

# Human Resources Bulletin: Coronavirus in the Workplace

March 2020

According to the CDC, Coronaviruses are a large family of viruses that are common in humans and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people, such as with MERS-CoV and SARS-CoV. The virus that causes COVID-19 is spreading from person-to-person in China and some limited person-to-person transmission has been reported in countries outside China, including the United States.

All employers need to consider how best to decrease the spread of acute respiratory illness and lower the impact of COVID-19 in their workplace. They should identify and communicate their objectives, which may include one or more of the following: (a) reducing transmission among staff, (b) protecting people who are at higher risk for adverse health complications, (c) maintaining possible work-related exposure and health risks to employees.

All employers should be ready to implement strategies to protect their workforce from COVID-19 while ensuring continuity of operations. During a COVID-19 outbreak, all sick employees should stay home and away from the workplace, respiratory etiquette and hand hygiene should be encouraged, and routine cleaning of commonly touched surfaces should be performed regularly.

## **Actively Encourage Sick Employees to Stay Home**

Employees who have symptoms of acute respiratory illness are recommended to stay home and not come to work until they are free of fever (100.4° F [37.8° C] or greater

using an oral thermometer), signs of a fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g. cough suppressants). Stay Home Employees should notify their supervisor and stay home if they are sick.

Ensure that your sick leave policies are flexible and consistent with public health guidance and that employees are aware of these policies.

Talk with companies that provide your business with contract or temporary employees about the importance of sick employees staying home and encourage them to develop non-punitive leave policies.

Do not require a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as healthcare provider offices and medical facilities may be extremely busy and not able to provide such documentation in a timely way.

Employers should maintain flexible policies that permit employees to stay home to care for a sick family member. Employers should be aware that more employees may need to stay at home to care for sick children or other sick family members than is usual.

## **Separate Sick Employees**

CDC recommends that employees who appear to have acute respiratory illness symptoms (i.e. cough, shortness of breath) upon arrival to work or become sick during the day should be separated from other employees and be sent home immediately. Sick employees should cover their noses and mouths with a tissue when coughing or sneezing (or an elbow or shoulder if no tissue is available).

## **Emphasize Staying Home When Sick, Respiratory Etiquette and Hand Hygiene by All Employees**

Place posters that encourage staying home when sick, cough and sneeze etiquette, and hand hygiene at the entrance to your workplace and in other workplace areas where they are likely to be seen.

Provide tissues and no-touch disposal receptacles for use by employees.

### **Health Tips:**

- 1) Use tissues when you sneeze
- 2) Clean hands often
- 3) Use alcohol-based hand sanitizer
- 4) Wash hands for at least 20 seconds!

Instruct employees to clean their hands often with an alcohol-based hand sanitizer that contains at least 60-95% alcohol, or wash their hands with soap and water for at least 20 seconds. Soap and water should be used preferentially if hands are visibly dirty.

Provide soap and water and alcohol-based hand rubs in the workplace. Ensure that adequate supplies are maintained. Place hand rubs in multiple locations or in conference rooms to encourage hand hygiene.

## **Perform Routine Environmental Cleaning**

Routinely clean all frequently touched surfaces in the workplace, such as workstations, countertops, and doorknobs. Use the cleaning agents that are usually used in these areas and follow the directions on the label.

Provide disposable wipes so that commonly used surfaces (for example, doorknobs, keyboards, remote controls, desks) can be wiped down by employees before each use.

## **Advise Employees Before Traveling to Take Certain Steps**

Check the CDC's Traveler's Health Notices for the latest guidance and recommendations for each country to which you will travel. Advise employees to check themselves for symptoms of acute respiratory illness before starting travel and notify their supervisor and stay home if they are sick. Ensure employees who become sick while traveling or on temporary assignment understand that they should notify their supervisor and should promptly call a healthcare provider for advice if needed.



If outside the United States, sick employees should follow your company's policy for obtaining medical care or contact a healthcare provider or overseas medical assistance company to assist them with finding an appropriate healthcare provider in that country. A U.S. consular officer can help locate healthcare services. However, U.S. embassies, consulates, and military facilities do not have the legal authority, capability, and resources to evacuate or give medicines, vaccines, or medical care to private U.S. citizens overseas.

## **Additional Measures in Response to Currently Occurring Sporadic Importations of the CVOID-19**

Employees who are well but who have a sick family member at home with COVID-19 should notify their supervisor and refer to CDC guidance for how to conduct a risk assessment of their potential exposure.

If an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Employees exposed to a co-worker with confirmed COVID-19 should refer to CDC guidance for how to conduct a risk assessment of their potential exposure.



## Telework

Businesses should consider replacing in-person meetings with video or telephone conferences and allowing employees to telework in order to reduce exposure to community settings. Should an employer decide to implement these types of policies there are technological, process, security and compliance considerations necessary to safely allow telework in the workplace.



Should telework not be an option for an employee due to the nature of the work, employers may still enforce non-discriminatory attendance policies regarding employees missing work

(subject to legally protected leaves such as the FMLA). However, an employer that insists on enforcing attendance policies to the point of hardship may create morale issues in the workplace that could negatively impact the workforce and the organization.

Besides the foregoing environmental and operational concerns, employers will need to be cognizant of potential compliance concerns that may arise in the workplace.

- The Americans with Disabilities Act (ADA) prohibits employers from (1) discriminating against individuals who have a disability, including those who are “regarded as” having a disability; and (2) making disability-related inquiries of employees or requiring employees to undergo medical examinations unless it is “job-related and consistent with business necessity.” The ADA does not, however, require an employer to employ an individual who presents a “direct threat” of harm, which is defined as a significant risk of substantial harm to an employee or others that cannot be eliminated or reduced by reasonable accommodation. State-based disability laws also must be assessed for compliance.

- Leave laws (Federal, State and Local) may allow employees a right to protected leave based on the existence of a serious health condition of the employee or a family member.
- Section 7 of the National Labor Relations Act gives certain employees the right to engage in “protected concerted activity”. A refusal by some employees to work with an employee who traveled to an area or was exposed to the coronavirus out of a concern for their own safety may implicate Section 7.
- Privacy laws may protect employees from disclosure of personal health information to outside individuals or entities. Employers also need to be aware of defamation claims that may arise should an employer identify someone as having the coronavirus if they do not.
- While this has not become a pandemic as of yet, the EEOC has previously stated that during a pandemic, employers may require employees to wear Personal Protective Equipment (PPE), such as a face mask. However, employers will need to potentially accommodate employees with disabilities who require specific types of PPE (i.e. non-latex gloves). Employers will also need to be aware of potential wage and hour issues should employees have to change in/out of PPE.
- Employers with collective bargaining agreements or other employment contracts should review those contracts before adopting any new protocols in the workplace to verify that no conflicts exist.

This is a growing area of focus for employers in the United States as cases of coronavirus continue to increase. Employers should continue to monitor guidance coming from the CDC, OSHA and other federal, state and local agencies involved in the response and should consider drafting or evaluating existing emergency protocols in the case of a coronavirus pandemic in the future.

## Helpful Resources

**CDC:** <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

**OSHA:** <https://www.osha.gov/SLTC/covid-19/>

**CMS:** <https://www.cms.gov/medicare/quality-safety-oversight-general-information/coronavirus>

**FDA:** <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/coronavirus-disease-2019-covid-19>

**EPA:** <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

**U.S. Department of State – Bureau of Consular Affairs:**

<https://travel.state.gov/content/travel/en/traveladvisories/ea/covid-19-information.html>