.

However, employers that allow employees to work remotely face a variety of challenges in terms of assessing whether an employee can work effectively from a remote location, as well as monitoring and supervising the work performed by that employee in addition to the legal challenges related to workers' compensation injuries, determining actual hours worked or waiting to work, and more. These challenges highlight the importance of having a strong remote work or telecommuting policy that clearly defines who and what positions are eligible to work remotely, whether the remote work is full-time or part-time, and how employees will be supervised and more. Moreover, employers need to be aware of their obligations under state and federal law in terms of workplace safety, workers' compensation, determining hours worked, waiting time, preparing to work, tasks ancillary to working remotely, being on-call, as well as the extent to which working remotely can qualify as an accommodation under the Americans With Disabilities Act (ADA).

I. The Importance of a Carefully Crafted Remote Work Policy

A. Remote work is not for every person or every organization. Sometimes, the nature of the business precludes out-of-office work for practical, legal, financial or security reasons. However, if you wish to allow employees to perform certain work responsibilities remotely, it is important to have a policy in place that allows you the discretion to decide who works remotely, what they are allowed to do remotely, and that spells out the type of accountability that you expect from your remote worker.

B. What is remote work?

- An employer's policy should carefully spell out what is considered to be proper remote work or "telecommuting."

C. Who should work remotely? In any policy, employer discretion is key.

1. **Working at home is a privilege and not a right.** What would work best for the particular employer and its business needs? There are often logistical needs to consider, productivity concerns, and financial considerations, such as saving the cost of office space, commuting costs and parking versus additional insurance coverage (e.g., workers' compensation, property and casualty) that may increase costs because of the new work location(s).
2. **Not every employee who wants to work remotely should work remotely.**
 - a. Working remotely requires discipline, and potentially, prior experience working remotely. An employee with little or no work experience, let alone little or no remote work experience, may not be the best choice to work remotely.
 - b. In addition, employer trust is integral to any employment relationship, but particularly in a remote work relationship, where there are distractions (e.g., animals and children at home during working hours, no separate home office at the residence) and no direct supervision. If the employer does not trust the employee, there is little chance that the remote work relationship will be successful, even if working is determined by logging in and out of a company server.
 - c. The employee should be self-motivated and independent. If there is any indication that the employee has had difficulty focusing on work tasks and goals while in the office, it is unlikely that this is the right person to work remotely. Generally, the privilege of telecommuting should be reserved for the highest performing employees and then possibly only part-time.
 - d. Telecommuting should not be contemplated when the employee is responsible for supervising someone else or if employer or department efficiency is compromised when the employee is not present.
3. **A remote working relationship should not have an indefinite duration**
 - a. An employer should retain the discretion to end the remote working arrangement if the company's needs are not being met.
 - b. An employee's failure to fulfill normal work requirements may be cause for disciplinary action, termination of employment, or at least withdrawing the privilege of telecommuting.
 - c. Make it clear that all other work policies apply with equal force to the remote worker, (e.g., HR complaint reporting process, etc.).

4. Are there specific guidelines that govern the remote work relationship?

- a. Is there a specific work schedule for remote work, (i.e., days, times, etc.)?
- b. Are there certain dates, times, events that the employee must attend on the employer's premises? Does the employee have to attend via skype?
- c. Is the employee workload altered as a result of telecommuting? If so, how?
- d. Will the employee use employer property while working at home? If so, does the employee have to make sure their homeowner's or renter's insurance covers injury arising out of or relating to business use of the home, especially if the employee has customers or vendors meet at his/her residence?
- e. Is the employee accessible via text, phone, email, etc.?
- f. Are there special documentation requirements that should be followed when working at home, (e.g., documentation of break times, work hours, etc.)?

II. Template Telecommuting Policy and Guideline

See the template "Telecommuting Policy and Guideline" as it addresses the above points and more (See attachment 1).

