



FREQUENTLY ASKED QUESTIONS:

Coronavirus (COVID-19) and the Workplace

Updated March 12, 2020

Prepared by Ballard Spahr LLP
Labor and Employment Group
www.ballardspahr.com

Authors: Louis L. Chodoff, Brian D. Pedrow,
Emily J. Daher, Mary M. O'Brien, Tara L. Humma,
Karli Lubin, Maya Salah



Table of Contents

FREQUENTLY ASKED QUESTIONS.....	2
Coronavirus (COVID-19) and the Workplace.....	2
A. BACKGROUND.....	2
B. WORKPLACE HEALTH AND SAFETY.....	2
C. EMPLOYEE TRAVEL.....	4
D. ATTENDANCE / LEAVE.....	4
E. AMERICANS WITH DISABILITIES ACT (ADA).....	6
F. MILITARY LEAVE.....	7
G. LAYOFFS / FURLOUGHS / REDUCED SCHEDULES.....	8
H. QUARANTINE / ISOLATION LAWS.....	9
I. IMMIGRATION.....	10
EXHIBIT A: COVID-19 Resources for Employers.....	11
EXHIBIT B: COVID-19 Workplace Responses to Potential Exposure.....	13
EXHIBIT C: ATTORNEY BIOGRAPHIES.....	16

FREQUENTLY ASKED QUESTIONS:

Coronavirus (COVID-19) and the Workplace

A. BACKGROUND

The World Health Organization (WHO) recently designated Coronavirus (COVID-19) as a global pandemic. Leaders in the international health community are taking action to prevent the spread of COVID-19 and contain the outbreak. Employers should address the issue with prevention, containment, and contingency plans.

According to the WHO, COVID-19 spreads like the flu. When someone who has COVID-19 coughs or exhales, they release droplets of infected fluid. Most of these droplets fall on nearby surfaces and objects, such as desks, tables or telephones. People can catch COVID-19 by touching contaminated surfaces or objects, and then touching their eyes, nose, or mouth. If they are standing within one meter of a person with COVID-19, they can catch it by breathing in droplets coughed out or exhaled.

Most persons infected with COVID-19 experience mild symptoms and recover. Symptoms appear within 2-14 days of exposure, including fever, cough, and shortness of breath. However, some individuals go on to experience more serious illness and may require hospital care. Risk of serious illness rises with age: people over 40 seem to be more vulnerable than those under 40. People with weakened immune systems and people with conditions such as diabetes, heart disease, and lung disease also are more vulnerable to serious illness.

The following FAQs are intended to assist employers with the myriad and complex legal issues that may arise. Referenced resources from WHO, CDC, OSHA, EEOC, and other agencies with links appear in [Exhibit A](#).

B. WORKPLACE HEALTH AND SAFETY

Do employers have affirmative obligations to address hazards associated with COVID-19? Yes.

- Under OSHA's General Duty Clause, employers are required to furnish each worker with "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."
- OSHA has other standards that might apply, depending on nature of workplace, including specifically industries with high exposure potential (e.g., health care). These include OSHA's bloodborne pathogen standard and personal protective equipment rules.
- OSHA has issued guidance that employers should adapt infection control strategies based on a thorough hazard assessment, using appropriate combinations of engineering and administrative controls, safe work practices, and personal protective equipment to prevent worker exposures. OSHA has generally deferred to CDC guidelines.
- While OSHA regulations do not address pandemics directly, some states have adopted laws and regulations which do. For example, the California Division of Occupational Safety and Health (Cal/OSHA) has adopted an "Aerosol Transmission Diseases" (ATD) standard for health care employers, which covers transmission of airborne infectious diseases.

What steps should employers take in developing their plans? See CDC and WHO guidelines.

- Employer plans should include hygiene and environmental conditions. The CDC and WHO recommend a variety of strategies, including enhanced workplace hygiene and environmental cleaning and employee education. See CDC's Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease; Environmental Cleaning and Disinfection Recommendations.
- Employers also should consider modifying certain workplace policies and procedures to encourage employee who are sick to stay at home. Changes include educating employees about staying at home when experiencing symptoms of acute respiratory illness; making employees aware of sick policies available to them; asking staffing agencies not to send sick employees to the workplace; suspending the requirement for sick notes; adding flexibility in leave policies during an outbreak; adopting work practices to create distance among employees (e.g., telecommuting, staggered shifts, teleconferences in lieu of meetings).

