



Teleworking and the ADA

An ADA Knowledge Translation Center Research Brief

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2021

Introduction to the ADA

The Americans with Disabilities Act (ADA) of 1990 acknowledges disability as a source of discrimination, similar to “race, color, religion, sex, or national origin” within the Civil Rights Act of 1964. Through the ADA, people with disabilities have designated civil rights and legal framework to challenge disability-based discrimination in the realms of employment, public services, and places of public use. The purpose of the ADA is to promote equal opportunity, full participation, independent living, and economic self-sufficiency for all people with disabilities.

Title I of the ADA covers both employment discrimination on the basis of disability as well as requiring employers to provide reasonable accommodations, unless these accommodations cause undue hardship. Reasonable accommodations are changes to workplace environments that allow people with disabilities to complete essential job tasks. The phrase ‘undue hardship’ refers to a significant difficulty or expense on the side of the employer, which is determined on an individual basis.

Teleworking and the ADA

Teleworking is an increasingly important topic as people with disabilities continue to navigate the world both during and after the COVID-19 pandemic. Within this brief the terms “teleworking”, “remote work”, and “virtual work” are used interchangeably as all of these refer to the same phenomena of working outside of a regular place of business (“Measuring Telework in the COVID-19 Pandemic,” n.d.). Another definition of teleworking from the Office of Personnel Management describes it as a flexible work arrangement when an employee completes their job duties from an “approved work site” that is different from where an employee would traditionally work (Heisey, 2017). Telework has long been acknowledged as a potential accommodation for people with disabilities under Title I of the ADA. In fact, the Equal Employment Opportunity Commission (EEOC), which is the enforcement agency for employment civil rights, including disability rights, issued guidance for teleworking in 1999. To view this guidance, follow this link: <https://www.eeoc.gov/laws/guidance/work-hometelework-reasonable-accommodation>.

What the research says

As will be described in this brief, teleworking can be an opportunity to increase inclusion in the workplace for people with disabilities. However, though teleworking may make the workplace more inclusive, it also may also unintentionally create barriers for employees with disabilities. This brief will provide an overview of teleworking as an option for flexible working arrangements and explores the benefits and challenges in implementing teleworking options for employers and employees with and without disabilities.

HIGHLIGHTS OF FINDINGS

- Teleworking is increasing in usage as a response to the COVID-19 pandemic, advancements in technology, and the global nature of the workforce.
- Flexible working arrangements, including remote work, is a known accommodation and may increase employment opportunities for people with disabilities.
- People with disabilities may benefit uniquely from teleworking arrangements, such as experiencing decreased pain and fatigue that may come up in traditional workplaces.
- Despite benefits, people with disabilities also experience barriers in remote work settings, such as limited accessible technology and experiences of isolation from teams and managers.

Overview of research

There is a growing body of literature regarding how teleworking impacts and is used by people with disabilities. Virtual working arrangements have increased in usage and application, especially as a response to the COVID-19 pandemic. Employers are turning to telework as there are greater advancements in technology and increased globalization in the workforce (Lenehan, 2016). However, historically people with disabilities report less engagement in teleworking compared to people without disabilities (Linden, 2014; Linden & Milchus, 2014). This is changing as more recent findings report that people with disabilities are more likely to work virtually than people without disabilities within the context of the pandemic (Schur et al., 2020). The rest of this brief will provide an overview of the benefits, challenges, and other components of virtual work for people with disabilities.

A note on COVID-19

The COVID-19 pandemic drastically shifted how employers interact with employees and how much time employees are expected to spend in their workplace. In fact, many employers transitioned to completely virtual environments to abide by stay at home orders and comply with local laws (Schur et al., 2020). This massive change toward teleworking garnered some critiques within the disability community, as many people with disabilities experienced barriers or resistance to teleworking options as reasonable accommodations prior to the pandemic (Ocean, 2021).

Additionally, there are concerns about the impact of the COVID-19 pandemic on the enforcement of disability rights and accessibility within the workplace. Authors have described how emergencies like the pandemic can potentially render disability laws, like the ADA, as “optional and aspirational” (Reid et al., 2020). One example of the complex nature of enforcing the ADA in teleworking arrangements can be observed through video conferencing technology, which is a fundamental aspect of many virtual work arrangements. Many employers contract out video conferencing services, which can complicate who is responsible for providing accessible features, such as video captioning (Reid et al., 2020). These questions are more pressing as the pandemic has increased virtual working options. Despite these concerns, researchers are hopeful that increased options for teleworking may also increase employment opportunities for people with disabilities overall (Jesus et al., 2020).

