

March 11, 2020

Important Reminders for Employers When Handling COVID-19 Concerns

Human Resources & Employment

In our [blog post back in February](#), we urged employers to develop and implement a plan to address the impact of a pandemic in the workplace. Since last month, COVID-19 (Coronavirus) has spread across 100 countries with over 120,000 total cases. In the United States, more than 1,000 cases have been reported – a statistic that doubled in recent days.

Obligation To Keep Updated: As companies require remote work, universities transition to online learning and even politicians cancel rallies, the effects of COVID-19 on the workforce are considerable. Just today, the World Health Organization declared COVID-19 a global pandemic. During a pandemic, the EEOC instructs employers to *“rely on the latest CDC and state or local public health assessments. While the EEOC recognizes that public health recommendations may change during a crisis and differ between states, employers are expected to make their best efforts to obtain public health advice that is contemporaneous and appropriate for their location, and to make reasonable assessments of conditions in their workplace based on this information.”* Now is the time for employers to check federal and state health department websites regularly for guidance on how to keep workers, clients and visitors safe.

ADA Limitations Still Apply: The situation is evolving rapidly, and it can be unsettling. Employers must remember (and remind leadership) that the Americans With Disabilities Act’s limitations still apply, no matter how tempting it is to pry into an employee’s trip to a doctor – or a foreign land. For example, employers can send employees home if they display flu-like symptoms, but employers may not ask asymptomatic employees if they have a medical condition that the CDC says makes them more vulnerable to COVID-19.

In situations when the CDC or local health officials are recommending self-quarantine upon return from certain locations, employers may ask whether employees are returning from those locations, but must not discriminate based on race or other protected statuses in who they are asking. If employers offer remote working arrangements, then employees who had accommodations at the office are also entitled to accommodations at their remote worksite, provided there is no undue burden in doing so.

To make quick, effective decisions for your company, consider these questions:

Ask your technology team:

- Who comprises our workforce? Can they work remotely?
- If they cannot work remotely currently, is there equipment we can provide to make that happen?
- If everyone works remotely, *will the systems work?*

Ask your human resources team:

- If employees must be onsite, have we communicated proper etiquette around handwashing, coughing, shaking hands, sharing office supplies and social distancing?
- If employees feel sick, have we communicated that they should not come to work?
- If employees look or act sick at work, have we trained our supervisors and managers on how to approach them?

- If employees ask for an accommodation due to COVID-19, have we trained our human resources team to engage in an interactive process?

Ask your finance team:

- How will we compensate non-exempt employees? Is paid sick leave, PTO and/or short-term disability an option?

Ask your building maintenance team:

- What measures can we take to regularly sanitize the worksite?