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COVID-19 Employee Temperature Screening Update

The Equal Employment Opportunity Commission recently updated its guidance to accommodate temperature screenings of employees. In its recent guidance, the EEOC stated: “Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions, employers may measure employees’ body temperature.” When assessing whether temperature screenings are appropriate, employers should consider the following:

- Public Health Recommendations for their Specific Office Location(s). Attention should be given to the recommendations of the CDC, state, and local health agencies for the employer’s specific location. The CDC has published ‘community mitigation plans,’ which contain recommendations that vary by locality (<https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>). Notably, the CDC recommended that employers in Seattle, WA, New Rochelle, NY, and Santa Clara, CA consider, among other things, “regular health checks on arrival each day (e.g., temperature and respiratory symptom screening) of staff and visitors entering buildings.” At this time, recommendations for temperature screenings do not appear in every community mitigation plan.
- Public Health Recommendations for their Specific Industry. Employers should consider whether the CDC or their state and local health agencies have issued recommendations for their specific industries.
- Efficacy of Temperature Screenings. Employees with COVID-19 may not have fevers. As a result, temperature screenings may not be the most effective way to protect a workforce. The CDC has provided general guidance to employers, which does not include temperature screenings. (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- Practical Considerations for Temperature Screenings. If an employer intends to implement temperature screenings, then they should consider the following:
 - HIPAA will apply to the screening results;
 - Screenings should be performed in a private area;
 - Employers should try to perform screenings in a manner that does not allow employees to ascertain which of their co-workers have fevers; and
 - Employers should consider guidance from the CDC and other public health agencies when determining what degree of fever is a symptom of COVID-19 and the length of time an employee should be symptom-free.