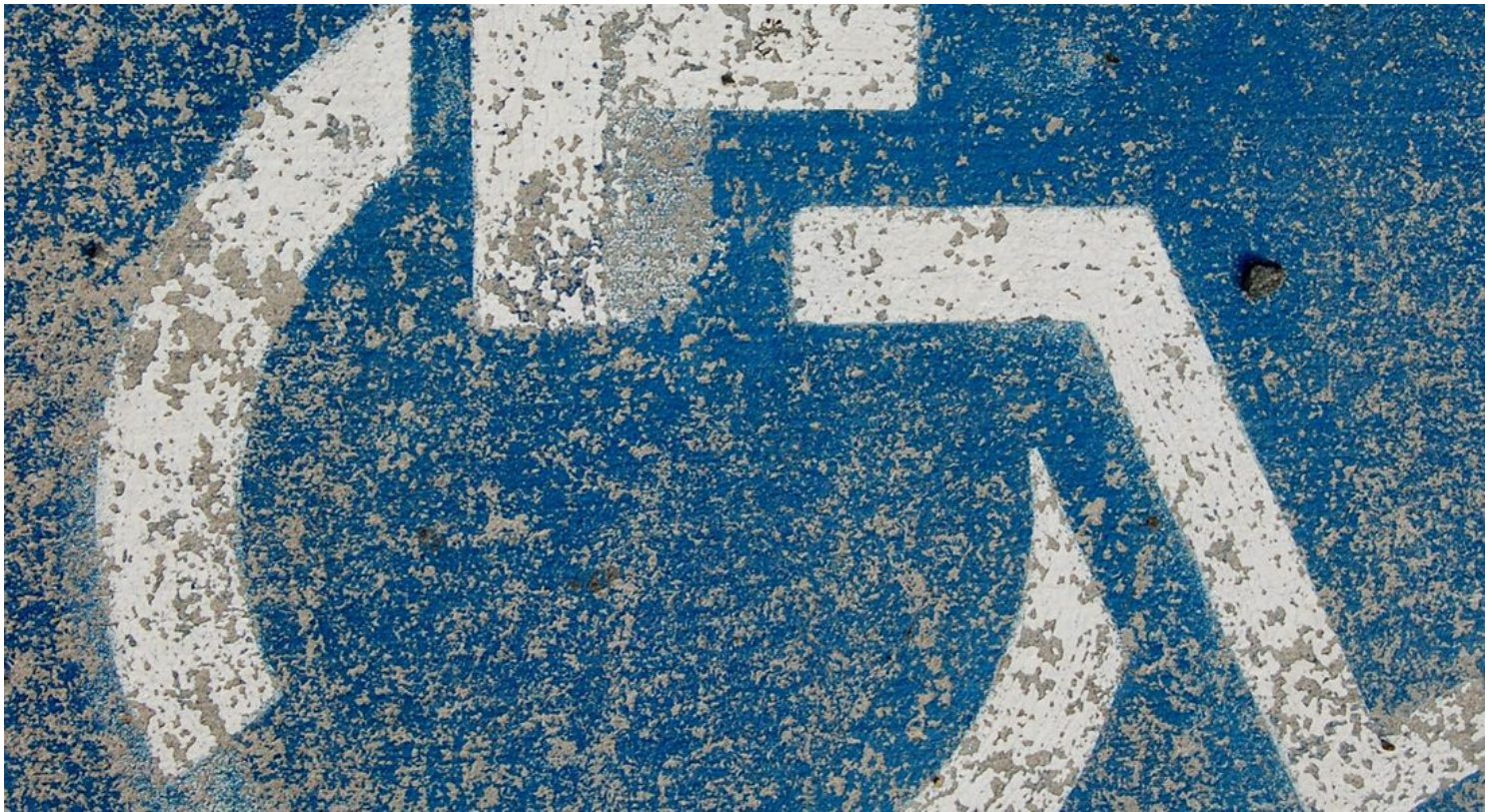


NEWS & INSIGHTS

EEOC issues additional guidance related to ADA and COVID-19

INSIGHTSLEGAL UPDATE

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The below information is current as of the publication date listed. Because COVID-19 response measures on all fronts are continually evolving, clients should stay alert to new developments and consult with counsel on any critical questions.

On April 17, the Equal Employment Opportunity Commission (EEOC) updated its COVID-19 guidance for employers seeking to comply with the Americans with Disabilities Act (ADA) in a pandemic situation. [New questions and answers](#) provided by the EEOC address certain return-to-work topics and clarify that EEO laws, including the ADA, continue to apply during the pandemic, but they do not prevent employers from following Centers for Disease

Control and Prevention (CDC) and state and local health guidelines.

The new EEOC guidance confirms that, in a pandemic situation, an employer may still ask questions or request medical documentation to determine if an employee qualifies for the accommodation of a “disability” where the disability is “not obvious or already known.” It may now be appropriate for employers to shorten the interactive process and grant temporary accommodations or provide accommodations on a trial basis. In addition, some formerly “reasonable” requested accommodations may now pose an undue hardship, particularly in light of many employers’ sudden loss of income.

The guidance also assures employers that under the ADA, they may implement return-to-work practices, such as taking temperatures, asking questions about symptoms or requiring self-reporting, where such inquiries are necessary to protect the workforce from direct threats. The EEOC specifically notes that “employers will be acting consistent 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.” Similarly, employer requirements with respect to protective gear and infection control practices are permissible.

The EEOC reminds employers dealing with new practices related to COVID-19 to remain open to accommodation requests (for example, where there is a need for modified protective gear such as non-latex gloves) and to avoid disparate treatment based on protected characteristics.

Saxton & Stump attorney [Rick Hackman](#) is available to further discuss the new EEOC guidance and how our [Labor and Employment](#) group can provide support for businesses when implementing return-to-work practices and responding to COVID-19 related ADA requests.

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