

EEOC Updates COVID-19 Guidance

COVID-19 Response Resource Center: Timely Counsel for your Business

By William Cary and Natalie Sanders on 04.13.2020
Posted in Employment

On April 9, the Equal Employment Opportunity Commission (EEOC) posted additional, updated guidance for employers regarding COVID-19, the ADA, and other EEO laws, and consolidated all its COVID-19 related advice here.

It reiterates why **each of the following employer actions are permissible** under the current circumstances and reminds employers of important considerations if they are doing any of these:

- Asking employees about symptoms of COVID-19
- Taking body temperature of employees
- Requiring employees with COVID-19 symptoms to stay home
- Requiring doctors' notes certifying fitness for duty to return to work

The guidance reminds employers of the obligation to maintain employee medical records (which may include COVID-19 information) separately from other personnel records.

The guidance explicitly authorizes an employer to disclose the names of employees with COVID-19 to public health agencies, and authorizes a staffing agency or contractor that supplies the employer with employees to disclose the name of an employee with COVID-19.

When hiring new employees, the guidance reiterates that the employer may ask questions concerning COVID-19 and screen for symptoms, but reminds employers that these questions and screenings are like any other medical exam and hence may not be done prior to the making of a conditional job offer. If such an applicant then tests positive or becomes symptomatic, employment may be delayed and, if the employer needs the employee immediately, the employer may withdraw the offer.

The guidance includes several questions on ADA accommodation, the gist of which is that COVID-19 does not void an employer's obligations to explore reasonable accommodations whether in the workplace or working from home.

Employers are reminded that anti-harassment provisions apply equally to COVID-19 and employers are urged to communicate that fear of COVID-19 should not be misdirected based on presumptions about protected characteristics such as national origin, race, or age.

If you have any questions about the updated EEOC guidance, please contact Natalie Sanders or Bill Cary, linked below.

Brooks Pierce is dedicated to keeping our clients fully informed during the COVID-19 crisis. For more information, please visit our [COVID-19 Response Resources](#) page.

Tags: Americans with Disabilities Act, Equal Employment Opportunity Commission (EEOC)