How should employers treat employees who may have been exposed to COVID-19? The CDC has developed a risk assessment matrix to assess risk and recommend measures.

- **Exhibit B** is a summary of the CDC's risk assessment based on situations the employer may encounter.

What steps should employers take if there is a suspected or confirmed case of COVID-19 at work? See Exhibit B.

- Before an exposure occurs, employers should develop an Infectious Disease Outbreak Response Plan to address issues like emergency response; local/state official notifications; environmental response; policies and procedure modifications; work distancing strategies; continuity of essential business functions/personnel; and communication channels with employees.
- If there is a confirmed case of COVID-19 at work, the CDC recommends isolating the employee at work (e.g., conference room designated for this purpose) and sending the employee home as soon as possible. If other employees likely were exposed, they too can be sent home until tested and cleared to return to work.
- If an employee is confirmed to have COVID-19, the CDC recommends that the employer should inform employees of the possible exposure, but maintain confidentiality around the identity of the employee consistent with the ADA (see ADA below).
- The CDC has issued Interim Recommendations for US Community Facilities with Suspected/Confirmed Coronavirus Disease which contain recommendations on the cleaning and disinfection of rooms or areas visited by those with suspected or confirmed infection with COVID-19.

Are there discrimination risks in adopting measures? Yes. Managers and supervisors should understand these risks through education.

- Avoid discriminatory assumptions, particularly around Asian/Chinese employees, or making assumptions about infection without reasonable basis. As the CDC cautioned: "Do not show prejudice to people of Asian descent, because of fear of this new virus. Do not assume that someone of Asian descent is more likely to have 2019-nCoV."
- EEOC Enforcement Guidance on National Origin Discrimination: Title VII prohibits employer actions that have the purpose or effect of discriminating against persons because of their real or perceived national origin.

National origin discrimination includes discrimination by a member of one national origin group against a member of the same group.

C. EMPLOYEE TRAVEL

Can employers restrict employee *business* travel to outbreak regions? Yes.

- Employers should consider suspending business travel, especially to restricted countries per the CDC's Traveler's Health Notices (as of this publication, this includes China, Hong Kong, Iran, Italy, Japan, Singapore, South Korea, Taiwan, Thailand, and cruise ship travel in Asia).
- If an employee is sick prior to or during travel abroad, they should notify their supervisor and seek attention from a health care provider.
- If an employee refuses to travel due to concerns about exposure to COVID-19, this issue should be evaluated on a case-by-case basis, taking into account whether the employee may be at heightened risk due to their personal circumstances, the region in question and its risk assessment, and whether the objection rises to the level of protected activity under OSHA or protected concerted activity under the National Labor Relations Act (NLRA).

Can employers restrict employee from *personal* travel to outbreak regions? No.

- Employers cannot restrict employee personal travel, and may violate the ADA's association discrimination rules if they discriminate against employees with family in COVID-19 outbreak regions. Additionally, some states have statutes related to lawful off-duty conduct that could be implicated if an employer tries to control personal travel.
- Employers can request that employees traveling to outbreak regions alert the employer about such travel. Employers can monitor employees returning from outbreak regions for signs or symptoms of infection. Employers may require employees to remain home from work for an isolation period if the employee has traveled to outbreak areas. According to the EEOC, because a pandemic has been declared, employers may ask employees about whether they are symptomatic if they traveled to outbreak areas.

D. ATTENDANCE / LEAVE

Employers should assume, and plan for, increased absenteeism, both from a business continuity perspective, as well as from an attendance control perspective. Employers also may want to plan for business interruption due to the spread of COVID-19, including the possible need for layoffs or furloughs of employees due to the inability or reduced capacity to operate the business.

Business continuity plans may include plans to continue essential business functions in the face of higher absenteeism; cross-training personnel to perform essential functions; assessing essential functions, and the reliance that others and the community have on the employer's services or products. Be prepared to change business practices if needed to maintain critical operations (e.g., identify alternative suppliers, prioritize customers, or temporarily suspend some operations if needed).

Can employees take time off work? It depends on the reason.

- If infected—yes, infected employees should be barred from coming to work. (Isolation and quarantine rules may apply, see below.)

