

LEGAL UPDATE



EEOC Addresses the Use of Wearable Technologies Under Federal Discrimination Laws

On **Dec. 19, 2024**, the U.S. Equal Employment Opportunity Commission (EEOC) released a [fact sheet](#) addressing the application of federal employment discrimination laws to the collection and use of information from wearable technologies, or “wearables.” Wearables can be used to track various physical factors, such as an employee’s location, heart rate, electrical activity or fatigue.

Overview of the EEOC Wearables Fact Sheet

Employer-mandated wearables (including watches, rings, glasses and helmets) worn on the body to track bodily movements, collect biometric information or track location are becoming increasingly common. In its fact sheet, the EEOC identified how federal equal employment opportunity (EEO) laws may apply to the use of wearables. The EEOC specifically addresses each topic below.

Collecting Information Using Wearables

Employers using wearables to collect information about an employee’s physical or mental condition (e.g., blood pressure monitors) or to do diagnostic testing may be conducting **medical examinations**. Employers may also be making **disability-related inquiries** if they direct employees to share health information (e.g., prescription drug use) in connection with using wearables. The Americans with Disabilities Act (ADA) strictly restricts such employer conduct to situations when it is job-related and consistent with business necessity.

Employers using wearables to conduct disability-related inquiries or medical examinations outside of an exception to such restriction may violate the ADA. Further, even if an employer may engage in such conduct under an exception, any information collected must be kept **confidential**.

Using Information From Wearables

Employers must also comply with EEO nondiscrimination laws which prohibit discrimination based on a protected class, including race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (40 or older), disability or genetic information.

Employers who use wearable-generated information to make employment decisions that have an adverse effect on employees because of a protected class could violate EEO laws. Additionally, employers may not selectively use wearables to monitor some employees based on a protected class or in retaliation for an employee asserting their rights under EEO laws.

Reasonable Accommodations Related to Wearables

Employers may need to make an exception to a wearables policy as a reasonable accommodation for religion under Title VII of the Civil Rights Act; for disability under the ADA; and for pregnancy, childbirth or related medical conditions under the Pregnant Workers Fairness Act.

HIGHLIGHTS

On **Dec. 19, 2024**, the EEOC issued a fact sheet addressing the application of EEO discrimination laws to the use of employer-mandated wearable technologies.

In light of the EEOC’s guidance, employers using wearables should review:

- What data the wearables collect;
- Whether data obtained is stored confidentially; and
- Whether and how such data is used in employment-related decision-making.



Employer Takeaways

Employers who choose to use wearables to collect data about their employees should take steps to ensure that their practices do not violate federal employment discrimination laws. Employers should review what data such wearables collect (including the accuracy and validity across different protected classes); whether such data are stored in a confidential manner; and whether and how such data are used in employment-related decision-making, including whether their use has a negative impact on employees of different protected classes.