



## Remote Work as a Reasonable Accommodation: No Blankets Allowed

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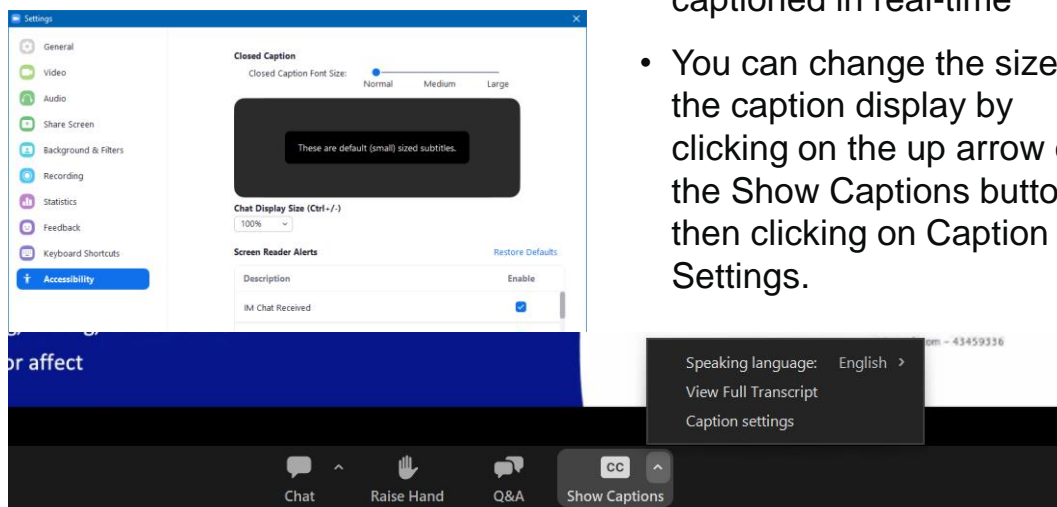
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## Remote Work as a Reasonable Accommodation: No Blankets Allowed



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## What Is Reasonable Accommodation?

An *individualized modification, adjustment, allowance, or provision* that facilitates an *equal employment opportunity* for a worker with a disability

- Applying for a job
- Performing essential job duties
- Accessing benefits and privileges of the job



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### Reasonable Accommodation: Something Unique

#### Equal Treatment

- Example:
  - All employees in certain job categories may work from home 2 days a week; none may work from home more frequently, regardless of whether essential job functions can be completely performed remotely

#### Equal Opportunity Through Reasonable Accommodation

- Examples:
  - Employees with disability-related needs may be able to work from home
    - 3-4 days a week
    - Full time
    - As needed

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## This is Why the “Blanket” Approach Doesn’t Work!

- Reasonable accommodations must be **individualized**, based on the nature of ...
  - The job
    - Application process
    - Essential functions
    - Benefits and privileges
  - The specific limitations and needs of the individual applicant or employee with a disability



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## It Starts with the Interactive Process

### Applicant/Employee

- Makes request
- Provides medical documentation if needed
- If possible, offers accommodation ideas and options
- Implements
- Revisits if necessary



### Employer

- Reviews request
- Requests medical documentation if needed
- Determines disability
- Explores options, discusses with applicant/employee
- Decides on option(s)
- Implements
- Monitors, revisits if necessary

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## Considering Requests for Telework

- Employers may need to allow workers with disabilities to telework (even if other workers are not allowed to do so)
  - **Does the individual ...**
    - **Have a disability?**
    - **Need to telework because of disability?**
  - **Can the individual perform essential job functions remotely?**



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## Primary Consideration

If two accommodations would be effective, an employer may provide the one that is less costly or easier to provide, but "the preference of the individual with a disability should be given primary consideration"\*

\*Appendix to 29 CFR Part 1630 (Interpretive Guidance on Regulations to Implement the Equal Employment Provisions of the ADA)

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## Accommodations Must Be Effective

- Employers may provide alternative accommodations, but they must be effective in ensuring equal opportunities (e.g., enable the individual to apply for a job, achieve performance levels comparable to others, earn bonuses, compete for promotions, access benefits or privileges of employment without unnecessary delays or difficulties)

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## Limitations

- Reasonable accommodation is limited by undue hardship
  - **Significant** difficulty or expense
- Employers do not have to allow direct threat
  - **Significant risk of substantial harm** to health or safety of the individual or others **that cannot be eliminated or reduced by reasonable accommodation**

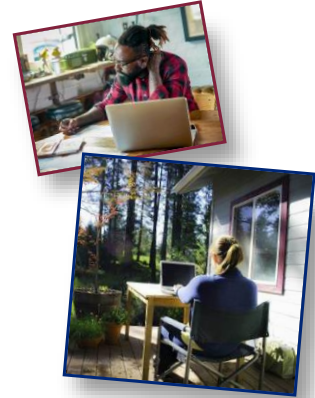
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## Remember: An Accommodation Doesn't Have to "Stand Alone"

- Remote work may be combined with other accommodations to achieve effective outcomes
  - Adjusted or flexible schedules
  - Workplace accommodations (e.g., equipment, structural accessibility improvements)
  - Adjusted communication or supervisory methods
  - Time off



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