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Client Alert: EEOC Releases “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws”

BY CESIRA NEWCOMB • APRIL 24, 2020

The U.S. Equal Employment Opportunity Commission (EEOC) has recently released Q&A guidance titled “[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)”. The guidance was updated on April 23, 2020, and covers a variety of topics ranging from hiring and furloughs to pandemic-related harassment and returning employees to work. Here is a small sample of the many questions addressed in the guidance:

Q: Can an employer screen job applicants for symptoms of COVID-19?

A: Yes, if the employer makes a conditional job offer and screens all entering employees in the same type of job.

Q: May an employer withdraw a job offer when it needs an applicant to start immediately but the individual has COVID-19 or symptoms of it?

A: Yes, for now. Based on current CDC guidance, this individual cannot safely enter the workplace.

Q: May an employer withdraw a job offer or unilaterally postpone a start date because an individual is 65+ years old or pregnant, both of which place them at higher risk from COVID-19?

A: No. However, employers may choose to allow telework or ask these individuals if they would like to postpone their start date.

Q: Does the ADA require employers to offer protection to individuals with disabilities that place them at higher risk from COVID-19 as a reasonable accommodation?

A: Possibly, if no undue hardship to the employer.

Q: During the pandemic, if an employee requests an accommodation for a medical condition either at home or in the workplace, may an employer still request information to determine if the condition is a disability?

A: Yes. If not obvious or already known, employers may ask questions or request medical documentation if needed.