

## EEOC Allows Employers to Test Employees for COVID-19

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The Equal Employment Opportunity Commission said this week that once companies start reopening their businesses, employers can choose to test employees for COVID-19.

The agency wrote in a guidance letter issued Thursday that "employers may take steps to determine if employees entering the workplace have COVID-19 because an individual with the virus will pose a direct threat to the health of others. Therefore an employer may choose to administer COVID-19 testing to employees before they enter the workplace to determine if they have the virus."

The EEOC cautioned that employers need to ensure the tests are accurate and reliable. Employers should check with the Food and Drug Administration, the Centers for Disease Control and Prevention and other public health authorities to determine if the test is safe and accurate.

Employers should contract with companies to perform the testing or train specific employees on how to conduct the testing consistent with guidelines set by the FDA and CDC. With the expected demand for testing kits and the scarcity of companies that have the ability to perform the test, employers who will choose to test employees should begin making arrangements immediately regardless of when their physical locations will be ready to open.

All test results should be confidential and kept in the employee's medical file, not their personnel file.

If anyone has any questions on this new guidance from the EEOC, please [contact me](#) or any member of the [Barley Snyder Employment Practice Group](#).

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