

## Frequently Asked Questions Regarding Educators and Coronavirus/COVID-19 –

### Legality of Mandatory Medical Questionnaire

I received the following questionnaire from my school district. The mandatory questionnaire asks for my name, my school and whether I have certain medical conditions. The medical question they ask is:

***1. Do you have a pre-existing serious medical condition that the CDC has specified as indicating a higher risk of severe illness if you contract COVID-19, such as Asthma (moderate-to-severe), Chronic lung disease, Chronic kidney disease being treated with dialysis, Diabetes including Type 1,, Type 2, or Gestational, Hemoglobin disorders, Immuno-compromised, Liver disease, Aged 65 years and older, Serious heart conditions, Severe Obesity (BMI of 40 or more) NOTE: you may be asked to provide medical documentation. \****

Is this legal?

No, this type of questionnaire is improper. The EEOC has issued the following specific guidance:

***During a pandemic, may an ADA-covered employer ask employees who do not have influenza symptoms to disclose whether they have a medical condition that the CDC says could make them especially vulnerable to influenza complications?***

*No. If pandemic influenza is like seasonal influenza or the H1N1 virus in the spring/summer of 2009, making disability-related inquiries or requiring medical examinations of employees without symptoms is prohibited by the ADA.<sup>(32)</sup> However, under these conditions, employers should allow employees who experience flu-like symptoms to stay at home, which will benefit all employees including those who may be at increased risk of developing complications.<sup>(33)</sup>*

*If an employee voluntarily discloses (without a disability-related inquiry) that he has a specific medical condition or disability that puts him or her at increased risk of influenza complications, the employer must keep this information confidential. The employer may ask him to describe the type of assistance he thinks will be needed (e.g. telework or leave for a medical appointment). Employers should not assume that all disabilities increase the risk of influenza complications. Many disabilities do not increase this risk (e.g. vision or mobility disabilities).*

See EEOC guidance [here](#).

If you have received such a survey, please reach out to [your UniServ Coordinator](#) or local leadership.

©Tennessee Education Association. All rights reserved.