

Ensure telecommuting rules don't discriminate

If you let some employees work from home, allow it for everyone in the same position, under the same terms and conditions. Otherwise, you may find yourself facing a discrimination claim—unless you have concrete, work-related reasons for excluding some employees.

Recent case: Kim, a black woman, is an accountant for the San Francisco Department of Public Health.

She sued for race discrimination, alleging that other accountants were allowed to work from home with very little supervision or interference from management. In contrast, Kim claimed that when she tried telecommuting, her supervisors harassed her for attendance reports, called her into the office for disciplinary meetings and held her to tougher work standards than other accountants.

The agency tried to have her lawsuit dismissed, arguing that her claims weren't specific enough to warrant continuing the case beyond the preliminary stage.

But the court disagreed. It said Kim's allegations, if proven, could lead a jury to find the city guilty of race discrimination. The case moves forward to discovery and, possibly, a trial. (*Tolbert v. CCSFDPH*, ND CA, 2017)

Final note: Ensure all your employees understand what's expected of telecommuters. You can set parameters to decide who will be allowed to work from home, including allowing the option only for those who achieve a particular performance evaluation rating. The key is even-handedly applying objective, concrete rules.

Also, don't forget that working from home is becoming a favored reasonable accommodation for disabled individuals with jobs that lend themselves to being performed remotely.