



The University of Texas at Austin  
UT Health Austin

Medical Specialties  
Post-COVID-19 Program



# WHAT YOU SHOULD KNOW ABOUT LONG- TERM COVID SYMPTOMS AND WORKPLACE ACCOMODATIONS

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A modern building with a grid of windows and decorative brown panels. The building is light-colored with a grid of windows. Some windows have brown decorative panels. The building is set against a clear blue sky.

# WELCOME

The basic information you need to know about qualifying for legal protections under the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA), things to consider when requesting workplace accommodations, and where to find other helpful resources.

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This handout is based upon the law and agency rules at the time it was written. These items may change frequently.

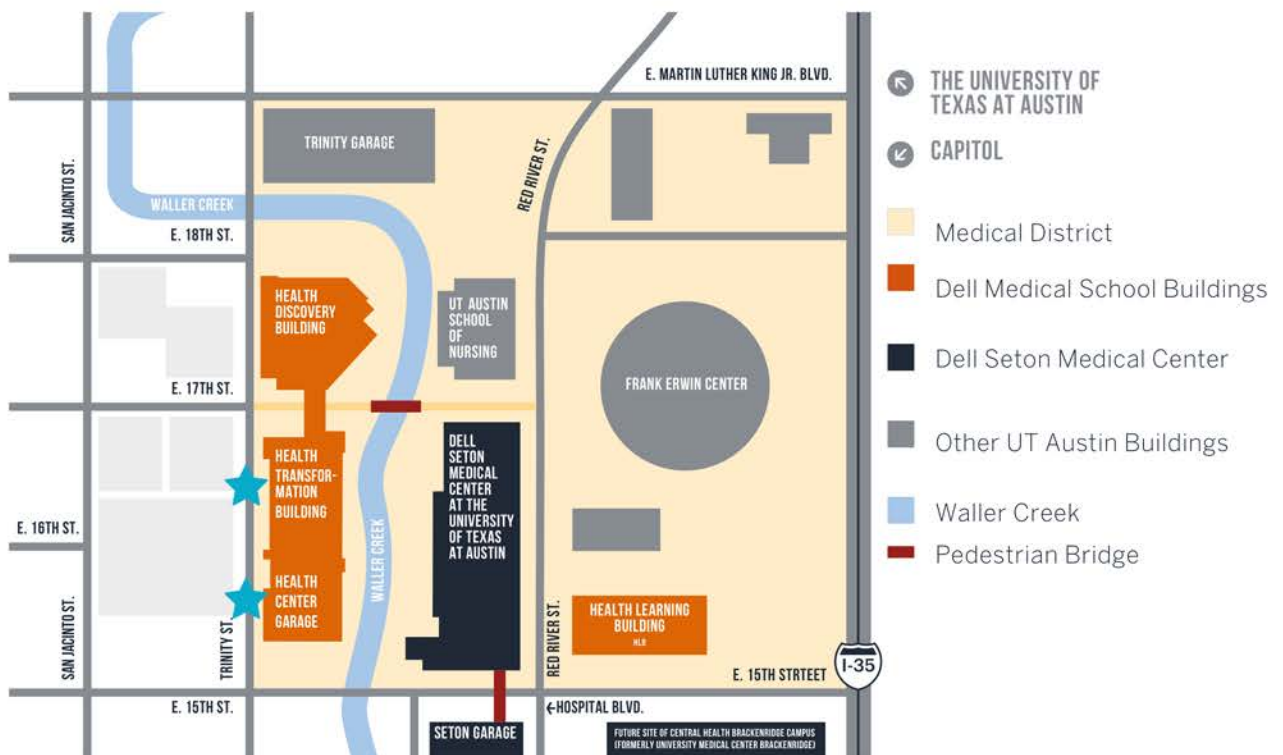
Future changes to the law or to agency rules may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation; obtaining legal assistance may result in a higher likelihood of successfully obtaining benefits, as the denial rate is often significant. This content was created by UT law students as part of a school project in collaboration with UT Health Austin

# ABOUT UT HEALTH AUSTIN

UT Health Austin is the clinical practice of the Dell Medical School at The University of Texas at Austin (UT). Our experienced healthcare professionals deliver personalized, whole-person care of uncompromising quality and treat each patient as an individual with unique circumstances, priorities, and beliefs. We also collaborate with our colleagues at Dell Med and UT to utilize the latest research, diagnostic, and treatment techniques, allowing us to provide you with an unparalleled quality of care.