- If exposed and symptomatic, but not necessarily infected—yes. Employers may require employees to stay home per CDC/WHO guidelines. Some employers are developing “incubation period leave policies” for this situation.
- If not exposed but symptomatic (not necessarily infected)—yes. Many employers, consistent with CDC/WHO guidelines, are encouraging such employees to stay at home.
- Employers may encourage employees to work from home to avoid contact, if consistent with job requirements.

Can employees refuse to come to work for fear of contracting COVID-19, even if not presently ill? Only if there is an “imminent danger” of death or serious injury.

- OSHA permits employees to refuse to engage in “dangerous work” if certain conditions are met, including that the employee refuses to work in “good faith” (genuine belief that an imminent danger exists) and a reasonable person would agree that there is a real danger of death or serious injury.
- Employers should keep in mind the need to consider requests for accommodations for individuals with disabilities (e.g., those at higher risk) under the ADA and similar state and local laws.

Does the Family and Medical Leave Act (FMLA) cover absences for infection? Maybe. If in doubt, provisionally designate pending receipt of medical certification.

- If an employee or qualifying family member has the COVID-19 infection, it could constitute a “serious health condition” under the FMLA if it otherwise falls within the definition. This could be the case if there is an inpatient hospitalization or the employee meets the “absence plus treatment” category.
- If employee is absent on FMLA Leave related to COVID-19, and voluntarily opts to perform work while at home, be sure to distinguish between work time and FMLA time.

Does the FMLA cover absences in the absence of infection? This is unlikely.

- Mere symptoms likely do not constitute a “serious health condition.” Also, time away from work for fear of contracting the virus is not an FMLA-qualifying reason for leave.
- Similarly, time away from work because an employee’s children are out of school (not infected) will not constitute an FMLA-qualifying reason for leave. However, this situation could be covered by other state/local laws which cover public health emergencies (see next question).

Are employees entitled to paid sick leave (or family leave) under the employer’s policies or state/local mandated leave laws, if absent due to COVID-19? It depends.

- If an employee is sick (or caring for a sick family member under family leave policies), he or she likely is eligible for paid leave. This includes both symptoms of illness or actual COVID-19 infection. To encourage staying at home, employers may want to assume policies apply.
- If an employee is taking leave out of fear of infection, absent actual illness, it usually will not be covered by paid leave policies (unless the employer opts to relax its leave policies in this situation). Note, however, that seeking preventive care or diagnostic services usually constitutes a legitimate reason for leave.

- Public Health Emergency: If an employee is taking leave because their children are out of school (but not ill), this is unlikely to trigger entitlement to paid leave. However, some local or state leave laws cover leave for public health emergencies. Check local laws to see if this is the case in your jurisdiction.

Do employees have return to work rights? Yes.

- Employees taking protected leaves, like FMLA and local/state paid leave, generally have the right to return to work. Often, the return right is to the same or an equivalent position.
- There is proposed federal legislation which would provide employees with additional paid leave and job protection.
- Some state quarantine laws include job security protections, either in the form of remedies for adverse actions or affirmatively requiring employers to reinstate employees after a government-imposed quarantine. Check local laws to see if this is the case in your jurisdiction.
- Generally, return to work may be based on a medical clearance, but some laws impose restrictions. For example, under the FMLA, an employer may require a fitness-for-duty certification, but must have a uniformly applied policy or practice and must advise employee of requirement in FMLA Employer Designation form.
- Under the CDC's guidance, symptomatic employees should not return to work until they are free of fever (100.4 F), signs of fever, and any other symptom for at least 24 hours, without use of fever-reducing or other symptom-altering medicines.

E. AMERICANS WITH DISABILITIES ACT (ADA)

The ADA prohibits discrimination against employees with “disabilities” and may require reasonable accommodation for disabilities. In addition, under the ADA, employers are prohibited from making medical inquiries of employees unless job-related and consistent with business need, or justified by concerns over a “direct threat” posed to health and safety.

The standard of direct threat under ADA is high—“a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.” The assessment cannot be based on fears, misconceptions, or stereotypes.

The EEOC issued guidelines on COVID-19, referring to its 2009 guidance on pandemic influenza issued in connection with the H1N1 outbreak. The EEOC's rules against medical inquiries of employees are relaxed if there is a “direct threat” to health or safety in the workplace, which in the case of infectious diseases is triggered after the CDC or state/local public health officials determine that “pandemic influenza is significantly more severe” than seasonal influenza. This suggests that classification of COVID-19 officially as an influenza “pandemic” is a prerequisite to triggering the relaxed rules, at least according to the EEOC.

