



Q: Can we take the temperatures of our employees before allowing them to enter the building?

A: The short answer is no.

Let's start with the basics. First, who would be assigned the task? HR. (I don't think so.) Department managers. (Are you kidding?) What about... (NO!) Besides, how many milliseconds would it take before a video of this spectacle hit social media, and then was picked-up by every cable news channel in the universe?

Next, how would an employer go about taking an employee's temperature? The old fashioned way? (NOT THERE! I'm talking about orally.) What about using infrared forehead thermometers—so-called thermometer guns? Nope. According to medical experts recently quoted in *The New York Times*, the results are "notoriously unreliable."

Let's move on under the wild assumption that there's a safe, reliable, and quick way to implement this plan. According to guidance from the Equal Employment Opportunity Commission (EEOC), the answer is still going to be no—taking an employee's temperature violates the Americans with Disabilities Act (ADA). Among other things, the employer would arguably be forcing employees to submit to a medical examination and provide protected health information the employer has no reason to obtain. The EEOC guidance does provide an exception. Employers may measure employees' temperatures without violating the ADA, "if a pandemic has reached a community, as assessed by state or local health authorities or the CDC."

Yes, an elevated temperature is one of the three most common indicators of COVID-19 (the others are coughing and difficulty breathing). However, employers should be careful not to assume (remember what mom said about making an ASS out of U and ME?) employees should be restricted from the workplace based solely on a single questionable temperature reading. Not everyone with an elevated temperature will have COVID-19, necessarily be contagious, or even be ill.