



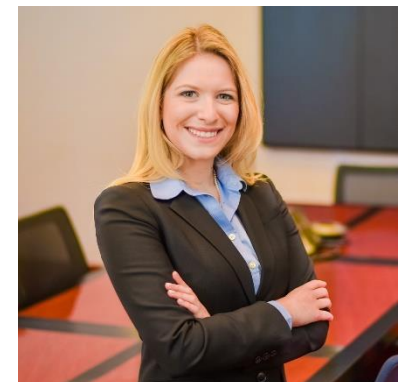
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# COVID-19 Employer Guidance: Workplace Safety-OSHA, CDC and Virus Testing



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# OVERVIEW

The following topics will be covered:

- Compliance with workplace safety obligations under OSHA, CDC guidelines, and the ADA.
- Managing employees who are ill, who have been exposed and/or who may be subject to quarantine.
- Allowing people to work, or not.
- Employer screening for Employee exposure: permissible worksite screening strategies (temperature taking).
- Union workforce considerations in implementing workplace rules related to COVID-19.
- Worker's compensation considerations.

# SYMPTOMS

- Fever, Cough, and Shortness of Breath.
- Symptoms may appear in as few as two days or as long as 14 days after exposure.
- Some may be asymptomatic.

# SPREAD

- Person-to-person through small droplets from the nose or mouth when a person coughs or exhales.
- Between people who are in close contact with one another (within about 6 feet).
- Touching droplets on surfaces, then touching their eyes, nose, or mouth.
- May catch the virus from someone before they have symptoms.
- The CDC website provides the latest information about COVID-19 transmission: [www.cdc.gov/coronavirus/2019-ncov/about/transmission.html](https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html)

# ACTION PLAN CHECKLIST

1. Create a team to manage COVID-19-related issues.
2. Comply with OSHA and CDC guidelines.
3. Consult with health & safety experts regarding industrial hygiene/safety “best practices” for your workplace.
4. Reduce on-site exposure risks.
5. Maintain confidentiality, but report exposure appropriately.
6. Provide leave.

## ACTION PLAN CHECKLIST (cont.)

7. Require subcontractors or staffing agencies to create an action plan.
8. Consider whether Federal WARN or other equivalent state or local laws apply.
9. Union workforce: bargain with union regarding any action not covered by the collective bargaining agreement.
10. Consult with workers compensation and other insurance or risk management specialists.

# SOCIAL DISTANCING GUIDANCE AND WORKPLACE FLEXIBILITY (CDC)

- Avoid large gatherings and maintain distance of at least 6 feet from others.
- Permit workplace flexibility
  - Telecommuting.
  - Flexible work hours (i.e. staggered shifts) to increase the physical distance among employees.
  - Other social distancing strategies.

# SUMMARY OF CDC BASIC INFECTION CONTROL GUIDANCE

As appropriate, all employers should implement good hygiene and infection control practices, including:

- Promote frequent and thorough hand washing -including customers and visitors. If soap and running water are not immediately available, provide alcohol-based hand rubs containing at least 60% alcohol.
- Encourage workers to stay home if they are sick.
- Encourage respiratory etiquette, including covering coughs and sneezes.
- Provide customers, staff, and the public with tissues and trash receptacles.



# SUMMARY OF CDC BASIC INFECTION CONTROL GUIDANCE (cont.).

- Increase ventilation rates and percentage of outdoor air that circulates.
- Routine cleaning of high-touch surfaces with EPA-registered disinfectants; provision of disposable wipes.
- Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.

Enhanced cleaning/disinfecting should be undertaken after suspected/confirmed cases:

- Close off area to other staff.
- Increase air circulation.
- Wait 24 hours, if possible, to disinfect to decrease risk of infection.
- More information available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

# SUMMARY OF OSHA GUIDANCE

## Develop an infectious disease preparedness and response plan.

Plans should consider and address the level of risk associated with the worksite including:

- Where, how, and to what sources might workers be exposed, including:
  - The general public, customers, and coworkers.
  - Travel.
  - Non-occupational risk factors at home and in community settings.
  - Individual risk factors (e.g., older age; presence of chronic medical conditions; pregnancy).
  - Controls necessary to address those risks.

