

COMMENTARY

COVID-19 antibody testing in employment

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In their article discussing how industrial-organizational (I-O) psychology research and practice can address the effects of COVID-19, Rudolph et al. (2021) identify 10 potential areas for contribution, with human resource (HR) policy being one. However, a key aspect of HR policy with which I-O psychology has had a long involvement was omitted from discussion. That area is employee selection and conditions of employment. Given I-O psychology's involvement with such matters, I would like to comment on COVID-19 antibody testing in employment situations.

Organizations are currently grappling with how to reconstitute their workforces safely. This may involve calling back existing employees or hiring new employees. The Equal Employment Opportunity Commission (EEOC) has affirmed that “employers can take steps to determine if employees entering the workplace have COVID-19 because an individual with the virus will pose a direct threat to the health of others” (EEOC, 2020). As a result, mandatory medical testing of employees is “job relevant and consistent with business necessity,” and therefore does not violate the American with Disabilities Act (EEOC, 2020). However, they continue that “employers should ensure that the tests are accurate and reliable” and recommend reviewing guidance from the U.S. Food and Drug Administration (FDA), Centers for Disease Control (CDC), and other public authorities concerning the safety and accuracy of specific tests (EEOC, 2020). Thus, the EEOC's guidance has two pertinent factors to consider: (a) individuals with the virus pose a direct threat to the health of others and (b) employers should ensure that tests are accurate and reliable.

The EEOC in their guidance (EEOC, 2020) specifically allowed for employers to take body temperature as an indication of the COVID-19 virus (Sec. A.3). In addition, it allowed for the use of screening questions concerning COVID-19 symptoms (Sec. A.2). Of course, the symptoms should be based on guidance from reputable medical sources. Finally, the guidelines allow employers to administer COVID-19 tests that are reliable and accurate to “detect the presence of the COVID-19 virus” (Sec. A.6). As with other medical tests, these should not be performed until after a conditional offer of employment is made.

It is important to note that there are two kinds of COVID-19 tests available: viral tests and antibody tests. Viral tests are also known as molecular, diagnostic, and antigen tests. This type of test detects active infections using respiratory samples from swabs of the inside of the nose or throat (CDC, 2020a). There are also antibody tests sometimes called serologic tests. These tests use a blood sample to detect antibodies to the virus that causes COVID-19 (CDC, 2020b). A positive result shows whether an individual has been infected and developed antibodies to the virus. Based on the precise language of the EEOC guidance, “tests to detect the presence of the COVID-19 virus,” it appears that the diagnostic viral tests are allowed. Antibody tests do not do this and appear not to be specifically identified as allowed. However, if antibody tests meet the two EEOC standards of “direct threat to others” and being “accurate and reliable,” then a reasonable argument for their use could still be made.

Some employers may wish to use antibody testing in their workforce reconstitution efforts as a way to safely bring back workers. Those who are positive for antibodies are unable to infect others and thus do not pose a direct threat to others. In addition, it could be argued that individuals who are antibody negative may pose a threat to others. Both lines of logic here are out of step with the EEOC guidelines, however. First, *not posing a direct threat to others* is distinctly different from *posing a direct threat to others* and fails to meet this standard. Second, *may pose a threat* is not equivalent to *posing a direct threat*. Therefore, antibody tests seem not to meet the EEOC's "direct threat to others" criteria, and any employer who uses an antibody test as a condition of employment or as an approach to bring employees back to the workplace is on shaky ground.

What about the EEOC's second factor, reliable and accurate tests? Antibody tests are cheaper and more widely available than viral tests. One reason for this is that the FDA issued many emergency use authorizations allowing dubious companies to enter the market selling inaccurate tests (Heath et al., 2020). Thus, an organization can easily run afoul of the EEOC's second factor as well.

Despite this, employers may still press ahead with antibody testing as a way to gain a competitive advantage. Although they might not mandate testing antibody positive as a condition of employment, they could advertise having a certain percentage of front-line workers who are antibody positive who cannot infect others. This would be dangerous, as there is likely informal pressure among supervisors and managers to get and keep antibody positive numbers as high as possible. Furthermore, it could lead desperate workers to intentionally expose themselves to the virus in order to be able to go back to work sooner. Finally, the relationship between antibodies and immunity is somewhat speculative at this point. The virus is so new that there is not good evidence available concerning how much protection and how long that protection might last. After all, the virus has only been around for approximately 6 months at the time of this writing. Though, research on SAR-CoV-1 (the virus that caused the similar SARS outbreak in 2003) showed that antibody protection was maintained for an average of 2 years (Wu et al., 2007).

To summarize, the EEOC has not explicitly approved the use of antibody tests in employment settings as it has with viral diagnostic tests. Additionally, antibody tests for employment likely do not identify individuals who pose a "direct threat," and there has been questions of surrounding the "reliability and accuracy" of testing. It is possible that the EEOC could reconsider this in the future as antibody tests become more accurate and more is known about protective effects of antibodies (naturally acquired or through vaccination).

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