



As the COVID-19 coronavirus continues to present challenges to employers worldwide, we have created **this frequently asked questions** document to answer some of the most common questions we have been hearing from clients, friends and family members. This general FAQ is applicable as of March 15, 2020. The COVID-19 situation is changing rapidly, and we will make every effort to update this document with applicable information when appropriate.

The information below incorporates guidance from the Centers for Disease Control and Prevention (CDC), but is not intended to be a substitute for professional medical advice, diagnosis or treatment.

EMPLOYEE SAFETY

What should an employer do if an employee comes to work exhibiting coronavirus symptoms?

If an employee comes to work displaying coronavirus symptoms (fever, shortness of breath, cough or other flu-like symptoms), stay calm. Immediately separate the employee from other employees, and send the employee home until the employee has been symptom free for at least 24 hours without medication (based on CDC flu guidance), or until cleared by a health care provider. If the employee came into close physical contact with other employees during their time in the workplace (*i.e.*, a distance of less than six feet), send those employees home to self-quarantine for 14 days. If any of those employees develop symptoms, he or she should stay home until he or she has been symptom free for at least 24 hours without medication (based on CDC flu guidance), or until cleared by a health care provider. Employers should also conduct a deep clean of the ill/potentially ill employee's workspace.

What should an employer do if an employee is diagnosed with COVID-19 or a presumptive case of COVID-19?

In the unlikely event the employee is at work when the employee receives the news, send the employee home immediately and follow the procedures outlined above. If the employee is not in the workplace, notify all potentially impacted employees of their potential exposure — meaning all employees who were in close contact with the infected employee (within six feet) during the prior 14 days, and then send those employees home for a period of at least 14 days. Employers should also conduct a deep clean of the diagnosed/potentially diagnosed employee's workspace. Employers should not reveal the identity of the infected employee unless the infected employee has provided permission to share his or her name. Like with any illness, the reason for an employee's absence is confidential and should not be shared with others. Depending on the nature of your workplace, you may also want to inform any potentially exposed customers, vendors and/or other building tenants.

What should a business do if an employee informs an employer that the employee has come in contact with an individual diagnosed with COVID-19 or a presumptive case of COVID-19?

Follow the same steps as above. Send the employee home to self-quarantine for 14 days and, if they develop symptoms, until the employee has been symptom free for at least 24 hours without medication (based on CDC flu guidance), or until cleared by a health care provider. You should follow the same course of action with any employees with whom the reporting employee came in close contact over the prior 14 days.

What should an employer do if an employee wants to wear a face mask in the workplace?

This is generally up to the employer. Employers are free to permit employees to wear face masks at work, but some employers may not want employees to wear face masks — particularly if the employees are in customer-facing roles. CDC advises that there is no need to wear a face mask unless an individual is sick or caring for a person who is sick — in which case, the employee should not be at work. The government advises that these masks do little to prevent individuals in the general population from contracting COVID-19, but these masks are desperately needed in health care settings for individuals who are actually treating patients with COVID-19. Unless an employee has *another* disability that requires the use of a mask or is working in the health care field with COVID-19 patients, an employer can safely prohibit the use of masks in the workplace. However, if the employer does not have a business reason to prohibit the face mask and it makes the employee feel safe, there is no requirement to prohibit it either.

Can employers take employee temperatures at work?

It depends on your location. In general, measuring an employee's body temperature is considered a medical examination. These examinations are permitted only if they are job-related and consistent with business necessity. This means employers generally can require a medical test only if there is objective evidence that (1) an employee's ability to perform essential job functions will be impaired by a medical condition or (2) an employee will pose a direct threat due to a medical condition. The CDC currently recommends that employees in Santa Clara County, California and the Seattle, Washington area be checked regularly for fever and cough. We anticipate that this directive will extend to a wider area as the disease continues to spread. As this is evolving continually, we recommend that you consult with counsel before instituting a temperature-taking policy. Regardless of whether you check employee temperatures, if an employer observes objective evidence that an employee is sick, simply send the employee home.

Can we make thermometers available to employees for them to voluntarily take their temperature?

Yes, provided it is purely voluntary. Employers should not record employee temperatures. Employers should also provide sufficient tools to make sure thermometers are properly sanitized to lower the risk of passing infection to other employees.

If an employee is returning from vacation, may I ask the employee about the countries they traveled to?

Yes. And if the employee has been in a country where the CDC is warning against nonessential travel (currently, Austria, Belgium, mainland China, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Iran, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, South Korea, Spain, Sweden, Switzerland, Monaco, San Marino and Vatican City), you may require the employee to stay home or work remotely for a 14-day quarantine period.

Can we prohibit employees from traveling to those countries identified by the CDC?

Probably not. Many states have off-duty conduct laws that prohibit employers from regulating what employees do outside of work hours. You may, however, advise employees of the risks of traveling to those countries and tell them that they will need to self-quarantine when they return from their trip.