



## TOPIC:

H1N1: Campus Legal Issues

## INTRODUCTION:

H1N1". Since February 16, 2009, are the 41 states in the United States that have been affected by H1N1. President Obama had declared the 2009 H1N1 influenza pandemic a national emergency. Higher education faces challenges in addressing the legal issues that arise from the pandemic. This address discusses the legal issues that arise from the pandemic. [3].

## DISCUSSION:

### I. IHEs AND THEIR EMPLOYEES

As a result of the pandemic, higher education institutions have faced significant challenges. The Occupational Safety and Health Act (OSHA), the Fair Labor Standards Act (FLSA), the American with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and the National Labor Relations Act (NLRA) are the primary laws that govern the employment relationship. [4].

The Occupational Safety and Health Act ("OSHA")

The Occupational Safety and Health Act ("OSHA") is a federal law that was enacted in 1970. It is designed to ensure the safety and health of workers by setting and enforcing standards and by providing for the enforcement of these standards. [5].

The Fair Labor Standards Act ("FLSA")



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### The ADA, FMLA and Related Privacy Issues

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## CONCLUSION:

All high individual IHEs have been identified by the surveillance system. The surveillance system has been able to identify all cases of influenza A (H1N1) in the United States. The surveillance system has been able to identify all cases of influenza A (H1N1) in the United States. The surveillance system has been able to identify all cases of influenza A (H1N1) in the United States.

## FOOTNOTES:

FN1. [The Centers for Disease Control and Prevention \(CDC\) Estimates of 2009 H1N1 Influenza Cases](#). [Health Affairs](#). 2010. [http://www.cdc.gov/h1n1flu/](#). Accessed February 16, 2010. The number of cases of 2009 H1N1 influenza in the United States is estimated to be 15.36 million.

FN2. [Polio](#). [44 Fed. Reg. 55023](#) (Oct 23, 2009).

FN3. [Public Health Emergency of International Concern](#). [WHO](#). 2009. [http://www.who.int/emergencies/diseases/nipah-virus](#). Accessed February 16, 2010. The number of cases of Nipah virus in the United States is estimated to be 15.36 million.

FN4. [Accidental Release of Influenza Virus](#). [CDC](#). 2009. [http://www.cdc.gov/h1n1flu/](#). Accessed February 16, 2010. The number of cases of influenza virus in the United States is estimated to be 15.36 million.



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FN19. 42 U.S.C. §2112 (2009) (concerning the ADA).

FN20. 42 U.S.C. §2113(b) (2009).

FN21. 42 U.S.C. §2111(3) (2009). Thus, although the ADA does not prohibit discrimination against individuals with disabilities in the workplace, it does prohibit discrimination against individuals with disabilities in the provision of services, programs, and activities. The CRS Report, "The Americans with Disabilities Act (ADA) Coverage of Genetic Diseases," [discusses the ADA's](#)

FN22. The ADA may be implicated if the employer's policy or practice results in discrimination against an individual with a disability. For example, if an employer's policy or practice results in discrimination against an individual with a disability, the employer may be liable under the ADA. See [EEOC v. ...](#)

FN23. See [EEOC v. ...](#)

FN24. See [ADA-CM ...](#), [EEOC v. ...](#), [ADA-CM ...](#), [EEOC v. ...](#)

FN25. [Jacobson vs. Massachusetts](#) is a case where the Supreme Court held that the federal government's requirement that employers provide genetic testing to employees violated the ADA. See [Jacobson vs. Massachusetts](#).

FN31. The American College of Health Administrators (ACHA) issued a guidance document titled "Guidance for Higher Education Institutions on the 2009-2010 Academic Year" in response to the H1N1 influenza pandemic. See [ACHA Guidance for Higher Education Institutions on the 2009-2010 Academic Year](#).

FN32. See, for example, *supra* note 19.

FN33. See Public Law 103-15 at Section 485.

FN34. Margaret Kahele, [Colleges Face Swine-flu Challenge as Number of Sick Students Surges](#), THE CHRONICLE OF HIGHER EDUCATION, Sep 16, 2009.

FN35. [CDC Guidance for Higher Education Institutions on the 2009-2010 Academic Year](#), Centers for Disease Control and Prevention. See also [Technical Report: CDC Guidance for Higher Education Institutions on the 2009-2010 Academic Year](#), Centers for Disease Control and Prevention. [Part of the Final Report to the Higher Education Industry on the 2009-2010 Academic Year](#).

FN36. An H1N1 influenza pandemic is a global health crisis that could cause significant economic and social disruption. The Centers for Disease Control and Prevention (CDC) has issued guidance for higher education institutions to help prevent and control the spread of H1N1 on campus. This guidance includes information on how to identify and isolate sick students, how to provide care for sick students, and how to manage the campus environment to reduce the risk of transmission. For more information, see [CDC Guidance for Higher Education Institutions on the 2009-2010 Academic Year](#).

FN37. The CDC backed the creation of a new federal agency, the Department of Health and Human Services (HHS), in 2001. The CDC was transferred to HHS in 2002. In 2006, Congress passed the Homeland Security Act, which created the Department of Homeland Security (DHS). The CDC was transferred to DHS in 2006. In 2009, Congress passed the H1N1 Influenza Act, which authorized the CDC to issue guidance for higher education institutions. For more information, see [CDC Guidance for Higher Education Institutions on the 2009-2010 Academic Year](#).

FN38. Aferch, *supra* note 19, at 100.

FN39. In fact, Secretary of Education Arne Duncan has argued that the federal government should not regulate higher education. See [Duncan: Federal Government Should Not Regulate Higher Education](#), *supra* note 19, at 100. See also 34 C.F.R. § 68.5 (2009).

FN40. 34 C.F.R. § 68.34(c) (3) (2009).

FN41. *supra* note 19, at 100.

FN42. [President Obama Signs Emergency Declaration](#), *supra* note 19, at 100.



- o [ADA-Civil Rights](#) [EEOC](#) [Prepared for the H1N1 Flu](#) [WIS](#)

State Law

- o [National Center for State Legislators](#) [State Federal](#) [Public Health](#)

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[Disability and Reproductive Health Resources](#)

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