

Telework as Reasonable Accommodation

As uncertainty continues to swirl around the future of telework with NTEU represented employees, we wanted to take an opportunity educate you about your rights to get telework as a reasonable accommodation, if you are otherwise qualified under the law. Many of you telework 3 or 4 days per week. Telework has been a big part of your life for a few years now. Whether your health has deteriorated, or you simply never sought telework as a reasonable accommodation because your contract based rights satisfied your needs, now might be the time for you to consider this reasonable accommodation alternative. Telework as a reasonable accommodation is a creature of law, not contract. Therefore, it does not matter what limitations are placed on telework via the National Agreement once the Federal Service Impasses Panel imposes a telework article. You might be eligible for part time or full time telework under the law, depending on your medical condition.

Like any agency, SSA is required by law to reasonably accommodate the known physical or mental limitations of an otherwise qualified employee with a disability, unless it can show the accommodation would impose an undue hardship on its operations. The question of whether you are “an otherwise qualified employee” hinges on the law and your medical condition. If you have questions about that, NTEU can help you figure it out. The undue hardship standard is a high bar for the Agency, and if you are otherwise qualified, it is unlikely the Agency will successfully deny a reasonable accommodation request, especially telework, based on that standard.

Generally speaking, a reasonable accommodation can include modifications to how and/or where a position is customarily performed in order to enable a qualified individual with a disability to perform the essential job functions. However, an agency is not required to reallocate essential functions as an accommodation. You must be able to perform the core functions of your job.

The EEOC has said that allowing an individual with a disability to work at home may be a form of reasonable accommodation. There are a number of factors to consider when determining whether telework is feasible, such as:

- ability to supervise the employee adequately
- whether any duties require the use of certain equipment or tools that cannot be replicated at home.
- 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.

As you might surmise from reading that list, the positions of Senior Attorney, Attorney Advisor, and Paralegal Specialist are easily compatible with telework. The years of successful experience we have with the telework program proves it. Moreover, while some of the other positions we represent, such as Legal Assistants, might require some presence in the office, telework is also an available consideration for otherwise qualified employees in these positions.

Do not wait for the Agency to take telework days away from you. If you believe you might qualify for telework as a reasonable accommodation, now is the time to start that process. We can help you. Please contact NTEU Chapter 224 at chapter224communications@nteuchapter224.org so we can help you evaluate the viability of this option, start the process, and advocate on your behalf.

For more information on telework as a reasonable accommodation, visit the EEOC's website at <https://www.eeoc.gov/facts/telework.html>.