



Pennsylvania
Human Relations Commission

Working From Home As A Reasonable Accommodation?



Pennsylvania's Civil Rights Agency

www.pa.gov/en/agencies/phrc



Pennsylvania
Human Relations Commission

Engagement Acknowledgement

Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance and are neither a determination of your legal rights or responsibilities under the PHRA and/or applicable Federal laws, nor binding on any agency with enforcement responsibility under those same laws.

Raise Your Hand or Type in the Chat if:

- You have ever received a request from an employee to work from home as a reasonable accommodation **or**
- You have ever requested to work from home as reasonable accommodation



Pennsylvania
Human Relations Commission

Agenda

- Overview of the Pennsylvania Human Relations Commission (PHRC)
- Defining Disability and Discrimination
- Defining Otherwise Qualified
- Tips for Determining the Essential Functions
- Case Examples
- Resources





Pennsylvania Human Relations Commission

MISSION

The PHRC promotes equal opportunity for all and enforces Pennsylvania's civil rights laws that protect people from unlawful discrimination.

VISION

As Pennsylvania's civil rights leader, it is our vision that all people in Pennsylvania will live, work and learn free from unlawful discrimination.

VALUES

Equality | Service |
Integrity
Excellence | Teamwork
Respect

Our Offices

The PHRC spans the entire Commonwealth with designated investigatory regions.

333 Market St. 8th Floor
Harrisburg, PA 17101
717-787-9780
717-787-7279 (TTY)

Central Office
*Senior Leadership &
Enforcement*

301 5th Ave. Suite 390
Piatt Place, Pittsburgh, PA 15222
412-565-5395
412-565-5711 (TTY)

Pittsburgh Regional Office
26 Counties

333 Market St. 8th Floor
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717-787-7279 (TTY)

Harrisburg Regional Office
26 Counties

110 N. 8th St. Suite 501
Philadelphia, PA 19107
215-560-2496
215-560-3599 (TTY)

**Philadelphia Regional
Office**
15 Counties



Pennsylvania
Human Relations Commission

About Us

The Pennsylvania Human Relations Commission (PHRC) has been in existence since 1955.

The PHRC is an independent commission - created and directed by the Pennsylvania Human Relations Act (PHRA) and the Pennsylvania Fair Education Opportunities Act (PFEOA).

www.pa.gov/en/agencies/phrc



Pennsylvania
Human Relations Commission

Governing Laws

PHRA

The Pennsylvania Human Relations Act (PHRA) was enacted in 1955 and covers discrimination in employment, housing, commercial property, education, and public accommodations.

PFEOA

The Pennsylvania Fair Educational Opportunities Act (PFEOA) was enacted in 1961 and is specific to postsecondary education and secondary vocational and trade schools.



5 Sectors of Protection

Pennsylvania law protects individuals in the below areas:



Employment

seeking, obtaining
or holding a
position



Housing

renting,
purchasing, selling
or obtaining a
loan for a home



Commercial Property

having access to or
the purchase, sale
or lease of
commercial
property



Public Accommodations

access to public
places or services



Education

attending public
or private school,
college, trade
school or
university



Protected Classes

In general, Pennsylvania law prohibits discrimination based on:

- | | | |
|-----------------------|---|---|
| 01 Ancestry | 05 Age (40+) | 09 Sex |
| 02 Retaliation | 06 National Origin | 10 Color |
| 03 Disability | 07 Religion | 11 Use, handling & training of support/service animal for disability |
| 04 Race | 08 Familial Status
(housing only) | |



2023 Regulatory Changes

In August 2023, the PHRC promulgated regulations which define the below protected classes:

Race:

- Includes traits historically associated with race, including, but not limited to: (i) Hair texture; (ii) Protective hairstyles, such as braids, locks, and twists”; and any other national origin or ancestry

Religious Creed:

- includes all aspects of religious observance and practice, as well as belief

Sex:

- includes pregnancy, childbirth and related medical conditions; breastfeeding; sex assigned at birth; gender identity or gender expression; affectional or sexual orientation, including heterosexuality, homosexuality, bisexuality, and asexuality; and “differences of sex development, variations of sex characteristics, or other intersex characteristics.



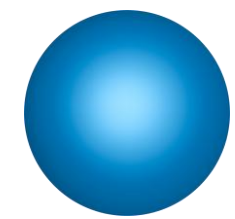
Definition of Disability

- A physical or mental impairment that substantially limits a major life activity **or**
- Having a record of such an impairment **or**
- Being regarded as having such an impairment

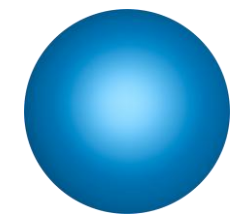
The definition of disability is the same under state and federal law. The Americans with Disabilities Act (ADA) is the primary federal law that prohibits discrimination in employment. The PHRA is constructed consistently with the ADA. *See* 16 Pa. Code § 44.2



