



We have the legal right of way.

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## RETURNING TO WORK DURING COVID-19: Frequently Asked Questions

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We created this document to answer some of the most common and pressing questions about employment rights for those starting a new job or returning to work in the COVID-19 Pandemic. Please keep in mind that this guidance could change, and represents the best information available at this time from the Equal Employment Opportunity Commission (EEOC) and Ohio Civil Rights Commission (OCRC), among other sources.

As always, if you have specific questions about your employment situation, or need clarification on any of these topics, please call our intake department at 614-466-7264 or 1-800-282-9181. Press option 2, and leave a voicemail. We will return your call.

### Employment Rights and Remedies—If an Issue Arises

#### Do I still have employment rights under the Americans with Disabilities Act (ADA) and Ohio law? Can I still file a charge of discrimination?

Yes. The EEOC and OCRC continue to enforce the ADA and Ohio laws against discrimination, which still apply to employers with 4 employees for Ohio law, or 15 employees for the ADA. Check with the EEOC or OCRC to get the most up-to-date information about how to file a charge. Their websites are <http://www.eeoc.gov> and <http://crc.ohio.gov>. It is important to remember there are deadlines for filing charges of discrimination with the OCRC or EEOC. [See Employment Discrimination: Rights and Remedies for People with Disabilities](#) for more information.

### Hiring Medical Inquiries

#### May my employer screen applicants for COVID-19 symptoms?

Yes. After they conditionally offer you a job, employers can screen for COVID-19 symptoms, if they do so for everyone they hire for that job.



### **May my employer take my temperature as part of a screening medical exam?**

Yes. An employer can conduct certain medical exams after they conditionally offer you a job, including temperature.

### **May my employer delay my start date because I have COVID-19 or its symptoms?**

Yes. The CDC has stated that an individual who has COVID-19 or symptoms associated with it should not be in the workplace.

### **May an employer withdraw my job offer if they need me to start right away, but I have COVID-19 or its symptoms?**

Yes. Based on CDC guidance, you cannot safely enter the workplace, and therefore the employer is permitted to withdraw the job offer.

### **May an employer delay my start date or withdraw my job offer only because I may be at higher risk from COVID-19?**

No. Even if you are in a group the CDC has identified as being at greater risk, your employer cannot delay your start date or withdraw your job offer for only this reason. However, the employer might choose to allow you to work from home or ask you if you would like to postpone your start date.

## **Return to Work—As Governmental Stay-at-Home Orders are Modified or Lifted**

### **Is my employer permitted to make medical inquiries or conduct medical exams and screening when returning to the workplace?**

Yes. The law lets employers make disability-related inquiries or conduct medical exams if they are related to your job and they are necessary for the business. This includes the need to exclude employees with certain symptoms that may pose a direct threat to health or safety. The CDC and public health officials have issued guidance that these health checks are a necessary part of returning to work safely.

This means that employers can make medical inquiries or conduct medical exams and screenings as long as they follow current guidelines from the CDC and public health authorities about their type of workplace. For example, this might include taking temperatures and asking questions about symptoms, or to require self-reporting, of all those entering the workplace, in accordance with CDC guidelines.

### **Is my employer permitted to single me out for screening, or exclude me from the workplace, based on my disability?**

No. Your employer should only screen or make medical inquiries where job-related and consistent with business necessity. Your employer should not single you out for screening or exclusion only because of your disability.

## **Can my employer require me to wear protective gear and take steps to control the spread of infection?**

Yes. Employers may require protective gear such as masks and gloves, and require you to follow infection control practices like regular hand washing and social distancing.

## **Can I request a reasonable accommodation for modified protective gear or modified practices because of my disability?**

Yes. If you need a reasonable accommodation to these items or practices, you can ask for it. Examples people with disabilities might need include: non-latex gloves; modified face masks for interpreters or those who communicate with others who use lip-reading; gowns designed for individuals who use wheelchairs. Examples of modified practices could include: allowing personal care assistance, or finding alternatives to hand-washing rules.

Your employer should talk about these requests with you, and should provide reasonable accommodations or an alternative if they are able to without an undue hardship on their business. The Job Accommodation Network ([www.askjan.org](http://www.askjan.org)) may be able to assist in helping to identify potential accommodations. The EEOC has encouraged all employers and employees to be creative and flexible in discussing reasonable accommodations during this pandemic.