

Policy Requiring Disclosure of Nature of Illness for Work Absences may Violate ADA

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The Equal Employment Opportunity Commission filed a class-action lawsuit against a department store claiming its policy violated the Americans with Disabilities Act (“ADA”). The case came about when an employee was unable to attend work for a few days due to medical illness, and despite having provided a doctor’s note for her absence, the store sought the specific nature of her illness in order to have the absences deemed “excused.” The employee refused to provide the information and claimed the request was unlawful. The store subsequently terminated her employment. Later, the store revised its policies and this requirement was removed.

The U.S. District Court for the Southern District of California recently denied the store’s motion challenge to employees’ claims of disability discrimination, finding that a jury should be able to hear evidence of the requirements of the attendance policy and make a determination as to whether it constituted a disability-related inquiry which violated the ADA.

Any policy which requires employees to disclose the nature of their medical conditions may violate state and federal law. Policies should be clearly worded to avoid any such questioning, and managers and HR personnel should be trained in the appropriate procedures for addressing medical-related absences.

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