**COVID-19: Screening Employee Temperatures**

Employers are wondering how they can protect their employees once everyone returns to work. When local and federal governments allow for the return to work, it will not stop the coronavirus from continuing to spread.

Some employers are considering taking employee temperatures as a precaution upon returning to work. The following guidance is taken, primarily, from the Equal Employment Opportunity Commission (EEOC) to help employers navigate questions and concerns related to taking employee temperatures.

**Guidance for ADA-covered employers taking the body temperature of employees**

In most circumstances, measuring an employee's body temperature is considered a medical examination. However, because the Centers for Disease Control and Prevention (CDC) and state/local health authorities have acknowledged community spreading of COVID-19, and have issued precautions, employers may measure employees' body temperature. It is important to note, however, that some people with COVID-19 do not have a fever or exhibit symptoms.

# Taking an applicant's temperature as part of a post-offer, pre-employment medical exam

Medical exams are permitted after an employer has made a conditional offer of employment.

# Storing temperature data related to COVID-19 in existing (or new) medical files

The ADA requires that all medical information about a particular employee be stored separately from the employee's personnel file, limiting access to this confidential information. An employer may store all medical information related to COVID-19 in existing **medical** files. This includes an employee's statement that they have the disease, or their suspicion they may have the disease, as well as the employer's notes or documentation from questioning an employee about symptoms.

# Requirement for all employees to have a daily temperature check before entering the workplace and storing the results

Yes. The employer needs to maintain the confidentiality of this information.

# Steps employers can take, consistent with the ADA, to screen employees for COVID-19 when entering the workplace

The ADA permits employers to make disability-related inquiries and conduct medical exams, if they are job-related and consistent with business necessity. Inquiries and reliable medical exams meet this standard - if it is necessary to exclude employees with a medical condition that would pose a direct threat to health or safety.

Direct threat is to be determined based on the best available objective medical evidence. The guidance from the CDC or other public health authorities is such evidence. Therefore, employers will be acting consistently with the ADA as long as any screening implemented is consistent with advice from the CDC and public health authorities for that type of workplace at that time.

For example, this may include continuing to take temperatures of everyone entering the workplace and asking questions about symptoms (or requiring self-reporting). Similarly, the CDC recently posted information on return by certain types of critical workers.

Employers should make sure not to engage in unlawful disparate treatment based on protected characteristics in decisions related to screening and exclusion.

# Best Practices for Implementing Temperature Testing

If an employer decides to conduct employee temperature testing, they should be sure to comply with all official rules including, but not limited to, the ADA and Title VII of the Civil Rights Act. Here are some other tips to keep in mind.

* Communicate the plan to take employee temperatures well in advance and explain why.
* Be sure employees understand the implications of such a test (i.e., a high temperature means being sent home).
* Have a set temperature threshold and stick to it. For instance, 100.4 F is the CDC’s measurement of a fever. Employers should consider using that as the threshold for when to keep an employee from entering the workplace or send them home.
* Use no-touch thermometers to avoid spreading illness.
* Have properly trained medical staff or facilitators to administer the temperature checks.
* Make sure the temperature checking stations are far enough from the workplace entrance and have proper social distancing setups (e.g., a waiting area where individuals are no closer than 6 feet together).
* Maintain proper disinfecting procedures at the testing station and within the workplace as a whole.

Taking these steps will help both employers and employees return to the workplace with in a safe and secure process.