III. An Employer's Obligations to Remote Workers Under State and Federal Law

1. Employees injured while working remotely could file workers' compensation claims.

- a. To be compensable under Connecticut law, an employee's injury must arise out of or occur in the course of his or her employment, which means that the employee's injury must occur while the employee is working for the company on the company's premises or elsewhere, if the employee is working there in furtherance of the company's business and at the direction of the company.
- b. Preliminary acts in preparation for work at home are not compensable. "A preliminary act" and "acts in preparation for work" means acts performed prior to the start of the employee's work day, and include, but are not limited to, the following acts, except when undertaken at the express direction or request of the company:
 - i. Personal activities;
 - ii. Household chores;
 - iii. Personal grooming or hygiene, such as showering, dressing, brushing teeth, ironing clothes, drying and combing hair, applying makeup and shaving;

- iv. Preparing meals, including lunch or snack to take to work;
 - v. Removal of obstacles from one's walkway, driveway or yard, including but not limited to snow, ice, trash cans, recycling containers, or stones, in order to facilitate entry from one's residence onto a public thoroughfare, unless said removal is necessary to accommodate work required by the company; and
 - vi. Any other acts necessary in order to prepare oneself for work.
- c. Connecticut courts and the Connecticut Workers' Compensation Commission have concluded that employee injuries occurring during the course of work performed at home, incidental to work performed at home, or for the benefit of the employer at home, are compensable. For example,
- i. In Tovish v. Gerber Electronics, [32 Conn. App. 595, 605](#) (1993), a man sustained a heart attack while out shoveling snow in his driveway. It was deemed compensable because he was shoveling snow so that he could leave his home (where he regularly maintained a home office) to complete work activities.
 - ii. In Tutunjian v. Burns, Case No 5618 CRB-6-11-1 (3-21-2012), an employee with a home office slipped and fell on ice in his driveway while walking to the mailbox to mail business correspondence, which was also deemed compensable. In this case, the key inquiry was whether the employee's injury was sustained while the employee was rendering a benefit to his employer. McNamara v. Hamden, [176 Conn. 547, 556](#) (1979) (ping pong case). Further, the CRB noted that an injury is compensable if it occurs while the employee is "reasonably fulfilling the duties of employment or doing something incidental to it." Kish v. Nursing and Home Care, Inc., [248 Conn. 379](#) (1999) (employee driving to pick up commode).

2. OSHA does not conduct inspections of "home offices," nor does it require employers to do so.

- a. If OSHA receives a complaint about a home office, the complainant will be advised of OSHA's policy. If an employee makes a specific request, OSHA may informally let employers know of complaints about home office conditions, but will not follow up with the employer or employee.
- b. With respect to other home-based work sites, (1) OSHA will only conduct inspections when a complaint or referral is received indicating that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, including reports of a work-related fatality; (2) the scope of inspection is limited to the employee's work activities; (3) the Occupational Safety and Health Act does not apply to an employee's house or furnishings; and (4) employers are responsible in home

worksites for hazards caused by materials, equipment or work processes which the employer provides or requires to be used in an employee's home.

IV. Remote Employment as an Accommodation Under the ADA

- A. There may be circumstances when an employer has to allow an employee to work at home at least part of the time due to a disability under the ADA or even Connecticut's Fair Employment Practices Act (which covers employers with 3 or more employees), to provide reasonable accommodations for qualified applicants or employees with recognized disabilities.
- B. A reasonable accommodation is any reasonable change to the work environment or in the way things are customarily done that would enable a person with a disability to apply for a job, perform a job, or gain equal access to the benefits and privileges of a job.
- C. The ADA does not require an employer to provide a specific accommodation if it causes undue hardship, (i.e., a significant difficulty or expense).
- D. The Equal Employment Opportunity Commission ("EEOC") has issued guidance on this issue, which indicates that allowing an employee to "telecommute" can be a reasonable accommodation even if the employer does not have a telecommuting policy (See attachment 2).
- E. The key is whether telecommuting is reasonable under the circumstances, which involves an inquiry into whether the job lends itself to telecommuting.
 - 1. Does the job lend itself to telecommuting? This may involve an inquiry into the ability to supervise the employee, whether the employee's duties require the use of certain equipment or tools that cannot be brought home.
 - 2. Does the employee's job require interaction or coordination with other employees, customers or information that can only be found on the employer's premises?
- F. It is important for an employer to engage in the interactive process with the employee to make the determination on a case by case basis.

