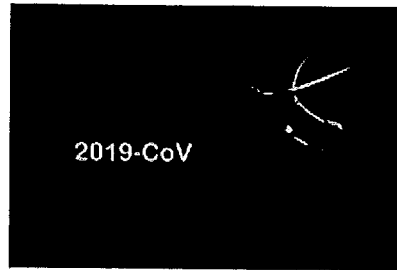


Ten Steps Employers Should Take to Address Coronavirus in the Workplace



As anxiety grows in the nation and the world about the spread of the coronavirus, employers are increasingly aware of the need to address it as a workplace issue. Here are ten steps that employers should take immediately to address the issue:

Direct all employees that if they are sick they must stay home. This includes every level of administration and operations. If an employee reports to work with any viral symptoms (including cold and flu symptoms), send them home immediately. Inform employees that rather than being thought of as extra dedicated when they come to work while sick, they could subject themselves to disciplinary action for unnecessarily exposing co-workers and the public to their illness, as well as possibly creating disruption and disturbance among staff who fear being exposed to illness.

Provide educational information on coronavirus as well as other common viruses, such as flu and colds. Address common myths about coronavirus for co-workers and the public by making available reliable information about it, how it is spread, and how to prevent its spread. Hold mandatory staff training on how to avoid spreading viruses. Knowledge is power.

Direct employees to report on recent travels and possible exposure to coronavirus as part of assessing the overall threat of harm to co-workers and the public, but act uniformly in your inquiries. Avoid stereotyping which could lead to complaints of discrimination. For instance, do not only ask employees of Asian descent whether they might have been exposed to the coronavirus.

Consider sending employees for testing-if you reasonably suspect they may be carrying the virus. Although the virus is considered a temporary illness, not subject to coverage under the ADA as a disability, under Section 1630.2(r) of the ADA, an employer may direct an employee to undergo a medical evaluation if the employee's condition could pose a "direct threat," to the workforce due to the employee's medical condition. Under the ADA, a "direct threat" is defined as "*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.*" A direct threat analysis is always done as a case by case analysis, but employers should consider:

1. the duration of the risk;
2. the nature and severity of the potential harm;
3. the likelihood that the potential harm will occur; and
4. the imminence of the potential harm."

Consider suspending disciplinary action based on absences. Many employers use a point system to ensure uniformity of discipline related to absences, so that each absence garners an employee a point or half of a point, depending on the circumstance. An employee receives disciplinary action when they have accumulated a certain number of points. This normally prevents sick leave abuse, but during a time when employers actually want to encourage the sick to stay home, it may be worthwhile to temporarily suspend the practice at least as to viral symptoms.

Provide hand sanitizers and surface sanitizers to all employees. Direct employees to use them liberally, especially those who interact with the public. Encourage all employees to frequently wash their hands with appropriate signage in restrooms and kitchen/break areas.

Consider whether certain employees can telecommute. Should exposure become more widespread or pandemic concerns increase, it is important to have a plan for telecommuting for workers who are either sick or possibly quarantined. Additionally, fewer employees in the workplace result in less exposure to all. Identify job titles that can be done from home and develop a procedure to monitor this work. A good telecommuting policy for non-exempt workers must include clear directives to avoid both unapproved overtime as well as accountability for scheduled work hours.

Afford FMLA protections when applicable. This includes, as always, the employee's serious illness as well as when caring for a family member with a serious illness. The FMLA likely covers periods of quarantine as well, regardless of whether the employee actually becomes ill from the virus.

Discipline employees who refuse to come to work out of general fear of exposure to coronavirus. Employees who have no reasonable grounds to believe that coming to work will increase their risk of coronavirus exposure beyond the risk of being among others in the general population, can and should be directed to report to work unless they have available and appropriate benefit time to use to allow them to be absent. If they refuse to report to work, they are subject to disciplinary action for insubordination.

Consider canceling all non-essential business travel. This more likely addresses the general concerns of employees about airplanes and crowd exposure, as opposed to actually reducing the risk of exposure, but maintaining calm and trust with staff that their well being is a concern is valuable to efficiency and morale.