Characteristics of teleworking

Not all jobs and industries allow employees to telework. Research has found that white-collar or knowledge-based jobs are twice as likely as other types of jobs to offer virtual working options (Linden & Milchus, 2014). Furthermore, people who hold different positions within a single organization may have varying levels of access and benefit differently from teleworking arrangements (Kossek & Lautsch, 2018). Within the current context, there are likely differences between organizations that offered teleworking options prior to the pandemic compared to those that created work from home policies and practices solely as a response to the public health crisis. (“Measuring Telework in the COVID-19 Pandemic,” n.d.). However, organizational commitment, leadership support, individual manager willingness, and trust between managers

and employees are all predictive factors of whether or not an organization will allow employees to work virtually (Bailey & Kurland, 2002; Lenehan, 2016; Lopez, 2020).

Teleworking is a shift from traditional workplaces and requires a change in management practices to support the increased autonomy of employees (Mello, 2007). Organizations should consider a comprehensive strategy to support both managers and employees in order to facilitate successful options for virtual work. This can involve establishing a solid rapport between managers and employees and providing necessary technology and equipment to complete tasks virtually (Mello, 2007).

Another study explores the strategies people with disabilities use to complete telework (Greer & Payne, 2014). Among these strategies, participants describe the need for advanced technologies and equipment in order to complete job tasks. Participants in this study also describe the need to be accessible as an employee, which involves staying connected to managers, coworkers, and clients. An additional strategy of teleworking is communicating with coworkers and managers specifically about availability and expectations. Preparing the home environment is another common strategy, which may include communicating with family or having dedicated childcare time. A final common strategy is shifting to a 'work mindset' where people with disabilities give examples of task planning, setting goals, and prioritizing work activities. All of these strategies are used at varying times by people with disabilities to ensure successful remote work outcomes.

Telework as an accommodation

As noted previously in this brief, telework can be a useful accommodation to make the workplace more accessible for people with disabilities. In fact, a synthesis of literature regarding workplace accommodations found that workplace flexibility, like telework, was an important aspect for fostering disability inclusive work environments (Padkapayeva et al., 2017). Even though telework can be an accommodation, one study explored the use of virtual work among people with disabilities. Researchers found that a little less than half of participants engaged teleworking as a formal job accommodation, but 76% felt that teleworking was necessary for completing job tasks (Linden & Milchus, 2014). Furthermore, there is conflicting evidence if teleworking as an accommodation is uniquely beneficial to people with disabilities, as one study found telework did not differently impact work retention for people with disabilities compared to people without disabilities (Simpson, 2011).

Another component of accommodations is return-to-work strategies for employees after acquiring a disability. There is little research about how employers and employees engage teleworking as an approach to returning to work (Ekberg et al., 2016). However, practitioners report using virtual work arrangements to support employees as they return-to-work and find teleworking as an advantageous strategy (Ekberg et al., 2016).

Some employers have been resistant to allowing teleworking as an accommodation. A review of 125 court claims seeking remote work as an accommodation shows that employers have prevented teleworking even where physical presence is not essential for performing job duties (Hickox & Liao, 2020). This may call into question the equity of access to teleworking options for employees with disabilities.

Benefits of teleworking/Reasons for choosing telework

Teleworking allows organizations to meet the needs of employees, both with and without disabilities, who can benefit from flexible working arrangements (Mello, 2007). In addition to meeting employee needs, organizations are turning to telework for several reasons including: saving money, availability due to increased technology, changing values within the workforce, and globalization (Ekberg et al., 2016). Teleworking is additionally environmentally friendly as there are less resources used at work sites and reduced emissions through decreased commutes (Burrell et al., 2014). Virtual working arrangements have also been shown to impact organizations' bottom lines, as employees report increased productivity when working remotely and increased access to clients and customers from across the globe (Mello, 2007).

Research has identified several benefits of telework for employees, as well as employers. For example, teleworking has been shown to provide greater work-life balance, increase organizational commitments, higher rates of job satisfactions, and increased overall employee wellbeing (Bailey & Kurland, 2002; Heisey, 2017; Lopez, 2020; Simpson, 2011). Additionally, another study found that employees with virtual work arrangements reported increased sense of control, lower intentions of leaving a job, and less family-work conflicts (Kossek et al., 2006).

