Accommodation and Compliance Series: Coronavirus Disease 2019 (COVID-19)
JAN’S Accommodation and Compliance Series

Introduction

Employers covered by the ADA should keep the following strategies in mind when dealing with communicable diseases such as COVID-19 in the workplace.

COVID-19 and the ADA

The first is to make decisions based on facts, what is actually happening, and not speculation. Under the ADA, employers can make decisions based on safety concerns, but they have to be real. So, employers should determine what’s really going on.

Furthermore, employers should remember the ADA medical exam and inquiry rules apply when they are assessing workplace situations. In order to ask medical questions or require medical exams, employers must have a reasonable belief, based on objective evidence, that a specific employee might pose a direct threat. Employers should not put employees through medical screening without evidence they have been exposed to the virus or are exhibiting symptoms. The Equal Employment Opportunity Commission (EEOC) provides the following guidance: What You Should Know About the ADA, the Rehabilitation Act, and the Coronavirus.

The best approach is to rely on guidance from public-health authorities including the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), and the U.S. Department of State. These expert authorities are closely monitoring the situation and providing information for employers.

Centers for Disease Control and Prevention (CDC):

- COVID-19 Page
- Interim Guidance for Businesses and Employers

Occupational Safety and Health Administration (OSHA):

- COVID-19 Page

Even if a direct threat exists, employers must consider whether there might be accommodations to reduce or eliminate the threat. Examples of possible accommodations include telework, temporary reassignment to a job that can be done from home if the current job can’t be done from home, and temporary leave.
U.S. Department of State:

Current Outbreak of Coronavirus Disease 2019
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