V. Confidentiality and Cyber Security Concerns

- A. Telecommuting employees should be treated no differently than traditional employees within the office with regards to the confidentiality of both employer and client data. Just like employees within an office, telecommuting employees must maintain the privacy of company information and should be required to sign a non-disclosure agreement protecting the confidentiality of both company and client information.

- B. Frequently, telecommuters rely upon their own personal home computer and smart phone to perform their work. Employers should ensure that they can retrieve files from telecommuting employees. This means there should be policies in place informing the telecommuting employee that what they may perceive to be their “home” computer, is, in fact, subject to review and inspection by their employer, just as their traditional office computer would be as well.
- C. Telecommuting employees should only have secure access to their employers and customers’ information. Encrypted email clients, network firewalls, periodic monitoring and specifically approved remote-access applications are technological tools that employers can rely upon to protect their own data and their customers’ data with a telecommuting employee. Confidential information should be stored centrally and securely within the employer’s control. Cloud computer services and encrypted network storage solutions assist in this concern. Policies should be in place to ensure that telecommuting employees are not storing such information locally on their own computer or smart phone. If employees violate these policies and locally store their employer and customers’ data on their home computer or a device used by both themselves and their family members, the cyber security risks can be significant.
- D. However, despite significant advancements encryption and centralized data storage in the last ten years, much of the risk in cyber-security breaches remains due to preventable human error. When employees connect their work-approved laptop to a public network in a coffee shop or café, they expose the confidential data of customers and their employer to any potential hacker in their area. It is all too easy to physically forget laptops or smart phones in public places, further exposing employers and clients to data breaches. Famously, the CEO of Qualcomm—the maker of some of the most advanced microprocessors in today’s smart phones—left behind his laptop in a hotel ballroom and exposed his company’s and customers’ sensitive data.* An Apple employee forgot a prototype iPhone at a bar, leading to a major loss of what had been Apple’s exclusive and confidential data until that point.†
- E. From a legal perspective, employers must understand the increased risks associated with allowing greater levels of telecommuting with their employees and they must implement clear policies, guidelines and technological practices to mitigate these risks. Here are some best-practices all employers would be wise to implement:
 - 1. Directly providing telecommuters with devices such as laptops, smart phones and encrypted USB drives and monitoring compliance in their use

* Betsy Schiffman, Stolen Qualcomm Laptop Contains Sensitive Data, Forbes (2013), <https://www.forbes.com/2000/09/19/mu5.html#54109eb12ea7> (last visited Oct 24, 2018).

† AppleInsider, Prototype iPhone was left at bar by Apple software engineerApple, Insider (2010), https://appleinsider.com/articles/10/04/19/prototype_iphone_was_left_at_bar_by_apple_software_engineer (last visited Oct 24, 2018).

2. Conducting house visits with full-time telecommuters to ensure confidential information is being properly handled
3. Implementing policies prohibiting employees from using home computers without having installed information security mechanisms such as encrypted access to centrally stored employer and client data
4. Implementing policies prohibiting processing and storing employer and client data directly on personal home computers, laptops or smart phones
5. Requiring telecommuting employees to use secured networks and implementing policies prohibiting the use of public or unprotected networks
6. Monitoring for compliance with company guidelines on what software may be downloaded and prohibiting known problem applications such as file-sharing services
7. Establishing guidelines to combat casualness in electronic communication, and in particular, those communications sent from the home, where an employee may feel more comfortable discussing or divulging confidential data compared to in a formal office setting.

CBIA EMPLOYMENT LAW CONFERENCE

Prepared by: Attorney John M. Letizia & Attorney Phyllis M. Pari
Presented by: Attorney John M. Letizia, Managing Partner
Letizia, Ambrose & Falls, P.C.
667-669 State Street
New Haven, CT 06511
(203) 787-7000
letizia@laflegal.com

TELECOMMUTING POLICY
AND GUIDELINE

I. PURPOSE

To set forth guidelines and procedures under which an arrangement may be made for certain employees to perform their work or a portion of their work from a remote location.

II. DEFINITION

Telecommuting is a work arrangement that allows a qualified employee, as determined by the company, to work from a separate ‘telework’ site on a regularly scheduled basis. Telecommuting entails a work-at-home arrangement or a remote-access arrangement for at least part of the workweek.