As of the date of this publication, COVID-19 has been declared a pandemic by WHO. Based on this, it is likely that some of the requirements pertaining to medical related inquiries are relaxed as set forth below.

Does the ADA cover COVID-19 infection, potentially triggering the duty to provide reasonable accommodation (e.g., leave time, flexible scheduling, telecommuting)? It seems unlikely, given the transitory nature of COVID-19.

- To be protected, an employee must have a “disability,” meaning they are substantially limited in a major life activity (e.g., breathing) due to a mental or physical impairment. Transitory conditions, like influenza, generally are not covered absent complications.
- Assuming symptomatic employees are infected may trigger ADA protection under the “regarded as” prong of a disability. However, once a pandemic is declared, under the EEOC’s guidance, employers generally are permitted to take certain actions consistent with the ADA, as described below.
- Employers should also keep in mind that accommodation requests for individuals with covered disabilities will need to be considered.

May employers make disability inquiries of employees to determine who has a compromised immune system or chronic condition making them more susceptible to COVID-19? Yes, but only after a pandemic has been declared.

- Since a pandemic has been declared, it is more likely that a direct threat exists which justifies a general survey of the workforce to assist employers in planning for absenteeism. The EEOC issued a sample workplace survey for this purpose, which asks questions about the likely disruption in coming to work (both for medical and non-medical reasons).
- Nevertheless, even in a pandemic, employers cannot ask a specific asymptomatic employee if they have a medical condition making them susceptible to influenza complications.

During a pandemic, may employers send home those employees displaying COVID-19-like symptoms? Yes.

- Employers also may make medical inquiries of employees complaining of illness at work, e.g., asking if they have COVID-19 symptoms. The information must be treated as a confidential medical record.
- During a pandemic, employers may screen employees by taking body temperatures. Employers also may ask employees about whether they are symptomatic if, during a pandemic, they travel to outbreak areas.

During a pandemic, may an employer mandate certain work practices, such as telecommuting, hand washing, and use of personal protective equipment? Yes.

During a pandemic, may an employer ask employees why they are absent, if suspected for a medical reason? Yes.

F. MILITARY LEAVE

Employees may be called to duty through National Guard service to assist with declaration of states of emergency related to COVID-19. States that already have declared states of emergency as of this publication date include: New York, California, New Jersey, Oregon, Utah, North Carolina, Colorado, Massachusetts, Hawaii, Kentucky, Ohio, Florida, Maryland, and Washington. Pennsylvania is under an “emergency disaster declaration.” Other states have made similar “disaster proclamations” or “public health emergency declarations.”

Is military leave protected under USERRA? National Guardspersons are protected when federally activated; NDMS intermittent employees are protected.

- National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Check local laws to see if this is the case in your jurisdiction.
- USERRA also protects duty performed by Federal Intermittent Employees of the National Disaster Medical System (NDMS), who are civilians federalized when activated. Federal Intermittent Employees are part of the Department of Health and Human Services, when activated for a public health emergency and approved training to prepare for such service.

G. LAYOFFS / FURLOUGHS / REDUCED SCHEDULES

If business operations are interrupted, an employer may opt to furlough or lay off employees, or to adopt a reduced work schedule. These actions may have implications under laws governing WARN, unemployment compensation, wage and hour, collective bargaining, and immigration.

Does this trigger a WARN event? It depends.

- Assuming numerical WARN triggers for plant closing or mass layoff are met, if the business downturn is expected to result in permanent layoffs, then a WARN event has occurred, absent an exception.
- If the numerical triggers are met, but employees are only furloughed temporarily (under six months), no WARN event has occurred because temporary layoffs do not constitute an “employment loss.” The question will be whether the employer knows how long the layoff will last.
- Two WARN exceptions might could apply—the “unforeseen business circumstances” exception or the “natural disaster” exception. Given the public attention on COVID-19, a question exists whether the employer can carry its burden of proving unforeseen business circumstances. It is not clear whether a pandemic constitutes a “natural disaster,” like a flood or earthquake. In either case, if applicable, as much notice as possible still must be given. Both are highly fact specific and likely to be litigated issues, suggesting employers take a conservative approach and give notice.
- Don’t forget state and local WARN requirements. California, for example, recently amended the state WARN law to cover short-term furloughs.