## WHERE TO FIND THE POST-COVID-19 PROGRAM

- Health Transformation Building, UT Health Austin, 1st Floor 1601 Trinity Street, Bldg. A, Austin, TX 78712
- Parking for the Health Transformation Building is available in the attached Health Center Garage. Parking rates do apply.



## CONTACT US

For questions or more information about the Post-COVID-19 Program call 1-833-UT-CARES (1-833-882-2737) or visit [uthealthaustin.org](http://uthealthaustin.org).

# GENERAL INFORMATION

If you need to take time off from work due to a medical problem, here are some things you should know:

- **Time-Off Policies:** Most employers have policies about taking time off. You should become familiar with the time-off policies where you work.
- **Required Information:** Your employer may ask for additional information in order to evaluate your request for time off. Most employers want to know the type of medical problem you are experiencing and how long it is expected to keep you away from work. Your employer may also request a note from your doctor to supplement your request.
- **Requesting Quickly:** It is important to request time off as soon as you become aware that you need time off.



# ADA LEGAL PROTECTION

## **WHAT IS THE ADA?**

The Americans with Disabilities Act (ADA) is a law that prohibits employers from discriminating against employees with disabilities, and requires employers to provide reasonable accommodations to such employees.

## **DO I QUALIFY FOR ACCOMMODATIONS?**

If your workplace has 15 or more employees, you may have legal protection under the ADA. If you are suffering from a medical issue such as Post-Acute COVID-19 Syndrome, you may want to request time off as an accommodation.

It is important to remember that not all medical problems are protected under the ADA. This law defines “disability” as “a mental or physical impairment that substantially limits [a] major life activity.”

Under the ADA, “major life activities” include “standing, lifting, bending, and “breathing,” as well as “functions of the immune system” and “respiratory functions,” among other things.

## **REQUEST AN ACCOMMODATION (EXAMPLE - TIME OFF FROM WORK)**

When requesting time off as an accommodation, it is a good idea to include the specific time you believe is needed (for example: “three days,” “two weeks,” or “one month”). A time off request for an “unlimited” or “unknown” period of time may not be successful. Additionally, your employer may ask you to provide other information relating to your request, such as a note from your doctor.

Under the ADA, you may be able to request other types of reasonable accommodations instead of (or in addition to) time off from work. Examples include changes to your work schedule, switching locations within your office (if applicable), extra equipment or computer software, or working remotely. For additional information regarding possible job accommodations, you can contact the Job Accommodation Network (JAN) by phone or review the JAN website under Resources.

# POST-ACUTE COVID-19 SYNDROME & THE ADA

## WHAT IS POST-ACUTE COVID-19 SYNDROME?

Some people have experienced persistent, long-lasting and/or recurring symptoms after recovering from COVID-19. This is sometimes referred to as Post-Acute COVID-19 Syndrome (PASC COVID-19), “long COVID,” or “long-haul COVID.” Recently, the U.S. Department of Labor and the U.S. Equal Employment Opportunity Commission have indicated that Post-Acute COVID-19 Syndrome may be a disability for purposes of federal legal protections.

Post-Acute COVID-19 Syndrome can develop in individuals who had asymptomatic, mild, or severe COVID-19. Symptoms include, but are not limited to fatigue, headache, shortness of breath, brain fog, rapid or irregular heartbeat, chest pain, cough, and/or dizziness.

If you need time off due to medical problems related to COVID-19, it may be a good idea to specifically identify the “major life activities” that are at issue in your case. For example: “I need time off due to chronic fatigue and respiratory problems resulting from PASC COVID-19.”



# FMLA LEGAL PROTECTION

## **WHAT IS THE FMLA?**

The Family and Medical Leave Act (FMLA) allows eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with the continuation of group health insurance coverage under the same conditions as if the employee had not taken time off.

## **DO I QUALIFY FOR ACCOMMODATIONS?**

If you work for a company with 50 or more employees and have been employed for at least one year, you may qualify for legal protections under the FMLA. If you are not a full-time employee for your company, please note that the FMLA only covers workers who were employed for at least 1,250 hours with the company in the previous 12-month period.

Under the FMLA, your job is protected for up to 12 weeks each year if you require time off related to a personal "serious health condition," or in order to care for an immediate family member experiencing a "serious health condition." The FMLA also covers time off to care for your infant child, until two years of age.

