



EEOC Updates Guidance on COVID-19 ADA, Hiring and Discrimination Issues

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The U.S. Equal Employment Opportunity Commission (EEOC) has updated its guidance relating to the applicability of discrimination and harassment laws in the context of the Covid-19 pandemic. The complete guidance can be viewed [here](#).

Some key points from the guidance are highlighted below:

ADA Issues

- During a pandemic, ADA-covered employers may ask employees who call in sick if they are experiencing coronavirus symptoms.
- Because the CDC and other authorities have acknowledged community spread of Covid-19, employers may measure employees' body temperature.
- Employers may require a doctor's note certifying fitness for duty from an employee returning to work after a Covid-19 related absence from work.

Hiring & On-boarding

- An employer may screen job applicants for Covid-19 symptoms after making a conditional job offer, as long as it does so for all entering employees in the same type of job.
- When an employer needs a job filled immediately, it may withdraw a job offer for an individual who has Covid-19 or symptoms associated with it.

Reasonable Accommodation

- An employee who was already receiving a reasonable accommodation prior to the pandemic may be entitled to an additional or altered accommodation, absent under hardship.
- An employer is still allowed to request information from an employee who requests a reasonable accommodation either at home or in the workplace, to determine if the condition is a disability.
- An employer may ask employees with disabilities to request accommodations that they believe they may need when the workplace re-opens, and may begin the “interactive process” to ascertain whether the impairment is a disability and the reasons that an accommodation is needed.

Pandemic-related Harassment

- Employers can help reduce the chance of harassment by explicitly communicating to employees that fear of the Covid-19 pandemic should not be misdirected against individuals because of a protected characteristic such as national origin or race.

Other Covid-19 Client Alerts are available on our firm’s website at www.cohenandwolf.com

With additional clarifications and information emerging on a nearly daily basis, it can be difficult to keep track of the many moving pieces that are in play. Please feel free to contact us with any questions.

ATTORNEYS

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