

EMPLOYMENT QUESTIONS RELATED TO COVID-19 AND REMOTE WORK

What does the New York City Human Rights Law require of employers if an employee seeks to continue working remotely to limit exposure to COVID-19 because of one of the following?

(i) A generalized fear for their health and safety:

Employers are not required by the NYCHRL to provide accommodations based on an employee's generalized fears. Other laws may, however, limit employers' ability to force employees to return to work in unsafe conditions, including because of COVID-19.

(ii) Risks of complication related to an underlying disability:

An employee is entitled to reasonable accommodations related to a disability, and that remains true when the disability puts them at increased risk of complications from COVID-19. The underlying conditions that public health authorities have thus far identified as increasing complications from COVID-19 generally qualify as disabilities under the NYCHRL. When an employee seeks an accommodation based on a disability, an employer is required to engage with the employee in a cooperative dialogue about the person's accommodation needs and potential accommodations that may address those needs. An employer must provide a reasonable accommodation unless doing so would pose an undue hardship. For more information about the cooperative dialogue process and reasonable accommodations, see the [Commission's Disability Legal Enforcement Guidance](#).

(iii) Risks of complication related to a pregnancy:

An employee is entitled to reasonable accommodations related to pregnancy, childbirth, or related medical condition, including accommodations to protect against increased risk of complications from COVID-19. When an employee seeks an accommodation based on pregnancy, childbirth, or a related medical condition, an employer is required to engage with the employee in a cooperative dialogue about the person's accommodation needs and potential accommodations that may address those needs. An employer must provide a reasonable accommodation unless doing so would pose an undue hardship. For more information about pregnancy accommodations, see the [Commission's Pregnancy Legal Enforcement Guidance](#).

(iv) Risks of complication related to their age:

Employers are not required by the NYCHRL to provide accommodations based on an employee's age. However, employers are required to provide reasonable accommodations based on disability, which is broadly defined under the NYCHRL to include many physical impairments more common among older adults, such as serious heart conditions. For that reason, when an employee expresses concerns about returning to work based on their age, employers are encouraged to remind workers of the employer's general policy concerning reasonable accommodations and the process for requesting one. For more information about the cooperative dialogue process and reasonable accommodations, see the [Commission's Disability Legal Enforcement Guidance](#).

(v) Risks to a vulnerable family member of the employee:

Employers are not required by the NYCHRL to provide accommodations based on an employee's status as a caregiver or because of their relationship or association with someone with protected status, such as a disability. However, discrimination based on an employee's status as a caregiver is unlawful, and employers must ensure that they are not discriminating against caregivers if they are providing accommodations to other employees beyond what is legally required.

(vi) An inability to secure childcare:

Employers are not required by the NYCHRL to provide accommodations based on an employee's status as a parent or caregiver. However, discrimination based on an employee's status as a caregiver is unlawful, and employers must ensure that they are not discriminating against caregivers if they are providing accommodations to other employees beyond what is legally required. In addition, other laws may govern parents' and caregivers' ability to stay home to care for children and protect against retaliation for choosing to do so.