It is important to remember that not all medical problems are covered by the FMLA. A qualifying "serious health condition" can be defined as "an illness, injury, impairment, or physical or mental condition that involves [] inpatient care in a hospital ... or [] continuing treatment by a health care provider." In other words, FMLA protection is limited to health conditions that involve a hospital stay or treatment by a doctor/other health care provider.

## **REQUESTING AN ACCOMMODATION**

Your employer may ask you to fill out a form to request time off under the FMLA and may require a note from your doctor.

# GETTING A DOCTOR'S NOTE

When appropriate, most practitioners and medical facilities will try to accommodate your request for a note in support of workplace accommodations related to a medical problem.

Generally, most employers would like a doctor's note to state the nature of the medical problem and how long the patient will need to be off work. For example: "This patient is being treated for breathing problems. These symptoms are expected to improve in one week; time off from work is recommended for one week."

Sample documentation that healthcare providers can customize for patients seeking workplace accommodations may be found on the website for Disability Rights Texas listed on page 10.

The UTHA Post-COVID-19 asks that a patient's primary care provider fill out their work or disability forms. Our clinic is able to provide a letter to your employer or primary care physician stating you are under the care of the program and general facts about Post-Acute COVID-19 Syndrome upon request.

If your primary care provider is unwilling or unable to fill out disability forms or paperwork, we ask that you schedule a follow up appointment to fill out the paperwork with your Post-COVID-19 provider (we are unable to fill out forms during initial visits). Because these forms are very detailed and we want to accurately document your physical restrictions and requests for accommodations, this typically requires a full

assessment as part of a clinical visit.

Therefore, please plan ahead to schedule an appointment and tell the staff the goal of your visit, so these forms can be filled out in a timely manner.





# POST-ACUTE COVID-19 SYNDROME & TERMINATION OF EMPLOYEMENT

Under the ADA, an employer cannot terminate an employee solely because of their disability or because the employee requests accommodations. However, an employer may terminate an employee if the employee cannot fulfill the Essential Job Functions (“EJF”) of the position with reasonable accommodations. Reasonable accommodations may sometimes include reassignment to a vacant position for which the employee is qualified and for which the employee can perform the EJF, if such a position is available.

Under the FMLA, an employer cannot terminate an employee because the employee exercises or attempts to exercise any right under that Act, including requesting leave. However, an employer may terminate an employee who is on FMLA leave for reasons unrelated to FMLA.

Patients who are worried about being terminated because of Post- Acute COVID-19 Syndrome can begin the process of requesting accommodations from their employer that allow them to continue performing the EJFs for their position. Patients who have already been terminated and believe it was because of a disability can file a complaint with the appropriate agencies listed below, and may consider discussing their termination with an employment attorney to see if other remedies may be available.

# FILING A COMPLAINT

## **For complaints under the ADA, contact the U.S. EEOC:**

- <https://www.eeoc.gov/contact-eeoc>
- 1-800-669-4000
- 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)
- 1-844-234-5122 (ASL Video for Deaf/Hard of Hearing callers only)
- [info@eeoc.gov](mailto:info@eeoc.gov)

## **For complaints under the FMLA, contact the U.S. Department of Labor:**

- <https://www.dol.gov/agencies/whd/contact/complaints>
- 1-866-487-9243

## **For complaints under the Texas Labor Code, contact the Texas Workforce Commission:**

- <https://www.twc.texas.gov/jobseekers/how-submit-employmentdiscrimination-complaint>
- 1-512-463-2642
- 1-888-452-4778
- [EEOintake@twc.texas.gov](mailto:EEOintake@twc.texas.gov)

Legal complaints must be filed before the applicable deadline. In some situations, the deadline is as short as 180 days. Therefore, it is important to act promptly if you want to bring a legal complaint.

# RESOURCES

**Job Accommodation Network (JAN):**

<https://askjan.org>

**Disability Rights Texas - Sample Accommodation Letters:**

<https://www.disabilityrightstx.org/en/handout/sampleddocumentation-for-work-accommodations/>

**US EEOC COVID Guidance:**

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

**US DOL Guidance:**

<https://www.dol.gov/coronavirus>

**Texas Workforce Commission Guidance:**

<https://www.twc.texas.gov/partners/covid-19-resources-localworkforce-development-boards>

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