



EMPLOYCO USA

The Power to Compete

BULLETIN

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CORONAVIRUS IN THE WORKPLACE



As the number of reported cases of the novel coronavirus (COVID-19) continues to rise, employers are increasingly confronted with the possibility of an outbreak in the workplace.

Employers are obligated to maintain a safe and healthy work environment for their employees, but are also subject to a number of legal requirements protecting workers. For example, employers must comply with the legal obligations and be aware of best practices in their approach to dealing with COVID-19.

Frequently Asked Questions:

- What can I do if an employee appears to be sick?
 - If an employee is showing applicable symptoms including a fever, you have the option to ask the employee to stay home and seek medical treatment.
- Can I take an employee's temperature?
 - Since it's considered a "medical examination" under the Americans with Disabilities Act (ADA), employers can only take an employee's temperature if it's job-related, consistent with business necessity, or the employer believes that the employee poses a direct threat to the organization.
- What should we do if we learn that an employee has tested positive for COVID-19?
 - Ask the employee to list everyone, including co-workers, customers and vendors, who he/she has worked closely with over the past 2 weeks. The employee with COVID-19 and the employees who worked closely with the infected person should be sent home for at least 14 days to ensure the person is healthy and the illness is no longer contagious. There is no requirement to report the information to the CDC – the person's healthcare provider is responsible for this. However, you should consider hiring a vendor to perform a comprehensive cleaning of your workplace.
 - If the exposed employee came into close contact with customers or vendors, contact those entities as quickly as possible to inform them that they may have come in contact with an infected person.
 - Do not identify the exposed employee by name due to HIPAA and other privacy law concerns.
- Am I required to continue paying employees who are sick and aren't working?
 - Generally, no. However, you may need to continue paying employees if required under a collective bargaining agreement, state law, or an exempt employee rule under the Fair Labor Standards Act (e.g., if an exempt / salaried employee leaves work after 1 hour, he/she must be paid for the full day).
 - Similar to instances of other types of prolonged illness or natural disaster (e.g., snow days), employers typically have flexibility to determine if employees will be required to use paid time off

(vacation, sick, PTO) or if the employees can choose to go unpaid. The key is to be consistent with any precedent and existing policies.

- Although you may not be required to continue paying sick employees who aren't working, you may want to review the related issues including potential negative effects on employee morale and public relations.
- If you believe that you may encounter a situation where an employee will have an extended leave of absence, distribute carefully crafted communication including any references to existing policies and/or official guidance.
- Can I ask employees to work from home?
 - Yes, that is an option. The Equal Employment Opportunity Commission (EEOC) has indicated that work-from-home programs are an "effective infection-control strategy that is also familiar to ADA-covered employers as a reasonable accommodation. In addition, employees with disabilities that put them at high risk for complications of pandemic influenza may request telework as a reasonable accommodation to reduce their chances of infection during a pandemic."
- How does this relate to the FMLA and ADA?
 - Employees who already meet the eligibility requirements, could be covered under the FMLA which would provide them up to 12 weeks of job-protected, un-paid time off.
 - Typically, short-term illnesses like the coronavirus are not covered under the ADA.
- Are there any other OSHA considerations?
 - Employers can typically deny an employee's request to wear a medical mask. Under 29 C.F.R. 1910.134, companies are only required to provide equipment like safety masks "when such equipment is necessary to protect the health of such employees." Since masks are only needed in situations when a person has been diagnosed with illnesses such as COVID-19, the masks aren't necessary to protect employee's health. With this in mind, employers can take this opportunity to remind employees about the proper use of personal protective equipment (PPE) in safe manner.
- Are there any concerns over discrimination?
 - Ensure that you are treating all employees the same regardless of race, national origin, gender, religion, etc. For example, an employee of Chinese national origin with flu-like symptoms should be treated the same as any other employee. However, if you learn that a sick employee was recently in China (regardless of their

national origin), you have the option to require the person to stay home.

- Prior to an employee becoming sick, what should we do now to prepare?
 - Review possible work-from-home positions, responsibilities, and technical resources.
 - Review employee travel plans, especially those that involve travel to high risk areas.
 - Consider rescheduling company events such as all-employee meetings or customer gatherings.
 - Facilitate upper management discussions to evaluate paid vs unpaid leaves of absence.
 - Provide employees with information on coronavirus by potentially distributing and/or posting the following communication pieces from the CDC:
 - [Share Facts About COVID-19](#)
 - [What you need to know](#)
 - [What to do if you're sick](#)
 - [Stop the spread of germs](#)
 - [Symptoms of Coronavirus Disease](#)

Looking for further discussion on this topic? You can [click here](#) to listen to Employco's March podcast, "Coronavirus (COVID-19)."

In this podcast: Rob, Scott, and Jason discuss the coronavirus; from supply chain issues and its effect on the workforce to how companies are dealing with it on the HR side, current global stats, cancelled trade shows and conferences, common sense prevention tips, working from home, and more.

[Click here to listen now:](#)



[Contact us](#) for additional support with the coronavirus and any other questions or issues you may have.



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