Are employees entitled to Unemployment Compensation benefits if laid off, furloughed, or subject to a reduction in hours? Generally, yes.

- Unemployment compensation benefits will be governed by the applicable state law, unless the Federal Government steps in. Many states award benefits (or partial benefits) if an employee is laid off or furloughed. A reduction in hours also may trigger entitlement.

Are there wage and hour implications when employees are furloughed or placed on reduced hours? Yes.

- To maintain their exempt status as salaried, exempt employees generally must be paid their full salary, regardless of hours worked, unless no work is performed in a given workweek.
- Non-exempt employees may be paid only for hours actually worked. However, special rules apply to non-exempt employees working a fluctuating workweek if any work is performed in the workweek.

For union employees, can the employer unilaterally adopt changes in schedules or layoffs/furloughs? It depends.

- Consult the bargaining agreement to determine what restrictions might apply and the extent to which the management rights clause confers these rights. The National Labor Relations Board’s recent decision in *MV Transportation*, 368 NLRB No. 66 (Sept. 10, 2019), may support unilateral changes. There, the Board created expanded employer rights to unilaterally adopt policies and procedures based on the “contract coverage” standard (replacing “clear and unmistakable waiver” approach).
- The bargaining agreement may contain a “force majeure” clause, suspending certain contractual obligations in cases of “Acts of God” or other circumstances beyond the parties’ control. Consult with counsel about whether this applies.
- Absent a force majeure clause, the NLRB has recognized a “compelling economic exigency” exception, allowing employer action for unforeseen extraordinary events requiring immediate employer action. *See RBE Electronics of S.D., Inc.*, 320 NLRB 80 (1995). Again, consult with counsel about whether this exception applies.

For immigration implications – see Immigration below.

H. QUARANTINE / ISOLATION LAWS

Can the federal government order the quarantine or isolation of individuals? Yes.

- According to the CDC, under Section 361 of the Public Health Service Act (42 U.S.C. § 264), the U.S. Secretary of Health and Human Services is authorized to take measures to prevent the entry and spread of communicable diseases from foreign countries into the United States and between states. The authority for carrying out these functions on a daily basis has been delegated to the CDC.

Can state and local governments order quarantines or isolations? Yes.

- According to CDC, the states have police power functions to protect the health, safety, and welfare of persons within their borders. To control the spread of disease within their borders, states have laws to enforce the use of isolation and quarantine. These laws can vary from state to state and can be specific or broad. In some states, local health authorities implement state law. In most states, breaking a quarantine order is a criminal misdemeanor.
- For example, under Pennsylvania law, a temporary isolation or quarantine may be ordered for an individual or group of people in the case of an actual or suspected outbreak of a contagious disease or epidemic due to a biohazardous event.

I. IMMIGRATION

Are there implications for the immigration status of workers on employment visas who are furloughed or laid-off? Yes.

- To remain in lawful immigration status while in the U.S., a non-immigrant worker must continue working for his or her employer and maintain a bona fide employer-employee relationship through the duration of the employment visa.
- In the event of a lay-off or furlough, an employer must continue to pay an H-1B employee in non-productive status, who is not working at the direction of the employer. No payment is required for non-productive time due to reasons not related to employment, such as a worker's voluntary absence from work or taking FMLA leave. FMLA leave does not terminate the employer-employee relationship, and the H-1B employee remains in lawful status during the leave.

What is an employer's responsibility when terminating an H-1B employee? Notify the U.S. Citizenship and Immigration Services (USCIS) and pay return travel costs for terminated H-1B workers.

- Employers are required to notify the USCIS of any changes to the terms and conditions of employment affecting the non-immigrant worker's status.
- An employer terminating an H-1B worker must pay for the reasonable cost of return transportation back to the home country and notify USCIS and the DOL of the termination of the employment relationship.

Has USCIS issues any special guidance related to COVID-19? Yes.

- Early in March 2020, the USCIS asked applicants and petitioners not to visit a USCIS office if sick or feeling symptoms of being sick and offered to reschedule all appointments, without penalty.
- USCIS announced that during natural catastrophes and other extreme situations that affect the submission or processing of immigration applications, it would exercise discretion on late petitions and out-of-status applicants on a case-by-case basis upon request. The employer and beneficiary must show that the extraordinary circumstances were beyond their control.

