

Insights

The ADA and Remote Work: Essential Functions Still Control

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Why It Matters

As employers continue to manage telework requests in the post-pandemic workplace, courts are making clear that telework is not automatically a reasonable accommodation under the ADA. A recent Fifth Circuit decision in *Hayes v. GStek, Incorporated* (“Hayes”) reinforces that principle and offers employers helpful support when in-person attendance is genuinely essential to the position.

Key Facts of Hayes

Hayes involved an IT systems administrator who was diagnosed with autism, major depressive disorder, and social anxiety disorder after returning to employer-mandated in-person attendance. The employer denied the request for full-time telework as an ADA accommodation but allowed a hybrid schedule for a limited period. After further attendance and performance issues, the employer terminated the employee. The employee sued, alleging failure to accommodate, disability discrimination, and retaliation under the ADA.

What the Fifth Circuit Held

The Fifth Circuit affirmed dismissal of the case at the pleadings stage because the position’s duties, as pleaded, required the employee to be physically present to perform core aspects of the IT systems administrator position. In particular, the court relied on pleaded facts showing that the position involved on-site technical support, interaction with employees and systems at the workplace, and work that could not be fully performed through telework. Under the ADA, courts generally consider the employer’s description of the position, written job requirements, operational needs, and how the position actually functions in practice when deciding whether a duty is “essential.” The court underscored that an employee must plausibly allege that he can perform the essential functions of the position with or without a reasonable accommodation.

Because in-person attendance was essential to the position, full-time telework would have removed—not accommodated—that requirement. The requested accommodation was therefore not reasonable. The court also recognized that the employer had made a hybrid arrangement available and had no obligation to provide the employee’s preferred accommodation if another reasonable accommodation was available. Although the facts involved serious medical conditions, the ADA still requires employees to be qualified to perform the essential functions of the position with or without accommodation.

Why Indiana and Seventh Circuit Employers Should Care

The Seventh Circuit has long expressed skepticism that full-time telework is a reasonable accommodation, particularly when the position requires teamwork, supervision, or on-site interaction. In *Rauen v. U.S. Tobacco*

Mfg. Ltd. Partnership, the court affirmed summary judgment for the employer and emphasized that the reasonableness of a requested accommodation is a fact-specific inquiry and depends heavily on the employee's actual job duties.

For employers in Indiana and throughout the Seventh Circuit, *Hayes* is not a major doctrinal shift. But it is a timely reminder that courts still focus on whether the employee can perform the position's essential functions—not whether remote work became more common during the pandemic. It also reinforces that an employer's description of the position and written job requirements can help show that in-person attendance is an essential function and, when drafted properly, may support early dismissal of claims seeking to eliminate that requirement. Accommodations must enable employees to perform their essential functions, not excuse the inability to perform them.

Practical Takeaways

Review job descriptions now. If in-person attendance is important to the position, say so clearly. Written job descriptions remain important evidence when employers need to show that in-person attendance, supervision, collaboration, or customer interaction are essential functions of the position.

Do not treat pandemic-era flexibility as the new baseline. Temporary remote-work arrangements adopted during COVID-19 do not automatically change a position's essential functions. Employers can still require in-person attendance when the position genuinely demands it. The ADA does not require employers to eliminate an essential function when offering a reasonable accommodation.

Document the business case for in-person attendance. Employers should be prepared to explain why the position requires in-person attendance. Workflow demands, supervision needs, operational efficiency, security concerns, and client or team interaction may all support that position when they are documented and applied consistently.

Continue the interactive process. Even when full-time telework is not reasonable, employers should engage in a good-faith interactive process and consider alternatives, including hybrid schedules, modified duties, or other accommodations that may enable the employee to perform the position's essential functions.

Apply decisions consistently. Employers should align telework practices, accommodation decisions, and attendance expectations across similarly situated employees. Consistency and documentation remain critical if a dispute later reaches court.

Krieg DeVault's Labor and Employment Team is available to help employers assess telework accommodation requests, strengthen ADA compliance practices, and update workplace policies for today's employment environment.

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