

The Coronavirus and the Workplace

The Novel Coronavirus (COVID-19) is a hot topic in the world today. Employers understandably have concerns about what they can do to protect themselves, their employees, and their customers. Here are some basics for handling COVID-19 in the workplace.

What is COVID-19?

COVID-19 is a respiratory illness first identified in Wuhan, Hubei Province, China. Symptoms can include fever, cough, and shortness of breath. It is thought that COVID-19 is most often spread from person to person through close contact, similar to how the common cold or the flu are spread.

Tips for Employers

It is important not to get caught up in the hype and frenzy surrounding COVID-19, yet still work to create a safe and healthy environment. The Center for Disease Control (CDC) still has much to learn about the transmissibility, severity, and other features of COVID-19.

To help prevent workplace exposure, employers should follow some basic guidelines for reducing the spread of respiratory illnesses. First, employers should encourage employees who are showing symptoms to stay home until they are fever-free for at least 24 hours without the use of fever-reducing medications. Employees should notify their supervisor per their “call-out” policy if they are experiencing symptoms. Employers are encouraged to be flexible with their sick-leave policies.

While at the office, employees should practice good coughing and sneezing etiquette. Employers are encouraged to put up [posters](#) covering basic cough and sneeze etiquette, as well as posters regarding proper hand washing. Employers should look into providing tissues and hand sanitizer with at least 60% alcohol to their employees, and be sure to routinely clean all frequently touched surfaces. At this time, the CDC is not recommending employers use anything other than their normal cleaning materials. No special disinfectant is currently being recommended.

Employers are encouraged to stay up to date on COVID-19 by regularly checking with the [CDC](#), the [World Health Organization](#), and [OSHA](#).

When Employees are Concerned They May Have Been Infected

While the flu is generally not a “serious health condition” under the FMLA or similar laws, it could be if the employee or employee’s family member is receiving inpatient care or continuing treatment by a healthcare provider. COVID-19 could thus qualify as a serious health condition depending on the situation.

Likewise, employees might be entitled to FMLA or similar leave if they need to take time off for examinations to determine if a serious health condition exists, which may ultimately include the time off needed if an employee is quarantined; this could be considered “treatment” under the law.

If an employee is concerned they may have been infected, the employer should explore all leave options.

When Employees Have No Signs of Illness

Employers have questioned whether they can mandate employees stay home if they have traveled to a region known to be experiencing an outbreak. Another question is whether they can require such employees to wear an anti-viral face mask. The short answer to these questions is no. Employers should tread lightly when dealing with potentially infected employees or they run the risk of having an employee file a claim.

According to the EEOC, an employer may only exclude an individual from a job for safety reasons when the individual poses a “direct threat”. A direct threat is a significant risk of substantial harm to the individual or others that cannot be eliminated or reduced through reasonable accommodation. The harm must be serious and likely to occur, not remote or speculative.

This determination cannot be based on subjective perceptions, irrational fears, patronizing attitudes, or stereotypes. It is an individualized assessment of the employee’s present ability to safely perform the essential functions of the job, considering reasonable medical judgment relying on the most current medical knowledge, and/or best available objective evidence.

Relevant evidence may include input from the employee and opinions of medical professionals who have expertise in the disability involved and/or direct knowledge of the individual with the disability. In making a direct threat assessment, the following factors should be considered:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The imminence of the potential harm.

According to the EEOC, an employer may have the employee examined by a healthcare professional of its choice who has expertise in the employee's specific condition. The healthcare professional can provide medical information that allows the employer to determine the effects of the condition on the employee's ability to perform his/her job. Any medical examination, however, must be limited to determining whether the employee can perform his/her job without posing a direct threat, with or without reasonable accommodation. An employer must also pay all costs associated with the employee's visit(s) to its healthcare professional.

When Employees Show Up to Work Sick

There are both ethical and financial reasons for an employer to try and maintain a healthy workforce. Knowingly allowing a contagious employee to remain at work and infect others is dangerous and can be costly. If an employee shows up to work with flu-like symptoms, you should take the following actions:

- Talk to them and ask them how they are feeling;
- Explain the flu symptoms and the likelihood of spreading the virus;
- Encourage the employee to go home to rest and recover;
- Suggest the employee see a doctor if their symptoms are lingering or severe;
- If the employee has sick leave or paid time off available, encourage them to use the time to go home; and
- If the employee doesn't have paid time off available, or if it isn't offered, the employee should still be asked to go home so others do not become infected.

As with any policy, if you decide to send sick employees home, you must make sure to do so consistently. Do not create the appearance of discrimination.

Resource: www.eplaceinc.com