EXHIBIT A

COVID-19: RESOURCES FOR EMPLOYERS

Centers for Disease Control and Prevention

Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (Feb. 2020)

https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fguidance-business-response.html

Environmental Cleaning and Disinfection Recommendations

Interim Recommendations for US Community Facilities with Suspected/Confirmed Coronavirus Disease 2019

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

Traveler's Health and COVID-19 FAQs about Travel

<https://wwwnc.cdc.gov/travel>

<https://www.cdc.gov/coronavirus/2019-ncov/travelers/faqs.html>

Get Your Mass Gatherings or Large Community Events Ready for Coronavirus Disease 2019

https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fmass-gatherings-ready-for-covid-19.html

Interim Recommendations for US Community Facilities with Suspected/Confirmed Coronavirus Disease 2019

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

Interim US Guidance for Risk Assessment and Public Health Management of Persons with Potential Coronavirus Disease 2019 (COVID-19) Exposures: Geographic Risk and Contacts of Laboratory-confirmed Cases

<https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>

Federal, State and Local Quarantine Laws

<https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>

World Health Organization

Getting Your Workplace Ready Technical Guidance (2/27/20)

<https://www.who.int/docs/default-source/coronaviruse/getting-workplace-ready-for-covid-19.pdf>

EEOC

Guidance: Preparedness in the Workplace and the ADA (10/9/09)

https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

Enforcement Guidance on National Origin Discrimination (11/18/16)

<https://www.eeoc.gov/laws/guidance/national-origin-guidance.cfm>



OSHA

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

Control and Prevention: <https://www.osha.gov/SLTC/covid-19/controlprevention.html>

STATE & LOCAL RESOURCES

Many states and cities have published guidance on COVID-19, including workplace guidance. Check your local resources. Examples:

Pennsylvania Information:

<https://www.health.pa.gov/topics/disease/Pages/Coronavirus.aspx>

Philadelphia Planning Guidance for Businesses:

<https://www.phila.gov/services/mental-physical-health/environmental-health-hazards/covid-19/planning-guidance-for-businesses-and-nonprofit-organizations/>

Delaware Information:

<https://www.dhss.delaware.gov/dhss/dph/epi/2019novelcoronavirus.html>

New Jersey Information:

<https://www.nj.gov/health/cd/topics/ncov.shtml>

EXHIBIT B

COVID-19

Workplace Responses to Potential Exposure
Based on CDC Risk Assessment Guidance for Person-to-Person Contact
Updated: March 12, 2020

NOTE: This chart does not address recommended risk response associated with international travel to regions with COVID-19 outbreaks. Refer to the CDC Risk Assessment Guidance for those issues.

Nature of Contact	Response	Resources
Employee is confirmed to have COVID-19 infection.	Employee should not come to work and seek medical attention, as needed. Employer should inform fellow employees of possible exposure in workplace, but maintain confidentiality of infected employee (ADA). For any exposed coworkers—see below for risk assessment.	1, 2
Employee calls in to report signs of acute respiratory illness (not confirmed as COVID-19 infected).	Employee should notify supervisor and stay home until free of fever and symptoms.	1
Employee is at work and exhibiting signs of acute respiratory illness (not confirmed as COVID-19 infected).	Employer should separate employee from others and send home immediately.	1
Employee has had “close contact” with COVID-19 infected individual, such as someone living in household, without using recommended precautions for home care and home isolation.	Employee is considered “High Risk.” Employer should isolate and send home immediately. Employee is subject to isolation or quarantine, depending if symptomatic.	1, 2, 3