III. SCOPE

In general, telecommuting is a privilege which may be granted under appropriate circumstances to high-performing employees (e.g., employees with very good to excellent regular performance reviews) whose job responsibilities are suited to such an arrangement consistent with the needs of the company. There will be only a limited number of positions that qualify for full or part-time telecommuting. Each request to telecommute will be decided on an individual basis taking into consideration the guidelines set forth below and most importantly the company’s needs. In certain cases, part or full-time telecommuting may be a requirement of the position, and employees will usually be so notified at the time of hire. Telecommuting is not intended as a universal benefit, and the remote-work arrangement may be terminated at any time it is determined by the company that its needs are not being fully met or the employee is not suitable for telecommuting. This document sets forth the present policies and procedures for employees who accept remote-work assignments.

IV. ELIGIBILITY

- A) To be considered eligible to participate, an employee’s work must not be reliant on face-to-face interactions with other employees, vendors, or customers. Notwithstanding, aspects of some jobs may be eligible for telecommuting on an intermittent basis. Initiation of a telecommuting arrangement may be at the request of

either the company or the employee. Permission to participate in telecommuting is at the sole discretion of the employee's department. Participation in telecommuting is voluntary on the part of the employee, except in cases where the position requires it and notification has been provided to the employee.

- B) Employees who wish to telecommute must first discuss the request with their immediate manager, who must support the request before it is addressed by the department. Generally, requests to telecommute may be considered when:
1. The employee has demonstrated sustained high performance, and when the manager believes that the employee can maintain the expected quantity and quality of work while telecommuting.
 2. Quality of service in the position can be maintained for customers.
 3. Telecommuting is appropriate considering the nature of the employee's job.
- C) Generally, requests to telecommute should not be considered when:
1. The nature of the job requires the employee's physical presence (e.g. telecommuting may not be appropriate where the employee must supervise the work of other employees or if they are involved in direct in-person, customer care) or efficiency is compromised when the employee is not present.
 2. The employee's performance review does not indicate sustained high performance, which means the employee does not "exceed expectations" for each success factor (or key behavior) on their performance review.
 3. The employee's observed productivity levels are problematic.
 4. The employee requires close supervision as indicated, for example, by the employee's consistent need for guidance on technical or operational matters.
 5. The employee has less than six months of service (except in the limited circumstances).
 6. The employee's current assignment requires frequent supervision, direction or input from others who are on-site.
 7. The employee has demonstrated an attendance problem or concern.
- D) Telecommuting is not intended to permit employees to have time to work at other jobs, or to run private businesses. Failure to fulfill work requirements, both qualitative and quantitative, on account of other employment, including contractor services, may be cause for disciplinary action or termination of employment.
- E) In some cases, a department may wish, as a recruitment tool, to permit a new employee to telecommute as part of the hiring arrangement. As a part of this arrangement, the recruitment and staffing representative may waive the six-month limit set forth above.

- F) Permission to telecommute is dependent upon the employee having a suitable work location (e.g., separate home office) at the off-site premises.

V. DURATION

Most telecommuting arrangements are granted on a temporary and revocable basis, and may be discontinued by the company at any time and for any reason. In addition, an employee may discontinue participation in telecommuting at any time (except in those circumstances noted earlier where telecommuting is required of the position) with ___ weeks' notice.

VI. PROCEDURE

- A) Those employees who wish to be considered for a telecommuting arrangement will submit a detailed request to their manager that includes the following information:

_____, _____, _____, and _____.

- B) The decision to approve a telecommuting arrangement is based upon factors including job duties and responsibilities, individual performance history, related work skills, appropriateness of the telework site, ability to measure work performance, impact on the company and more. Approval of the telecommuting arrangement, schedule, and all other specifics is the sole responsibility of the employee's department.

- C) The employee's compensation, benefits, work status, work responsibilities, and the amount of time expected to work per day or per pay period will not change due to participation in the telecommuting program (unless otherwise agreed upon in writing). Telecommuting employees will report to the traditional worksite for regularly scheduled meetings and time-periods pre-determined by management for purposes of education and training. In addition, employees will be available to come to the traditional worksite when a business need arises. Advance notice will be given whenever possible.

- D) Employees will not subcontract or perform other work using company equipment, materials, information or anything else made available for the express purpose of performing work remotely. Telecommuting employees will continue to be accountable under all other company policies, and procedures.

