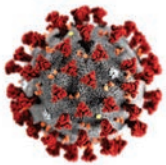


COVID Employment Update

Giana Ortiz, The Ortiz Law Firm
Arlington, Texas



- ADA
 - COVID as a Disability
 - Long COVID as a Disability
 - Accommodation Requests
- EEOC Guidance on Vaccines
- FMLA
- IHE and COE Decisions



42 U.S.C. sec. 12112(b)(5)(A)

Employer must make **reasonable accommodations** to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose **an undue hardship on the operation of the business** of such covered entity.

“Disability”

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

- caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working;
- major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

42 U.S.C sec. 12102.

“Qualified Individual”

An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

- Consideration given to the “employer’s judgment as to what the functions of a job are essential”;
- Consideration given to the written job description.

42 U.S.C sec. 12111(8).

“Undue Hardship”

An action requiring significant difficulty or expense, when considered in light of factors:

- Nature and cost of the accommodation;
- Overall financial Resources of the facility, the effect of expenses and resources;
- Overall financial resources of the covered entity.

42 U.S.C sec. 12111(10).

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