How Guidance Narrows Federal Telework Accommodations

By **Lori Kisch** (April 20, 2026)

Lori Kisch

The U.S. Equal Employment Opportunity Commission and the U.S. Office of Personnel Management have now made one point unmistakably clear: Telework remains a possible reasonable accommodation for federal employees with disabilities. But that is only half the story.

Issued on Feb. 11, the agencies' new FAQ arrives in the shadow of the Jan. 20, 2025, return-to-office **directive** from President Donald Trump's administration, which instructed federal agencies to end remote work arrangements and require full-time in-person attendance, subject to limited exceptions.

Against that backdrop, the FAQ preserves telework for federal employees in theory, while giving agencies substantial room to argue that other arrangements should suffice in practice.

That tension is what makes the FAQ significant. It confirms that telework has not disappeared from the reasonable accommodation landscape under the Rehabilitation Act. At the same time, it outlines a framework that could make telework harder to obtain, easier to reconsider once granted and more vulnerable to replacement by in-office alternatives.

For federal employees with disabilities, the message is mixed. Telework remains on the table, but agencies have been given considerable language to contend that a less accommodating solution is enough.

At the core of the FAQ is a straightforward legal principle. Telework may be required when it enables an applicant with a disability to participate in the application process, or enables an employee with a disability to perform the essential functions of the job or enjoy equal benefits and privileges of employment. In that respect, the EEOC and the OPM rejected any categorical view that telework is unavailable simply because a broader return-to-office policy is in place.

In-Office Alternatives

Yet the FAQ is equally clear that full-time telework is not beyond challenge.

The FAQ states that agencies may replace it with a "reasonable and effective in-office option (or combination of options)," which it says can include assistive devices, modified equipment, environmental adjustments, job restructuring, flexible scheduling or reduced telework combined with in-office accommodations. That caveat is likely to become the central point of dispute in future accommodation battles.

As a matter of disability law, the relevant inquiry is not whether an employer prefers one accommodation over another. It is whether the accommodation that is offered is effective. But the FAQ gives agencies substantial latitude in deciding that question.

Where an agency reasonably believes that an in-office accommodation will work — and the available evidence supports that — an employee may be required to try that option, rather than rely on an unsupported

assertion that it will fail.

In the abstract, that approach is not difficult to understand. Employers are not required to accept bare conclusions, and employees must participate in the interactive process in good faith. The practical effect, however, may be far more consequential. Employees may be forced to test workplace arrangements that they believe will aggravate their conditions before they can establish that telework is necessary.

That dynamic becomes even more consequential once attendance and discipline are implicated. For example, if an agency concludes that it has offered a reasonable and effective in-office accommodation, and the employee nonetheless fails to report, the employee could be at risk of being considered absent without leave and disciplined accordingly.

That proposition is not remarkable on its own. An employee who rejects a lawful accommodation and refuses to work may face discipline. The real question, however, comes before that point, in determining whether the agency's proposed alternative was, in fact, reasonable and effective. That is where the FAQ may create significant litigation risk.

If agencies adopt too aggressive a view of what qualifies as an effective in-office alternative, they may convert unresolved accommodation disputes into attendance problems before the underlying Rehabilitation Act issue has been fully and fairly addressed.

Revisiting Prior Approvals

The same concern arises in the FAQ's treatment of previously approved telework accommodations. Recurring or full-time telework arrangements are not necessarily permanent, and agencies may revisit them through the ongoing interactive process.

The FAQ says those reviews should be handled on a case-by-case basis, not through across-the-board revocations, and it anticipates that reevaluations may unfold on a rolling basis. It also makes clear that agencies may rely on updated medical information when earlier documentation is no longer sufficient to support the accommodation decision.

Standing alone, that concept is not controversial. Reasonable accommodation is often a continuing inquiry. Changes in job duties, operational needs, workplace conditions or medical circumstances may justify renewed review.