VII. APPROVAL PROCESS

All telecommuting arrangements must be approved in writing by the employee's immediate manager and department director.

VIII. PROGRAM GUIDELINES

1. A specific work schedule, including work days and hours, must be agreed upon in advance by the employee's manager.
2. Employees must be on site as necessary to attend meetings, training sessions, or similar events or occurrences.
3. Employees must maintain a normal workload.
4. Employees who are unable to work due to illness must use salary continuation or sick leave, and must report their absence to their manager in accordance with company policies.
5. Employees who wish to be relieved of responsibility for work on a particular day or days must use vacation or personal leave.
6. Employees are responsible for the safety and security of all company property and proprietary information.
7. Company property such as computers, printers, fax machines and other equipment loaned to an employee is the employee's responsibility while it is not on company premises and the employee must sign a responsibility/liability form before telecommuting commences. It is the employee's responsibility to make sure that their homeowners' or renters' insurance covers injury arising out of or relating to business use of the home and any injury to others.
8. Employees must be accessible by telephone, text and e-mail while working as a telecommuter throughout the work day.
9. Employees must document their start, stop and paid break (including unpaid meal periods) times each day.
10. All the company's personnel policies will continue to apply, including attendance requirements.

Work At Home/Telework as a Reasonable Accommodation

Many employers have discovered the benefits of allowing employees to work at home through telework (also known as telecommuting) programs. Telework has allowed employers to attract and retain valuable workers by boosting employee morale and productivity. Technological advancements have also helped increase telework options. President George W. Bush's New Freedom Initiative emphasizes the important role telework can have for expanding employment opportunities for persons with disabilities.

In its 1999 *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised 10/17/02)*, the Equal Employment Opportunity Commission said that allowing an individual with a disability to work at home may be a form of reasonable accommodation. The Americans with Disabilities Act (ADA) requires employers with 15 or more employees to provide reasonable accommodation for qualified applicants and employees with disabilities. 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 apply for a job, perform a job, or gain equal access to the benefits and privileges of a job. The ADA does not require an employer to provide a specific accommodation if it causes undue hardship, *i.e.*, significant difficulty or expense.

Not all persons with disabilities need - or want - to work at home. And not all jobs can be performed at home. But, allowing an employee to work at home may be a reasonable accommodation where the person's disability prevents successfully performing the job on-site and the job, or parts of the job, can be performed at home without causing significant difficulty or expense.

This fact sheet explains the ways that employers may use existing telework programs or allow an individual to work at home as a reasonable accommodation.

1. Does the ADA require employers to have telework programs?

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

In addition, the ADA's reasonable accommodation obligation, which includes modifying workplace policies, might require an employer to waive certain eligibility requirements or otherwise modify its telework program for someone with a disability who needs to work at home. For example, an employer may generally require that employees work at least one year before they are eligible to participate in a telework program. If a new employee needs to work at home because of a disability, and the job can be performed at home, then an employer may have to waive its one-year rule for this individual.

2. May permitting an employee to work at home be a reasonable accommodation, even if the employer has no telework program?

Yes. Changing the location where work is performed may fall under the ADA's reasonable accommodation requirement of modifying workplace policies, even if the employer does not allow other employees to telework. However, an employer is not obligated to adopt an employee's preferred or requested accommodation and may instead offer alternate accommodations as long as they would be effective. (See Question 6.)

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

This determination should be made through a flexible "interactive process" between the employer and the individual. The process begins with a request. An individual must first inform the employer that s/he has a medical condition that requires some change in the way a job is performed. The individual does not need to use special words, such as "ADA" or "reasonable accommodation" to make this request, but must let the employer know that a medical condition interferes with his/her ability to do the job.

Then, the employer and the individual need to discuss the person's request so that the employer understands why the disability might necessitate the individual working at home. The individual must explain what limitations from the disability make it difficult to do the job in the workplace, and how the job could still be performed from the employee's home. The employer may request information about the individual's medical condition (including reasonable documentation) if it is unclear whether it is a "disability" as defined by the ADA. The employer and employee may wish to discuss other types of accommodations that would allow the person to remain full-time in the workplace. However, in some situations, working at home may be the only effective option for an employee with a disability.

