



## **Guidance on the Safer at Home Executive Order for Employers and Employees**

On April 29, 2020, Governor Jared Polis issued the [Safer at Home Executive Order D 2020 044](#), directing the Colorado Civil Rights Commission, within the Department of Regulatory Agencies (DORA) and the Colorado Department of Public Health and Environment (CDPHE), to issue guidance to prevent discrimination in the workplace related to coronavirus disease 2019 (COVID-19). In light of the Executive Order, Colorado employers must provide reasonable accommodation and are prohibited from discriminating against employees who are showing symptoms of COVID-19 or who have been in contact with a known positive case of COVID-19.

### **Employees requiring workplace adaptations:**

#### Vulnerable Individuals

Vulnerable Individuals cannot be required to go to a place of work and should follow the Governor's [Stay at Home](#) guidelines and only leave home for medical care and essential activities.

Vulnerable Individuals include:

- Individuals who are 65 years of age or older;
- Individuals with chronic lung disease or moderate to severe asthma;
- Individuals who have serious heart conditions;
- Individuals who are immunocompromised;
- Pregnant women; and
- Individuals determined to be at high risk of severe illness from COVID-19 by a licensed health care provider.

#### Individuals who are ill or have tested positive for COVID-19

Individuals who are sick or who have tested positive for COVID 19 are directed by the Governor to stay at home, except for seeking medical care or as necessary to care for themselves.

#### Individuals with childcare responsibilities and workers who live in the same house with a member of a vulnerable population

Employers are directed to accommodate to the greatest extent possible employees who have childcare responsibilities or who live in the same household as a Vulnerable Individual with options such as telecommuting or other remote work options, as well as flexible schedules.

## **The Colorado Anti-Discrimination Act (CADA)**

CADA protects employees from discrimination on the basis of disability, race, creed, color, sex, sexual orientation, religion, age, national origin, ancestry, and pregnancy (including childbirth and related conditions). Individuals who are pregnant or have disabilities have the right to request “reasonable accommodations” from employers that are subject to the Americans with Disabilities Act or CADA.

If you are pregnant or have a disability that affects your risk for contracting COVID-19 or being harmed if you do contract COVID-19, you have the right to request a reasonable accommodation from your employer. For example, employees with disabilities that put them at high-risk for complications related to COVID-19 may request telework or paid/sick/unpaid leave as a reasonable accommodation to reduce their chances of infection during a pandemic. Employers may ask employees if they are experiencing influenza-like symptoms, such as fever or chills, and a cough or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with state and federal law. During a pandemic, employers may not ask employees who do not have known or apparent influenza symptoms whether they have a medical condition that the Centers for Disease Control and Prevention says could make them vulnerable to influenza complications. Under no circumstances may an employer make decisions based on stereotypes or bias.

Employers are prohibited from discriminatory or unfair employment practices against employees who are showing symptoms of COVID-19 or who have been in contact with a known positive case of COVID-19. Discriminatory or unfair employment practices include a failure to hire, discharge, promote or demote, harass or decisions related to compensation, terms, conditions or privileges of employment.

### Examples of illegal discrimination include:

- Refusing to hire a job candidate because she is pregnant.
- Co-workers, supervisors, or customers harassing an employee of Asian descent by making derogatory remarks or comments about his/her heritage.
- Discharging an employee because of his/her age (40 years old and older).
- Laying off an employee that is perceived to be disabled because they are showing symptoms of COVID-19 or who have been in contact with a known positive case of COVID-19.

For more information about employment discrimination and/or to file a complaint, please visit the [Colorado Civil Rights Division website](#). The Colorado Civil Rights Division offers training regarding anti-discrimination laws that pertain to employment, housing, and places of public accommodation free of charge. All [training events](#) are currently being offered by webinar due to COVID 19 social distancing requirements.

Further Equal Employment Opportunity Commission guidance can be found on their [website](#).