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## An Update From Bodman PLC

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### EEOC Issues Guidelines Concerning COVID-19 Pandemic

*By: Aaron D. Graves (Member) and Katherine F. Cser (Senior Associate), Workplace Law Practice Group*

On Wednesday, March 18, 2020, the Equal Employment Opportunity Commission (“EEOC”) issued [new guidelines](#) in light of the COVID-19 Pandemic.

Before the release of these new guidelines, employers were to refer to the [EEOC’s guidance prepared during the H1N1 outbreak](#). The EEOC’s new guidelines make clear that the H1N1 guidance still applies. However, now that the CDC and state and local health authorities have acknowledged the community spread of COVID-19, the EEOC explicitly allows employers to measure employees’ body temperature.

The EEOC also explains that the ADA allows employers to require employees with symptoms of COVID-19 to stay home. To return to work, employers may require doctors’ notes, with the caveat that some employees may have difficulty obtaining fitness-for-duty documentation and that employers should be flexible in what they require for employees to return.

Finally, the new guidelines address hiring during the COVID-19 pandemic. Specifically, after making a conditional job offer, an employer may now screen applicants for COVID-19 so long as the employer screens all entering employees in the same type of job. Screening may include taking an applicant’s temperature.

If an applicant has COVID-19 or the symptoms associated with it, then the employer may delay the applicant’s start date or withdraw the job offer if the applicant needs to start immediately. This is consistent with the CDC’s guidance that employees with symptoms of COVID-19 should not be in the workplace.

Please contact any member of **Bodman’s Workplace Law Group** if you need assistance applying this guidance to your current hiring practices. We will be providing additional updates as the situation develops.

# WORKPLACE LAW PRACTICE GROUP

<b>AARON D. GRAVES</b>   <i>Chair</i> 313.392.1075 agraves@bodmanlaw.com	<b>JOHN T. BELOW</b> 248-743-6035 jbelow@bodmanlaw.com	<b>JOHN C. CASHEN</b> 248.743.6077 jcashen@bodmanlaw.com
<b>GARY S. FEALK</b> 248-743-6060 gfealk@bodmanlaw.com	<b>STEVEN J. FISHMAN</b> 248.743.6070 sfishman@bodmanlaw.com	<b>JOHN DAVID GARDINER</b> 616.205.3123 jgardiner@bodmanlaw.com
<b>MELISSA M. TETREAU</b> 248.743.6078 mtetreau@bodmanlaw.com	<b>BRENT R. SCOTT</b> 616.205.3317 bscott@bodmanlaw.com	<b>REBECCA C. SEGUIN-SKRABUCHA</b> 313.393.7594 rseguin-skrabucha@bodmanlaw.com
<b>KATHERINE F. CSER</b> 248.743.6031 kcser@bodmanlaw.com	<b>DAVID B. WALTERS</b> 248.743.6052 dwalters@bodmanlaw.com	<b>KAREN L. PIPER</b>   <i>Of Counsel</i> 248.743.6025 kpiiper@bodmanlaw.com