But context matters. In a return-to-office environment where agencies are under pressure to reduce remote work, reevaluation authority may operate less as a neutral administrative tool and more as a mechanism for scaling back telework accommodations that were previously granted.

To be sure, the FAQ stops short of endorsing blanket rescissions. It cautions agencies against revoking telework accommodations without first making an individualized determination in each case. That warning is important. The Rehabilitation Act does not permit disability-related decisions to rest on broad assumptions about what employees should be able to tolerate in a physical workplace.

Even so, the practical limits of that caution remain uncertain. The FAQ says little about what evidence will be sufficient to support a truly individualized determination, and that ambiguity leaves substantial room for uneven application across agencies, offices and decision-makers. For federal employees who have already experienced inconsistency in accommodation processes, that uncertainty is likely to be more than theoretical.

Some of the examples are especially likely to draw scrutiny. In discussing disability-related symptoms that arise in the workplace, the FAQ suggests that observation may be the best initial response to certain telework requests.

For instance, where an employee seeks telework because of anxiety or similar workplace distress, the FAQ states that satisfactory in-office performance may be taken as evidence that the condition is not materially interfering with equal employment opportunity.

That framing risks oversimplifying how certain disabilities function in workplace settings. The fact that an employee can physically appear at work, or can perform while experiencing distress, does not necessarily mean the workplace is equally accessible or that telework is unnecessary.

Disability law does not only ask whether an employee can endure the workplace at all, but also whether an accommodation is needed to allow the employee to work effectively and on equal terms.

Symptom Mitigation

The same issue appears in the FAQ's treatment of symptom relief. The FAQ suggests that agencies may turn that principle into a blanket rationale for denial whenever an employee can technically appear in person, even if in-person work would aggravate the condition that the accommodation is supposed to address.

This would sit uneasily with case law that recognizes that an employer's duty is not limited to accommodating only those workers who are completely unable to perform without assistance. Courts have recognized that reasonable accommodation may be required to allow an employee to work without unnecessary harm, even where the employee is not utterly incapable of doing the job in the absence of accommodation.

Situational Telework

Situational telework presents a similar problem. For employees whose disabilities involve flare-ups or intermittent periods of elevated symptoms, telework may be what allows them to continue working, rather than being forced to stop working.

Yet the FAQ leaves room for agencies to require those employees to use sick leave, accrued leave or leave without pay, instead of permitting situational telework. This position appears to be difficult to square with the EEOC's long-standing reasoning that leave is not an effective accommodation where another accommodation would allow the employee to remain on the job.

For employees with episodic conditions, this distinction is critical. Situational telework is not merely a convenience or an alternative to leave; in some cases, it is what prevents leave from becoming necessary in

the first place.

Internal Reviews

The FAQ also endorses a flexible internal review structure, allowing front-line supervisors to resolve straightforward, low-impact accommodations, while channeling more significant requests, including telework, through centralized review. In some agencies, this may produce consistency for more significant requests. However, it may also lead telework to be treated as inherently exceptional, even where the facts are simple, well documented and legally unremarkable.

Conclusion

In the end, the FAQ does not eliminate telework as a reasonable accommodation — far from it. It expressly preserves telework as an available option under the Rehabilitation Act.

However, it also equips agencies with multiple ways to narrow its use, including by requiring employees to test in-office alternatives, revisiting prior approvals, substituting leave for situational telework and concentrating review of certain telework requests at higher levels of agency decision-making.

Whether that framework leads to lawful consistency or to a more restrictive and litigation-prone accommodation process will depend on how agencies apply it. For now, the FAQ leaves federal employees with the familiar, but uncomfortable, reality that telework remains available in principle, yet it is increasingly vulnerable in practice.

Lori B. Kisch is counsel at Kalijarvi Chuzi Newman & Fitch PC. She previously worked in the U.S. Department of Justice's Civil Rights Division as special litigation counsel in the Employment Litigation Section.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.