



Maryland Division of Rehabilitation Service

COVID-19 Information Sheet for Employers, Employees and Consumers

- 1. EEO laws, including the ADA and Rehabilitation Act,**
 - These laws continue to apply during the time of the COVID-19 pandemic,
 - Do not interfere with or prevent employers from following the guidelines and suggestions made by the CDC or state/local public health authorities about steps employers should take regarding COVID-19.

- 2. An employee showing the symptoms of COVID-19, can be directed to go home.**
 - The CDC states that employees who become ill with symptoms of influenza-like illness at work during a pandemic should leave the workplace. Advising such workers to go home is not a disability-related action if the illness is akin to seasonal influenza or the 2009 spring/summer H1N1 virus.
 - Additionally, the action would be permitted under the ADA if the illness were serious enough to pose a direct threat. Applying this principle to current CDC guidance on COVID-19, this means an employer can send home an employee with COVID-19 or symptoms associated with it.

- 3. During a pandemic, Employers may ask employees if they are experiencing influenza-like symptoms, such as fever or chills and a cough or sore throat.**
 - Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.
 - If pandemic influenza becomes severe, the inquiries, even if disability-related, are justified by a reasonable belief based on objective evidence that the severe form of pandemic influenza poses a direct threat.
 - Applying this principle to current CDC guidance on COVID-19, employers may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine if they have or may have COVID-19.
 - Currently these symptoms include, for example, fever, chills, cough, shortness of breath, or sore throat.

- 4. During a pandemic, may an employer cannot ask employees who do not have influenza symptoms to disclose whether they have a medical condition that the CDC says could make them especially vulnerable to influenza complications?**
 - If pandemic influenza is like seasonal influenza or the H1N1 virus in the spring/summer of 2009, making disability-related inquiries or requiring medical examinations of employees without symptoms is prohibited by the ADA. However, under these conditions, employers should allow employees who experience flu-like symptoms to stay at home, which will benefit all employees including those who may be at increased risk of developing complications.

- 5. During a pandemic, an employer can require its employees to wear personal protective equipment (e.g., face masks, gloves, or gowns) designed to reduce the transmission of pandemic infection?**
 - However, where an employee with a disability needs a related reasonable accommodation under the ADA (e.g., non-latex gloves, or gowns designed for individual(s) who use wheelchairs), the employer should provide these, absent undue hardship.



Maryland Division of Rehabilitation Service

COVID-19 Information Sheet for Employers, Employees and Consumers

6. During a pandemic, an employer must continue to provide reasonable accommodations for employees with known disabilities that are unrelated to the pandemic, barring undue hardship?

- An employer's ADA responsibilities to individuals with disabilities continue during an influenza pandemic. Only when an employer can demonstrate that a person with a disability poses a direct threat, even after reasonable accommodation, can it lawfully exclude him/her from employment or employment-related activities.
- If an employee with a disability needs the same reasonable accommodation at a telework site that he/she had at the workplace, the employer should provide that accommodation, absent undue hardship. In the event of undue hardship, the employer and employee should cooperate to identify an alternative reasonable accommodation.

7. EEOC UPDATED IN RESPONSE TO COVID-19 PANDEMIC – March 21, 2020

- Employers and employees should follow guidance from the Centers for Disease Control and Prevention (CDC) as well as state/local public health authorities on how best to slow the spread of this disease and protect workers, customers, clients, and the general public. The ADA and the Rehabilitation Act do not interfere with employers following advice from the CDC and other public health authorities on appropriate steps to take relating to the workplace. This update retains the principles from the 2009 document but incorporates new information to respond to current employer questions.

-

Resources:

<https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act>

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-law>

www.cdc.gov/coronavirus/2019-ncov/index.html

Job Accommodation Network (JAN) // <https://askjan.org/>

U.S. Department of Labor "Quick Tip" video to help employers understand how the Americans with Disabilities Act rules apply during the COVID-19 pandemic. The video also refers employers to the Equal Employment Opportunity Commission to learn about medical exams and inquiries in light of the national health crisis. <https://www.youtube.com/watch?v=FXVhcY8o0lk>