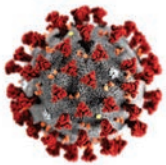


# COVID Employment Update

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- 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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"COVID Update: Employee Issues"