

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

Medical Certification For Return to Work

Can my school district require me to sign a statement and provide a medical form stating that I am fit for work? Are there any limits to what my school district can ask?

Under Tennessee's sick leave law, school districts are given the authority to ask for a physician's statement, when the board of education deems asking for a statement would be proper. See Tenn. Code Ann. §49-5-710(a)(7) and §49-5-404.

There are limits as to what can be asked. Employees should not be asked whether or not a family member has had or has symptoms of COVID-19. According to EEOC guidance, such questions might violate the [Genetic Information Non-Discrimination Act](#). Instead, the EEOC recommends asking a better question about whether the employee has come into contact with anyone who has been infected with the coronavirus. See EEOC webinar found [here](#).

Additionally, the Department of Labor has issued guidance found [here](#), which includes the following:

May an employer require an employee who is out sick with pandemic influenza to provide a doctor's note, submit to a medical exam, or remain symptom-free for a specified amount of time before returning to work?

Yes. However, employers should consider that during a pandemic, healthcare resources may be overwhelmed and it may be difficult for employees to get appointments with doctors or other health care providers to verify they are well or no longer contagious.

During a pandemic health crisis, under the [Americans with Disabilities Act1](#) (ADA), an employer would be allowed to require a doctor's note, a medical examination, or a time period during which the employee has been symptom free, before it allows the employee to return to work. Specifically, an employer may require the above actions of an employee where it has a reasonable belief – based on objective evidence – that the employee's present medical condition would

- impair his ability to perform **essential job functions** (i.e., fundamental job duties) with or without reasonable accommodation, or,*
- pose a **direct threat** (i.e., significant risk of substantial harm that cannot be reduced or eliminated by reasonable accommodation) to safety in the workplace.*

In situations in which an employee's leave is covered by the FMLA, the employer may have a uniformly-applied policy or practice that requires all similarly-situated employees to obtain and present certification from the

employee's health care provider that the employee is able to resume work. Employers are required to notify employees in advance if the employer will require a fitness-for-duty certification to return to work. If state or local law or the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Employers should be aware that fitness-for-duty certifications may be difficult to obtain during a pandemic.

The ADA also requires that an employer keep all medical information about employees confidential, even if that information is not about a disability. However, an employer is allowed to share medical information with employer officials so they can take actions consistent with guidance from the CDC. See EEOC webinar found [here](#).

- ADA does not permit broad disclosure of specific medical condition of individual employee.
- The ADA does permit employers to notify public health authorities if they learn an employee has COVID-19.

School employees should seek assistance from employee health and wellness clinics to provide documentation or a physician's note regarding a COVID inquiry.

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