# SUMMARY OF OSHA GUIDANCE

## Develop Policies and Procedures for Prompt Identification and Isolation of Sick People.

- Promptly identify and isolate potentially infectious individuals.
- Encourage employees to self-monitor for signs and symptoms of COVID-19.
- Require employees to report when they are sick or experiencing symptoms of COVID-19.
- Isolate people who have signs and/or symptoms of COVID-19. Designated areas with closable doors may serve as isolation rooms until potentially sick people can be removed from the worksite.
- Limit spread of the respiratory secretions of a person who may have COVID-19. Provide a face mask, if feasible and available, and ask the person to wear it, if tolerated.
- Restrict the number of personnel entering isolation areas.

# SUMMARY OF OSHA GUIDANCE (cont.)

## Develop and Implement Workplace Flexibilities and Protections.

- Encourage sick employees to stay home.
- Ensure that sick leave policies are flexible and consistent with public health guidance.
- Determine whether staffing agencies, subcontractors have implemented appropriate policies.
- OSHA advises: Do not mandate, in the cases, that a healthcare provider's note for employees who are sick to validate their illness or to return to work. Be flexible.
- Allow work-from-home to care for themselves and family members.
- Work with insurance companies (e.g., those providing employee health benefits) and state and local health agencies to provide information to workers and customers about medical care in the event of a COVID-19 outbreak.

# SUMMARY OF OSHA GUIDANCE (cont.)

## Implement Workplace Controls.

- OSHA uses a framework called the “hierarchy of controls” to select ways of controlling workplace hazards-when hazards cannot be removed.
- Listed from most effective to least effective: engineering controls, administrative controls, safe work practices (a type of administrative control), and PPE.

# SUMMARY OF OSHA GUIDANCE (cont.)

## Engineering Controls.

- Installing high-efficiency air filters.
- Increasing ventilation rates in the work environment.
- Installing physical barriers, such as clear plastic sneeze guards.
- Installing a drive-through window for customer service.
- Specialized negative pressure ventilation in some settings, such as for aerosol generating procedures (e.g., airborne infection isolation rooms in healthcare settings and specialized autopsy suites in mortuary settings).

# SUMMARY OF OSHA GUIDANCE (cont.)

## Administrative Controls: Similar to CDC Guidance.

- Encouraging sick workers to stay at home.
- Minimizing contact among workers, clients, and customers by replacing face-to-face meetings with virtual communications and implementing telework if feasible.
- Flexible work schedules to limit employee contact, maximize distance.
- Discontinuing nonessential travel to locations with ongoing COVID-19 outbreaks. Regularly check CDC travel warning levels at: [www.cdc.gov/coronavirus/2019-ncov/travelers](http://www.cdc.gov/coronavirus/2019-ncov/travelers).
- Developing emergency communications plans.
- Providing workers with up-to-date education and training.

# SUMMARY OF OSHA GUIDANCE (cont.)

## Administrative Controls (cont.).

- Train workers who need to use protecting clothing and equipment how to put it on, use/wear it, and take it off correctly, including in the context of their current and potential duties. Training material should be easy to understand and available in the appropriate language and literacy level for all workers.



# WHAT IF AN EMPLOYEE IS SYMPTOMATIC OR MAY HAVE BEEN EXPOSED?

- Send the person or medical determination as to fitness/health or safety risk to self or others. Follow up with employee.
- Provide reasonable period of leave for a medical determination to be made.
- Follow applicable laws and policies regarding paid or unpaid leave due to illness.
- Engage in “interactive process” for determining need for “accommodation”.
- CDC: Notify employees, customers, health officials (get advice), and others that had contact with employee or is Coronavirus positive. CDC provides no further specific guidance.
- Maintain confidentiality of medical information as required by ADA and similar local laws.

