

## **Employer Rights in Screening Employees for COVID-19 and Protecting Other Employees and the Public**

Compiled with assistance from Constangy, Brooks, Smith & Prophete, LLP  
For more information on this topic, the EEOC has provided guidance [here](#).

### **May an employer take the body temperature of employees during the COVID-19 pandemic?**

- Because the CDC and state health authorities have acknowledged community spread of COVID-19 and issued attendant precautions, employers may measure employees' body temperature. However, employers should be aware that some people with COVID-19 do not have a fever.

### **How much information may an employer request from an employee who calls in sick, in order to protect the rest of its workforce during the COVID-19 pandemic?**

- During a pandemic, employers may ask employees if they are experiencing symptoms of the pandemic virus. For COVID-19, these include symptoms such as fever, chills, cough, shortness of breath, or sore throat. The Americans with Disabilities Act does not prevent the request of this information during a pandemic, but **employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.**
- An employer **may not** provide the name of an individual with COVID-19 to other employees. An employer **may** reach out to employees that have come into contact with a confirmed COVID-19 case to inform them of their potential exposure, however the employers should take caution in releasing any information that may indirectly identify the sick individual. Remind employees that discrimination or harassment against individuals that are suspected to have tested positive for, or been exposed to, coronavirus is strictly prohibited.

### **Can employers require employees to stay home if they have symptoms of COVID-19?**

- Yes. The CDC states that employees who become ill with symptoms of COVID-19 should leave the workplace. The Americans with Disabilities Act does not interfere with employers following this advice.

### **When employees return to work, can employers require doctors' notes certifying that they may return?**

- Yes. However, employers should keep in mind that medical professionals are already overwhelmed during this crisis. Employers should consider alternative options, such as emails, phone calls, or messaging apps, to confirm an employee's fitness for returning to work.

### **If an employer is hiring, what are the rules for screening for COVID-19? When can I ask to take a potential employee's temperature, and can I delay their start date if they're sick?**

- Yes. An employer may screen job applicants for symptoms of COVID-19 *after* making a conditional job offer, as long as the employer does so for all entering employees in the same type of job.
- If the employee with the conditional job offer has COVID-19 symptoms they should not be in the workplace. Based on current CDC guidance, because this individual cannot safely enter the workplace, the employer may withdraw the job offer or move the start date.