

COVID-19 FAQs for Employers

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The situation in the United States involving the novel coronavirus, COVID-19 (“CV”), is evolving daily. This can make it difficult for employers as they balance work needs with employee illnesses and fears. While any employer response will depend on the circumstances faced by that particular employer and employee, below are some frequently asked questions (FAQs) and responsive information that we hope will be helpful for our clients in Washington, Oregon, and California. **Please note that this information is current as of the second week of March 2020.**

The information provided here is in general, summary form. We encourage you to go to the following links for more detailed and updated information:

- [CDC](#)
- [Washington Dept. of Health](#)
- [Oregon Health Authority](#)
- [California Dept. of Health](#)
- [EEOC Technical Assist. Pandemic Preparedness & the ADA](#)

What steps should we take in the workplace to prevent the spread of CV?

Require employees to tell you if they have CV-like symptoms, have recently traveled to a CV-affected area (as designated by the CDC), have come into contact with a person who has CV, or have tested positive for CV. Provide them with information to help them (a) assess their own risk of exposure and (b) minimize any unnecessary sense of panic, fear, or anxiety. The CDC has information [available here](#).

In addition, actively encourage employees to:

- Frequently wash their hands, use hand sanitizer, and avoid touching their faces.
- Promote hygienic coughing and sneezing etiquette. The CDC has great resources [available here](#).
- Remain home if they have symptoms of fever or coughing, and not return to work until they have been symptom free for at least 24 hours without the use of medication.

Perform routine cleaning of facilities, equipment, and frequently touched surfaces.

- The CDC recommends using regular cleaners, following the directions, and cleaning as regularly scheduled.
- Provide sanitizer and disposable wipes so that commonly used surfaces such as doorknobs, and keyboards, etc., can be wiped down by employees before each use.

Can we send employees home if they begin exhibiting symptoms or disclose that they were exposed?

Yes. Employers have an obligation to take steps to maintain a safe work environment, and that would include separating or sending home employees who exhibit symptoms of CV. In addition, follow any public health advice regarding appropriate protocols for those employees.

Be sure to follow your leave policies to provide them with any available leave options while they are out. Washington employers should also provide employees with the state-mandated Paid Family Medical Leave (PFML) notice form, and all covered employers should ascertain whether FMLA paperwork should be given to the employees.

We know we have to protect employees' medical information, but if we learn that one of our employees tests positive and may have exposed coworkers, what kind of information can we share?

You may tell the coworkers that it is possible they were exposed, but you must still abide by confidentiality protections afforded to the employee who is (or may be) ill. Thus, a general statement of information is fine (that there may have been exposure and in what areas), but specifics (name, symptoms, details of condition, etc.) should be avoided. See also the link above to the EEOC's Technical Assistance page. This is also a good time to reassure the coworkers about the preventive steps you are taking and to provide them with information to make their own assessment of the risks about their potential exposure as well. The CDC's current resource is [available online here](#).

Should we let employees work remotely?

Naturally, any particular employee's ability to work remotely will depend on the business and job duties involved. But to the extent that this option is available, employers should consider allowing it. In particular for employees with chronic health conditions that may make them more susceptible to an extreme reaction to CV, temporarily allowing remote work may constitute a reasonable accommodation of a disability.

If working remotely is possible, be sure to take appropriate safeguards related to confidentiality and the protection of your company's records and electronic data. Also, remind remote workers that they need to continue to comply with time-tracking requirements, applicable rest and meal breaks, etc.

Do we have to pay employees for absences related to CV?

Employees are entitled to use available PTO/paid sick time, whether for themselves, to care for a family member, or to remain home with a child if the child's school or daycare facility is closed by the government for reasons related to CV. Washington employees may also be eligible for state PFML benefits, depending on the severity of their personal or family situation.

Otherwise, while employers may need to provide leave in accordance with various leave and reasonable accommodation requirements, any additional absences can be unpaid. Employers may want to consider providing additional paid leave, however, to encourage employees to remain home when ill rather than coming to work.

Some employees just do not want to come to work out of fear of contracting CV. Can we require them to come to work anyway, or discipline them if they do not?

Generally, if employees want to stay home only because they are afraid of becoming ill, you can require them to be present or face discipline. Before taking action, however, you should review your employee policies and any collective bargaining agreement to see if there are applicable provisions that would affect the steps that you can take.

Additionally, consider whether there are circumstances involving any particular employee that would require an exception. For example, an employee with a health condition that may put the employee at greater risk of a severely negative reaction to CV could be entitled to remain at home as a reasonable accommodation of a disability.

Can we still require work-related travel?

To the extent that work-related travel is not critical, employers should consider postponing such travel. This is particularly true for travel to or from areas with a high incidence of reported cases of CV.

If travel is nonetheless necessary, encourage employees who travel as part of their job responsibilities to follow the current guidance available from the [CDC Website](#), or local health authorities, and to promptly notify their supervisor if they become sick while traveling. Supervisors should monitor this information as well, so that they can reconsider travel assignments when warranted.

Be aware that travel expectations, just like other work responsibilities, may also need to be adjusted to reasonably accommodate a disability if an adjustment can be done without imposing an undue hardship on the business. For example, if an employee has a condition that makes the person particularly vulnerable to CV, be sure to consider appropriate exceptions to travel and other expectations to comply with your obligations under disabilities laws.

May we require a doctor's note releasing an employee to return to work?

While there may be no specific prohibition on asking for a return to work note in order to avoid inviting potential exposure into the workplace, health care officials are strongly requesting that employers not ask for such notes, given the significant burdens on them at this time.

Additionally, there may be limitations imposed under federal, state, or local paid leave and privacy laws whenever an employer asks for medical documentation, including timing and content limitations. Consequently, we recommend that unless you have strong reasons to believe that an employee has not been symptom-free for at least 24 hours without medication, you do not ask for a return to work note. We also suggest that, even then, you consult with an attorney before requesting such a note.



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