EEOC: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws

Thursday, June 11, 2020

The U.S. Equal Employment Opportunity Commission (EEOC), the federal agency responsible for enforcing federal anti-discrimination laws, today updated its Technical Assistance Questions and Answers, “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws.” This Technical Assistance is intended to help employers address practical issues that may arise in their day-to-day operations and oversight of their employees as they return to work in the context of COVID-19. The EEOC has consistently reminded employers that the federal anti-discrimination laws continue to apply during the pandemic and that these laws do not interfere with the guidance issued by public health authorities, including the CDC.

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The EEOC’s previously issued Technical Assistance discussed critical issues such as disability-related inquiries and medical examinations, confidentiality of medical information, and hiring and onboarding during the COVID-19 pandemic. In addition, the EEOC provided detailed guidance on handling reasonable accommodations during the pandemic. In this newly issued Technical Assistance, the EEOC focuses in even further on these and related issues, and provides an analysis of common topics that many employers have been or will be facing as employees are preparing to return to work.

The updated questions and answers include topics such as: whether an employee is entitled to an accommodation under the ADA to avoid exposing a family member who is at higher risk of severe illness from COVID-19; whether reasonable accommodations are required during the process of screening employees before they enter the worksite; whether employees age 65 or older, who are at higher risk of severe illness from COVID-19, can be involuntarily excluded from the workplace based on their age; whether pregnant employees can be involuntarily excluded from the workplace due to their pregnancy and, relatedly, whether there is a right to accommodation based on pregnancy during the pandemic. In addition, the updated Technical Assistance discusses steps employers can take to prevent and address possible harassment and discrimination that may arise related to the pandemic, particularly as against employees who are or perceived to be Asian.

EEOC Technical Assistance Questions and Answers

Employers should review this newly issued Technical Assistance from the EEOC so that they are prepared to address these issues if they arise as businesses are re-opening and employees are returning to the workplace.

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