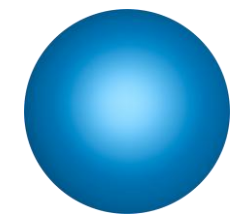
Examples of Impairments



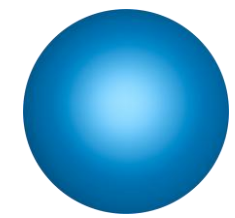
Deafness



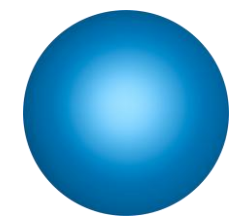
Blindness



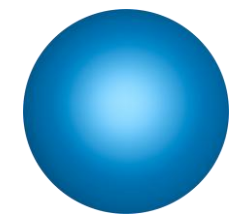
**Intellectual
Disability**



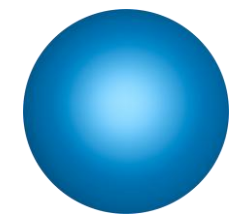
Autism



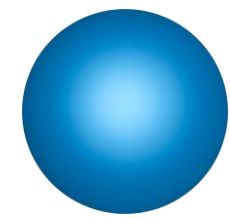
Cancer



Diabetes



Epilepsy



Bipolar Disorder



Discrimination

Employment discrimination includes not making reasonable accommodations to a known disability of an otherwise qualified **applicant or employee** unless the employer can demonstrate that the accommodation would impose an undue hardship.

In Canteen Corp., Div. of Compass Group v. Pa. Human Rels. Comm'n, the Commonwealth Court adopted the test used by federal courts to determine liability for an employer's failure to make a reasonable accommodation under the Americans with Disabilities Act (ADA). 814 A.2d 805, 812 (Pa. Commw. Ct. 2003). An employee must show: (1) that he or she is a disabled person within the meaning of the [PHRA]; (2) that he or she is **otherwise qualified** to perform the essential functions of the job, with or without reasonable accommodations by the employer; and (3) that he or she has suffered an otherwise adverse employment decision as a result of discrimination (e.g., denial of a reasonable accommodation). *Id.* at 811. (emphasis added)



Qualified

The burden is on the [individual with a disability] to prove that she is an otherwise qualified individual by means of a two-part test. A court must consider (1) whether the individual has the requisite skill, education, and other job-related requirements of the position sought, and (2) whether the individual, with or without reasonable accommodation, can perform the essential functions of that position. Genell v. Fleetwood Bank, 2024 PA Super 237, 326 A.3d 93, 103 (2024).



Essential Function

Neither the PHRA nor its implementing regulations define “essential function.” The PHRC looks to the regulations promulgated pursuant to the ADA which outline several factors to be considered:

The employer’s judgment as to which functions are essential; (ii) Written job descriptions prepared before advertising or interviewing applicants for the job; (iii) The amount of time spent on the job performing the function; (iv) The consequences of not requiring the incumbent to perform the function; (v) The terms of a collective bargaining agreement; (vi) The work experience of past incumbents in the job; and/or (vii) The current work experience of incumbents in similar jobs.

29 C.F.R. § 1630.2(n)(3)



Qualification Standards

“An employer may not make use of an employment test, device or other selection criterion that screens out or tends to screen out persons with a handicap or disability unless both of the following factors apply:

- (1) The test, device or other selection criterion is job-related for the position in question or a demonstrably related position.
- (2) Alternative job-related tests, devices or criteria that do not screen out or tend to screen out as many handicapped or disabled persons are not shown by the Commission or the applicant to be available.”

16 Pa. Code § 44.11 (b)(1)(2)



Your Turn: Qualification Standard or Job Function

Must Lift 50 Pounds	Lift boxes on assembly line weighing up to 50 pounds
Must be able to stand for eight hours	Work on register for eight hours
Must be able to climb stairs	Access storage facility in attic space and replenish inventory
Must be able to read	Respond to customer inquiries by email



What PHRC is Seeing

- Working from the office is an essential function, with no connection to a job task
- Employees were able to perform essential functions from home at the beginning of the pandemic
- Technology exists that was either unavailable or underutilized before 2020
- Employers are not using all resources available to them to determine how technology may help accommodate work from home (JAN, OVR)
- Slippery slope arguments, individuals with disabilities being negatively impacted by assumptions
- Employees, particularly those with mental health impairments, may benefit from work from home accommodations which are now possible



Case Examples

RR v. Pennsylvania Public Utility Commission; 202200982 (February 24, 2025)(currently on appeal Pennsylvania Public Utility Commission v. Pennsylvania Human Relations Commission; DOCKET NO. 382 CD 2025). Case prosecuted by Assistant Chief Counsel Stacy McNaney, Assistant Chief Counsel Keirstyn Marcucci, and Deputy Chief Counsel Morgan Williams and presided over by Hearing Examiner Darlene Martin. The Commission found work from home was not an essential function of the job and awarded Complainant more than \$70,000.00.

Gardner v. Kutztown University, the U.S. District Court for the Eastern District of Pennsylvania found that a university professor could fully perform the essential functions of her position by teaching and conducting office hours remotely. No. CV 22-1034, 2024 WL 1321068 (E.D. Pa. Mar. 27, 2024). Remote work required in this case due to an immunosuppressed condition. Id. at *12.



Your Turn

Shout out or type in the chat an example of technology that enables work from home in 2025



QUESTIONS



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Human Relations Commission

Contact Us

**To file a complaint, contact the regional office nearest you or
by
calling (717) 787-4410 | (717) 787-7279 TTY users only**

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