

Disability Rights Laws and COVID-19 in the Workplace

The Americans with Disabilities Act (ADA) and Maine Human Rights Act (MHRA) are civil rights laws that protect the rights of individuals with disabilities in the workplace. This Q&A generally addresses issues that commonly arise during the coronavirus pandemic.

Is COVID-19 a disability under the ADA and the MHRA?

COVID-19 may be a disability if it substantially limits a major life activity or bodily function. The fact that it is temporary does *not* mean it cannot be considered an actual, substantially limiting disability. If, for example, the symptoms of COVID-19 substantially limit your respiratory system, it may be a disability that is protected under the ADA and the MHRA.

Can my employer make me work remotely?

Yes. An employer can decide to change to online operations, but it must consider accommodations that will ensure that people with disabilities can continue to do their jobs, including accommodations to ensure access to online technologies and systems.

Can I still get my existing reasonable accommodations during the pandemic?

Yes. So long as you continue to have a disability-related need for the accommodation, your employer cannot withdraw your reasonable accommodations unless, in light of the pandemic, they cause undue hardship.

Can I request new accommodations related to COVID-19?

Yes. If you have COVID-19, and the symptoms substantially limit a major life activity or bodily function, then the condition is an actual disability and you are entitled to a reasonable accommodation for it if you need one. You are also entitled to a reasonable accommodation if you have another disability that puts you at increased risk of complications from COVID-19.

What types of accommodation can I request for COVID-19?

If need an accommodation because you have COVID-19 or because you have another disability that puts you at increased risk, you might request teleworking or taking leave as a reasonable accommodation. If you transition to teleworking, you are also entitled to ask for reasonable accommodations you need to make teleworking successful like a larger screen, a screen-reader software, or video relay.

What questions can my employer ask me related to COVID-19?

Your employer can ask the following kinds of questions:

- If you recently traveled, your employer can ask about your exposure.

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- Why you were absent from work.
- Whether you have any symptoms associated with COVID-19, like fever, chills, cough, or shortness of breath.

Can my employer require me to take preventive steps?

Your employer can require that you adopt infection-control practices, like regular handwashing. You can also be required to wear personal protective equipment, like gloves or masks. The employer can also encourage you to get a vaccine if one becomes available.

What testing or screening can my employer subject me to?

Your employer can take the temperature of employees. They can also require medical input certifying fitness for duty if you return to work after being sick. You can also be required to undergo screening for COVID-19 as a job applicant, as long as it's after you've been given a job offer *and* as long as all new employees in the same type of job are screened.

Is there anything my employer cannot ask me?

If you don't have any symptoms of COVID-19, your employer cannot ask you if you have any medical conditions that might make you especially vulnerable. Your employer also cannot require you to get a vaccine if you have a medical condition that prevents safely getting a vaccine.

Can my employer force me to take leave because I have COVID-19?

If you tell your employer that you have COVID-19, or if you show symptoms of COVID-19, you can be sent home. You can only be sent home if you voluntarily disclosed that you were sick and if you staying at work would pose a direct threat to you and your coworkers.

Can my employer fire me because I have COVID-19?

If you have COVID-19, and your symptoms substantially limit one or more major life activities or major bodily functions, and your employer fires you on the basis of COVID-19, it is likely a violation of the ADA and the MHRA. If your employer fires you because it *thinks* you have COVID-19 even if you don't, or because you are associated with someone who has COVID-19, that is likely also a violation of the ADA and the MHRA.

This information is provided as background information regarding rights under the ADA and the MHRA. It is not intended as legal advice. If you are a person with a disability with questions about your rights at work, or if you believe you were discriminated against because of disability, contact Disability Rights Maine at 800.452.1948 or via email advocate@drme.org.