

# LEGAL UPDATE

## EEOC Issues FAQs on COVID-19 and Caregiver Discrimination

On March 14, 2022, the Equal Employment Opportunity Commission (EEOC) issued a new set of frequently asked questions and answers (FAQs) related to the COVID-19 pandemic. The new FAQs discuss how certain employment actions based on an employee's need to protect or care for another person may violate federal fair employment laws enforced by the EEOC. Among others, these laws include Title VII of the Civil Rights Act (Title VII) and the Americans with Disabilities Act (ADA).

### Caregivers and Protected Traits

Although EEOC-enforced laws do not prohibit employment discrimination based solely on an employee's caregiving status, they do prohibit employers from taking adverse actions based on certain "protected traits," even where those actions are well-intentioned. These laws also prohibit discrimination based on a protected trait of an individual for whom an employee provides care. Protected traits include race, color, religion, national origin, sex, age (40 or older), disability and genetic information.

### Caregiver Accommodations

In general, there is no requirement for employers to accommodate an employee's caregiving duties under EEOC-enforced laws. However, other laws (such as the Family and Medical Leave Act) may require leave or other adjustments. Employers may also choose to provide accommodations for caregiving duties, as long they do so consistently and without discriminatory intent or effect based on a protected trait.

### Additional Guidance on Caregiver Discrimination

The new FAQs supplement the EEOC's existing [policy guidance](#), [fact sheet](#) and [best practices](#) document for employers, all of which discuss caregiver discrimination in a range of circumstances beyond the pandemic.

### Important Information

#### **Pandemic-related Caregiving**

New EEOC guidance describes how employers may handle employees' caregiving needs without violating federal fair employment laws during the COVID-19 pandemic.

#### **Caregiver Discrimination**

Caregiver discrimination is unlawful when based on sex (including pregnancy), race, color, religion, national origin, age (40 or older), disability or genetic information.

***Discrimination against an employee or applicant with pandemic-related caregiving responsibilities may violate EEOC-enforced federal laws.***

Provided to you by **National Insurance Services**

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