Nature of Contact	Response	Resources
<p>Employee has had “close contact” with COVID-19 infected individual, such as someone living in household, while consistently using recommended precautions for home care and home isolation.</p>	<p>Employee is considered “Medium Risk.” Employer should isolate and send employee home immediately.</p> <p>If asymptomatic—advise employee to remain at home and practice “social distancing.”</p> <p>If symptomatic—employee should be subject to self-isolation.</p>	<p>1, 2</p>
<p>Employee has had no “close contact,” but has been in the same indoor environment as COVID-19 infected individual for prolonged time.</p>	<p>Employee is considered “Low Risk.” Only isolate employee and send home immediately if symptomatic.</p> <p>If asymptomatic—No restriction, beyond self-observation for development of symptoms.</p> <p>If symptomatic—Employee should self-isolate.</p>	<p>1, 2</p>
<p>Employee has had limited interaction with COVID-19 infected individual, such as walking by or being briefly in the room with the individual.</p>	<p>Employee is considered “No Risk.” Only isolate employee and send home immediately if symptomatic.</p> <p>If asymptomatic—No action needed.</p> <p>If symptomatic—Employee should self-isolate.</p>	<p>1, 2</p>
<p>Employee (asymptomatic) has been exposed to an asymptomatic individual who has had exposure to a COVID-19 infected individual (i.e. contact of contact).</p>	<p>Employee is not considered exposed to COVID-19. No testing, symptom monitoring, or special management is needed.</p>	<p>1, 2</p>

DEFINITIONS:

Close Contact = (a) being within 6 feet of a COVID-19 case for a prolonged period of time, including caring for, living with, or visiting with a COVID-19 infected individual; or (b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed upon). See Resource #2.

Recommended Precautions for Home Care and Home Isolation = Home care includes such measures as the infected individual has a separate bedroom; access to food and necessities; and caregivers use personal protective equipment (gloves and facemask) and adhere to recommended precautions (respiratory, hand, cough protocols). Home isolation includes such measures as the infected individual stays away from other household members as much as possible and uses a separate bathroom; restricts contact with pets; wears a facemask when around others; adheres to recommended precautions (respiratory, hand, cough protocols); and avoids sharing personal household items. See Resources #4, 5.

The CDC recommends that quarantines should last for 14 days and that individuals with symptoms should not report to work until they have been symptom-free for at least 24 hours, without use of fever-reducing or other symptom-altering medicines.

RESOURCES:

1. Interim Guidance for Businesses and Employers.
https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fguidance-business-response.html
2. Interim US Guidance for Risk Assessment and Public Health Management of Persons with Potential Coronavirus Disease 2019 (COVID-19) Exposures: Geographic Risk and Contacts of Laboratory-confirmed Cases.
<https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>
3. Evaluating and Reporting Persons Under Investigation (PUI).
https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-criteria.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fclinical-criteria.html
4. Interim Guidance for Implementing Home Care of People Not Requiring Hospitalization for Coronavirus Disease 2019 (COVID-19).
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-home-care.html>
5. Preventing the Spread of Coronavirus Disease 2019 in Homes and Residential Communities.
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-prevent-spread.html>

OUR LOCATIONS

ATLANTA

999 Peachtree St., NE, Suite 1000
Atlanta, GA 30309-3915
678.420.9300

LAS VEGAS

One Summerlin
1980 Festival Plaza Drive, Suite 900
Las Vegas, NV 89135-2658
702.471.7000

PHILADELPHIA

1735 Market St., 51st Floor
Philadelphia, PA 19103-7599
215.665.8500

BALTIMORE

300 E. Lombard St., 18th Floor
Baltimore, MD 21202-3268
410.528.5600

LOS ANGELES

2029 Century Park E., Suite 800
Los Angeles, CA 90067-2909
424.204.4400

PHOENIX

1 E. Washington St., Suite 2300
Phoenix, AZ 85004-2555
602.798.5400

BOULDER

5480 Valmont Road, Suite 200
Boulder, CO 80301-2369
303.379.2275

MINNEAPOLIS

2000 IDS Center
80 South 8th St.
Minneapolis, MN 55402-2113
612.371.3211

SALT LAKE CITY

One Utah Center, Suite 800
201 S. Main St.
Salt Lake City, UT 84111-2221
801.531.3000

DELAWARE

919 N. Market St., 11th Floor
Wilmington, DE 19801-3034
302.252.4465

NEW JERSEY

210 Lake Drive E., Suite 200
Cherry Hill, NJ 08002-1163
856.761.3400

SIOUX FALLS

101 South Reid St., Suite 302
Sioux Falls, SD 57103
605.978.5200

DENVER

1225 17th St., Suite 2300
Denver, CO 80202-5596
303.292.2400

NEW YORK

1675 Broadway, 19th Floor
New York, NY 10019-5820
212.223.0200

WASHINGTON, DC

1909 K St., NW, 12th Floor
Washington, DC 20006-1157
202.661.2200

Ballard Spahr
LLP