



## COVID-19 News from the EEOC!

### COVID-19 CORONAVIRUS

The U.S. Equal Employment Opportunity Commission (EEOC) has posted a webinar addressing Frequently Asked Questions arising under the Federal Equal Employment Opportunity Laws and the COVID-19 Pandemic. <https://www.eeoc.gov/coronavirus/>

The webinar answers questions submitted by the public about how to respond to the COVID-19 pandemic in light of the federal employment nondiscrimination laws the EEOC enforces – including the American's with Disabilities Act, the Age Discrimination in Employment Act, Title VII, and GINA. The webinar and the COVID-19 publications available on the EEOC's website: <http://www.eeoc.gov> "What You Should Know About the ADA, the Rehabilitation Act, and COVID-19" and "Pandemic Preparedness in the Workplace and the Americans with Disabilities Act".

EEOC Chair Janet Dhillon issued a message about unlawful national origin and race discrimination against Asian Americans in the workplace during the pandemic. The agency will continue to monitor developments and provide assistance to the public as needed. More information is available at [www.eeoc.gov](http://www.eeoc.gov).

#### **Frequently Asked Questions on confidentiality of COVID-19 medical information under the Americans and Disabilities Act (ADA).**

Note: This information is COVID-19-specific and reflects the situation as of March 27, 2020.

#### **1. A manager confirms that an employee has tested positive for COVID-19 or has symptoms associated with COVID-19. What should the manager do?**

The manager should report to the appropriate employer official. Exactly which employer officials need to know the identity of the individual depends on the workplace. Employers should make every effort to limit the number of people who are informed regarding the employee's identity. Instruct those people that they must maintain confidentiality of the employee's identity.

Employers should plan for this scenario and then inform all managers who is the designated employer official responsible for receiving information from managers and conducting the next steps.

The next step is for the employer official or designated representative to interview the employee to obtain the names of possible contacts in the workplace. Then the employer can notify those individuals who may have come into contact with that person, but the employer cannot reveal the infected employee's identity.

#### **2. In the case of employees who physically report to the workplace, if an employee knows that a coworker has symptoms of COVID-19, can the employee disclose the coworker's symptoms to a supervisor?**

Yes, this is permitted under ADA.

#### **3. An employer knows that an employee is teleworking because the employee has COVID-19 or symptoms associated with COVID-19, and the employee is in self-quarantine. May the employer tell staff that this particular employee is teleworking without saying the reason why?**

Yes, because staff need to know this employee is available and how to contact the employee. The employer should not disclose a reason, however.

**4. Telling employees that “someone at this location” or “someone on the 4<sup>th</sup> floor” has COVID-19 may not provide sufficient information to allow employees to know if they should take further steps to protect themselves and others. Can an employer tell the workforce the name of the employee?**

No, this is not allowed under ADA. Even in a small office setting where people may be able to figure out who the person with confirmed COVID-19 is, the employer must not disclose the employee’s name. Also, CDC guidelines specifically say that employers must maintain confidentiality of people with confirmed COVID-19 infection.

**5. How are managers who are telecommuting supposed to keep medical information of employees confidential while working remotely?**

Confidentiality of medical information under ADA requires that medical information be stored separately from regular personnel files. If a manager receives information involving COVID-19 or any other medical information while teleworking and is able to follow an employer’s existing confidentiality protocols while working remotely, the manager must do so. However, if the normal procedure is not feasible, the manager must still safeguard this information to the greatest extent possible until he or she can properly store it. For example, the paper or laptop that records the information may not be left out where other can see it. Consider using initials or some type of code to ensure confidentiality of the employee’s name.

**6. Does the ADA permit employers to notify public health authorities if they learn an employee has COVID-19?**

Yes, employers can notify public health authorities if they learn an employee has COVID-19 because COVID-19 is a direct threat to public health. COVID-19 Pandemic and Anti-discrimination Laws.

To learn more, view the full recording of the U.S. Equal Employment Opportunity Commission (EEOC) webinar advising employers how to stay compliant with federal employment nondiscrimination laws while responding to the coronavirus pandemic.

Be Safe, Be Smart and Keep Your Social Distance!

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