NOTE: OSHA and CDC urge that employers not require medical clearance to avoid overwhelming health care services. Be flexible.

# CDC RETURN TO WORK GUIDANCE: NON-TEST BASED STRATEGY

For confirmed cases, there is limited definitive guidance.

The CDC recommends exclusion from work until the employee is no longer under home isolation:

- At least 3 days (72 hours) after recovery, defined as resolution of fever without the use of fever-reducing medications,
- Improvement in respiratory symptoms (e.g., cough, shortness of breath), and
- At least 7 days have passed **since symptoms first appeared.**

# CDC RETURN TO WORK GUIDANCE: TEST BASED STRATEGY

As an alternative, the employee may discontinue home isolation upon:

- Resolution of fever without the use of fever-reducing medications,
- Improvement in respiratory symptoms (e.g., cough, shortness of breath), **and**
- Negative results for COVID-19 from at least two consecutive tests collected  $\geq 24$  hours apart.

# Employee Screening for Infections

The EEOC recently issued guidance regarding employer-conducted screening.

Ask questions to determine exposure:

- Any travel in the last 14 days?
- Have they or their household members been within 6 feet of someone with a suspected or confirmed case in the last 14 days?
- Have they or their household members had symptoms in the last 14 days (fever, cough, shortness of breath)?

If the answer is yes, the employee should be sent home.

# Employee Screening (cont.)

Employers may take body temperature.

Who should conduct the body temperature screening?

- Ideally, a certified health professional (ask insurance provider or others), or
- A trained person provided with adequate protections under CDC and OSHA guidelines for medical professionals, including the wearing of personal protective equipment (PPE) including masks and gloves.
  - Conduct screening in a private area to the extent practicable.
  - Practice the highest-level of hygiene.
  - Use a no-contact thermometer certified for accuracy and use on humans.

# Employee Screening (cont.).

- Fever of 100.4 degrees or higher (per CDC guidance), send home.
- Ask who they have had contact with on the job site. If possible, this area should be isolated and subsequently cleaned per CDC guidance.
- The employee should be advised that they should speak with a health professional immediately for further screening (and they may be asked about any other COVID-19 symptoms).
- ADA and similar laws: Maintain confidentiality regarding employee's identity and status.

# Employee Screening (cont.)

If an employee is confirmed positive:

- inform fellow employees/those who have had close contact with the individual.
- No more specific guidance is provided by OSHA or CDC. Fourteen day incubation period serves as a guide.
- Case by case consideration.
- Employee's health care provider may have more specific directions as may local Health Officials.

# Employee Screening (cont.)

OSHA requires certain employers to record work-related injuries and illnesses that meet certain severity criteria on the OSHA 300 Log, as well as complete the OSHA Form 301 (or equivalent) upon the occurrence of these injuries. COVID-19 can be a recordable illness if a worker is infected as a result of performing their work-related duties. However, employers are only responsible for recording cases of COVID-19 if all of the following are met:

1. The case is a confirmed case of COVID-19;
2. The case is work-related; and
3. The case involves one or more of the general recording criteria (e.g. medical treatment beyond first-aid, days away from work, etc...).

Additional information is available at:

<https://www.osha.gov/SLTC/covid-19/standards.html>



# WHAT TYPE OF LEAVE, PAID OR UNPAID, IS REQUIRED?

1. Family and Medical Leave Act, Family First Coronavirus Response Act and State/Local law equivalents.
2. Americans with Disabilities and State/Local law equivalents.
3. Disability insurance.
4. Paid family leave laws.
5. Workers comp: Probably not, except for health care industries or where employer creates unreasonable risk of exposure.
6. Laws are changing rapidly.

# THANK YOU!

QUESTIONS?

Please check our website

[www.pecklaw.com](http://www.pecklaw.com)

for updates and additional information.

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