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

An employer and employee first need to identify and review all of the essential job functions. The essential functions or duties are those tasks that are fundamental to performing a specific job. An employer does not have to remove any essential job duties to permit an employee to work at home. However, it may need to reassign some minor job duties or marginal functions (i.e., those that are not essential to the successful performance of a job) if they cannot be performed outside the workplace and they are the only obstacle to permitting an employee to work at home. If a marginal function needs to be reassigned, an employer may substitute another minor task that the employee with a disability could perform at home in order to keep employee workloads evenly distributed.

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

Several factors should be considered in determining the feasibility of working at home, including the employer's ability to supervise the employee adequately and whether any duties require use of certain equipment or tools that cannot be replicated at home. Other critical considerations include whether there is a need for face-to-face interaction and coordination of work with other employees; whether in-person interaction with outside colleagues, clients, or customers is necessary; and whether the position in question requires the employee to have immediate access to documents or other information located only in the workplace. An employer should not, however, deny a request to work at home as a reasonable accommodation solely because a job involves some contact and coordination with other employees. Frequently, meetings can be conducted effectively by telephone and information can be exchanged quickly through e-mail.

If the employer determines that some job duties must be performed in the workplace, then the employer and employee need to decide whether working part-time at home and part-time in the workplace will meet both of their needs. For example, an employee may need to meet face-to-face with clients as part of a job, but other tasks may involve reviewing documents and writing reports. Clearly, the meetings must be done in the workplace, but the employee may be able to review documents and write reports from home.

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

An employee may work at home only to the extent that his/her disability necessitates it. For some people, that may mean one day a week, two half-days, or every day for a particular

period of time (e.g., for three months while an employee recovers from treatment or surgery related to a disability). In other instances, the nature of a disability may make it difficult to predict precisely when it will be necessary for an employee to work at home. For example, sometimes the effects of a disability become particularly severe on a periodic but irregular basis. When these flare-ups occur, they sometimes prevent an individual from getting to the workplace. In these instances, an employee might need to work at home on an "as needed" basis, if this can be done without undue hardship.

As part of the interactive process, the employer should discuss with the individual whether the disability necessitates working at home full-time or part-time. (A few individuals may only be able to perform their jobs successfully by working at home full time.) If the disability necessitates working at home part-time, then the employer and employee should develop a schedule that meets both of their needs. Both the employer and the employee should be flexible in working out a schedule so that work is done in a timely way, since an employer does not have to lower production standards for individuals with disabilities who are working at home. The employer and employee also need to discuss how the employee will be supervised.

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

Yes, the employer may select any effective accommodation, even if it is not the one preferred by the employee. Reasonable accommodations include adjustments or changes to the workplace, such as: providing devices or modifying equipment, making workplaces accessible (e.g., installing a ramp), restructuring jobs, modifying work schedules and policies, and providing qualified readers or sign language interpreters. An employer can provide any of these types of reasonable accommodations, or a combination of them, to permit an employee to remain in the workplace. For example, an employee with a disability who needs to use paratransit asks to work at home because the paratransit schedule does not permit the employee to arrive before 10:00 a.m., two hours after the normal starting time. An employer may allow the employee to begin his or her eight-hour shift at 10:00 a.m., rather than granting the request to work at home, if this would work with the paratransit schedule.

7. How can employers and individuals with disabilities learn more about reasonable accommodation, including working at home?

Employers and individuals with disabilities wishing to learn more about working at home as a reasonable accommodation can contact the EEOC at (202) 663-4691 (voice) and (202) 663-7026 (TTY). General information about reasonable accommodation can be found on EEOC's website, www.eeoc.gov/policy/guidance.html (Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act; revised 10/17/02). This website also provides guidances on many other aspects of the ADA.

The government-funded Job Accommodation Network (JAN) is a free service that offers employers and individuals ideas about effective accommodations. The counselors perform individualized searches for workplace accommodations based on a job's functional requirements, the functional limitations of the individual, environmental factors, and other pertinent information. JAN can be reached at 1-800-526-7234 (voice or TDD); or at www.jan.wvu.edu/soar.

This page was last modified on December 20, 2017.



[Return to Home Page](#)