In addition to experiencing the above positive impacts, other studies have identified specific benefits of teleworking for people with disabilities by removing barriers in traditional workplaces (Linden, 2014). A primary benefit of virtual work is managing and reducing pain and fatigue that may come up in traditional employment settings or with long commutes (Linden & Milchus, 2014; Moon, 2018). Teleworking is also more flexible and people with disabilities report increased ability to receive personal and medical care as needed during the workday (Linden, 2014). Furthermore, there may be less exposure and a lesser need to disclose a disability status when working remotely, which may reduce disability-based discrimination and bias at work (Linden, 2014). Virtual working options for people with disabilities may also have a "spillover effect" as people with disabilities report increased opportunities for productivity, which benefits coworkers and organizations (Blanck, 2020). Overall, there are several reasons that employees with disabilities may choose and benefit from virtual work arrangements.

Challenges and considerations for teleworking

Though there are undoubtedly benefits of teleworking, there are also considerations and challenges that arise when teleworking. For example, some employees, both with and without disabilities, report feeling isolated, increased feelings of job insecurity, and concerns about maintaining visibility with management when working remotely (Ekberg et al., 2016; Heisey, 2017; McNaughton et al., 2014). Additionally, managers share concerns about oversight of employees, limited ability to provide meaningful feedback, and issues with evaluating employee performance effectively in remote settings (Mello, 2007). In addition to work concerns, teleworking can be difficult to implement as not all employees have the space, equipment, technology, and lifestyle that are conducive to virtual work arrangements (Mello, 2007). These

issues highlight how telework can negatively impact organizations if virtual work arrangements are not implemented strategically and embrace best practices (Mello, 2007).

For people with disabilities, there are specific considerations when engaging teleworking options. One study conducted interviews with employees with disabilities to better understand the experience of teleworking, specifically how people with disabilities used teleworking tools like video calling, screen sharing, and collaborative editing technology (Tang, 2021). Interviews revealed that telework tools may unintentionally disclose certain disability statuses, such as choosing to not using screen sharing or collaborative editing, which can be complex for some people with disabilities (Tang, 2021). Designs in video call interfaces may unintentionally leave out or isolate people with disabilities, such as D/deaf people who do not communicate verbally and may never have their video screen highlighted or have limited access to accurate captions (Tang, 2021). Though there are multiple benefits of teleworking, there are additional and potentially unintentional barriers created by virtual work environments.

Conclusion

Teleworking is growing in popularity for a variety of reasons, such as a response to the COVID-19 pandemic, increased access to technology, and globalization. Virtual work arrangements can be beneficial for employers and employees. For people with disabilities, teleworking can be a useful job accommodation and yield specific benefits to make the workplace more accessible. Despite these positive impacts, there are considerations and challenges that may also arise when organizations utilize remote work strategies. There is a need to further build upon teleworking to address these concerns and realize the ultimate benefits to make the workplace more accessible for all employees.

Examples from the ADA National Network

Below are a few examples of how the ADA national network are addressing the issues raised in this brief. For further information on how the ADA Centers can help with issues related to the teleworking and the ADA, please contact the ADA National Network here: <https://adata.org>.

- **Example 1:** Technical Assistants at the ADA National Network act as useful resources for both employers and employees with disabilities as they navigate the increased use of virtual working arrangements during the COVID-19 pandemic. Stakeholders have reached out to the Regional Centers requesting guidance and information about how to ensure accessibility in teleworking arrangements and balance public health with unique needs of employees with disabilities.
- **Example 2:** Additionally, several employers and employees with disabilities have contacted ADANN Regional Centers with specific questions about what information employers are allowed to request from employees with disabilities in order to grant telework as an accommodation. As a response, Technical Assistants describe the interactive process prescribed in the ADA as well as what details employers can request in alignment with disability rights policy.

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SUGGESTED CITATION: Gould, R., Mullin, C., and Parker Harris, S. (2021). *ADA research brief: Teleworking and the ADA* (pp. 1-9). Chicago, IL: ADA National Network Knowledge Translation Center.

Content was developed by the Department of Disability and Human Development of the University of Illinois at Chicago and the ADA Knowledge Translation Center.

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This information product was developed under a grant from the Administration for Community Living (ACL) NIDILRR grant number 90DP0086. However, the contents do not necessarily represent the policy of ACL and you should not assume endorsement by the Federal Government.

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