

DOJ Religious Telework Memo Reflects Post-Pandemic Norms

By **Anne Cullen**

Law360 (September 24, 2025, 6:23 PM EDT) -- A recent Trump administration memo clarifying that federal employees can request to telework for religious reasons will likely reverberate in the private sector, where employers have already seen a surge in faith-based accommodation requests in the wake of the COVID-19 pandemic and a 2023 U.S. Supreme Court decision, experts say.



The DOJ acknowledged that the U.S. Equal Employment Opportunity Commission has not published anything that formally addresses remote work as a religious accommodation. But attorneys said the Trump administration has been unified on its faith-related policy positions, and the commission's input may be forthcoming. (AP Photo/Elise Amendola, File)

In a memorandum issued Sep. 18, the U.S. Department of Justice said that President Donald Trump's executive order directing agencies to bring back their staff on a full-time, in-person basis "does not preclude offering religious accommodations that take the form of situational telework."

The Justice Department's pronouncement builds on a statement the U.S. Office of Personnel Management made on July 16 that "strongly encouraged" agency heads to consider telework a reasonable accommodation for religious observances, despite the Trump administration's general opposition to remote work.

Employment law experts told Law360 the government's endorsements demonstrate how dramatically the

rules around workplace accommodations have changed since remote work exploded amid the COVID-19 pandemic, and since the U.S. Supreme Court **strengthened religious employees'** ability to secure accommodations in **Groff v. Dejoy** in 2023.

Together, these developments led to an "astronomical" increase in faith-related accommodation requests, said Devjani H. Mishra, a shareholder at Littler Mendelson PC who leads the firm's pandemic-focused task force and is a member of its accommodations group.

Employers are obligated to accommodate religious beliefs, practices and observances of their workers under Title VII of the Civil Rights Act as long as the beliefs are "sincerely held," unless the specialized arrangement poses an "undue hardship" on the employer.

For decades, the Supreme Court had defined this burden as "more than a de minimis cost," but the justices upped the bar in Groff in June 2023. The court said companies that reject faith-based accommodations now must show the change would impose "substantial increased costs in relation to the conduct of its particular business."

The pandemic, plus Groff, "moved the window as to what people can ask for," Mishra said. "Everything has changed."

Evolving Legal Landscape

This shift has now been further bolstered by the Trump administration's full-throated support for religious freedoms, said Dallan Flake, an associate dean and professor at Gonzaga University School of Law who focuses on religious accommodations in the workplace.

"It's kind of this perfect storm. We have this new world, post-Groff, and we also have an administration that really wants to broaden the rights of religious people in the workplace and across society," Flake said.

Telework, specifically as a possible solution to a conflict between someone's work and their faith, is not a new notion, Flake said. He said there is a growing body of case law — much of it in the COVID-19 vaccine context — addressing this potentiality.

"There are tons and tons of cases out there still being litigated right now involving telework as a potential accommodation to vaccine mandates," Flake said.

However, this relatively recent evolution means companies are still navigating uncharted waters, Littler's Mishra said.

"The number of requests has increased, the range of types of requests has exploded, and employers' readiness to take the other side of it has decreased," Mishra said. "Every factor that you can think of has expanded the number of accommodations, but there is less specific guidance than ever."

The DOJ acknowledged in its recent memo that the U.S. Equal Employment Opportunity Commission has not published anything that formally addresses remote work as a religious accommodation. But attorneys said the Trump administration has been unified on its faith-related policy positions, and the commission's input may be forthcoming.

"Whether one agrees or disagrees with the current administration, one thing is clear to me, on religious freedom, the administration is speaking with one consistent voice across departments," said Jonathan Segal, a management-side partner at Duane Morris LLP who leads the firm's human resources training arm, the Duane Morris Institute.

The document was issued in response to a petition from the EEOC's acting chair, Andrea Lucas, and Lucas lauded the statement when it was published. While the agency declined to say whether any guidance on the subject is in the works, an EEOC spokesperson told Law360 Wednesday that situational telework as a reasonable accommodation could extend to the private sector.

Uptick in Religious Telework Bids

Segal said the federal government's clear backing for religion-based telework arrangements will spill into private workplaces.

"With the DOJ and likely EEOC coming out in favor of telework as a possible reasonable accommodation in the religious context, it's reasonable to assume we're going to see more of these requests in the public and private sector," Segal said.

The tally on these specific kinds of requests — remote work for a religious reason — has been low, Segal noted, and he said there won't be any major increase as a result of the government's position. But there may be an uptick, he said, and companies "need to get ahead of it" by ensuring managers know to rope in human resources when they come in.

He said there are some "tricky" aspects of these petitions that employers should be conscious of, including the potential intermittent nature of a faith-related remote work arrangement.

The DOJ emphasized in its memo that it supported "situational" teleworking to accommodate someone's faith, referring to discrete, one-off situations, rather than any permanent, continuous arrangements.

The earlier OPM memorandum — which the DOJ cited in its own — offered some examples, including teleworking on a day of religious significance, fasting or prayer or in preparation for these observances.

While employers may be more easily able to sign off on a worker's push for a day or two at home, there's a chance, based on the recurring nature of holidays, that the petitions will crop up again. They may be harder to greenlight repetitively, Segal said.

When clearing a single telework request, Segal said companies should reserve the right to evaluate them on a cumulative basis in the future.

"Each individual occurrence might be readily do-able, and not impose an undue hardship, but the repetition or consecutive nature of them may," Segal said. "And that is something employers, when they receive these requests, need to consider."

Existing Laws May Be Instructive

Employers may already be used to intermittent leave through the Family and Medical Leave Act, and Segal said that could be a useful framework for evaluating whether remote work makes sense for a religious employee in some situations.

Alexander L. Reich, an employment partner at Saul Ewing LLP who advises employers, added that companies can also lean on the Americans with Disabilities Act blueprint for faith-based telework requests, as remote work requests crop up more often in the disability context than they do in the religious sphere.

The ADA requires employers to try to offer a workplace adjustment to disabled employees that keeps them on equal footing with their peers, and the law mandates that companies work toward that accommodation through the interactive process.

The EEOC's definition of "interactive process" characterizes it as "a discussion or two-way communication between an employer and an employee or applicant to identify a reasonable accommodation."

Although Title VII has no such interactive requirement in the religious context, Reich said this is still a smart way to handle faith-related accommodation petitions.

"The interactive process is unique to the ADA, but it's a good measuring stick, even though it's not required under Title VII," Reich said.

At large, management-side attorneys said companies should keep their ear to the ground, as the law underlying religious accommodations is still **on the move**.

"There's a lot of questions still to be answered," said Littler's Mishra. "There are new religious accommodation decisions every day, the law is going to keep changing, because people are asking for things they've never asked for before."

--Additional reporting by Vin Gurrieri and Patrick Hoff. Editing by Amy Rowe and Nick Petruncio.

