

## Publication

---

03/12/2020

### Client Alert: Employer Considerations for Preparing the Workplace for COVID-19

On March 9, 2020, the Occupational Safety and Health Administration (OSHA) issued its "Guidance on Preparing Workplaces for COVID-19" to instruct employers how best to reduce their employees' risk of exposure to COVID-19 and maintain a safe and healthful workplace. The guidance is based on traditional infection prevention methods and includes workplace hygiene best practices; it is not a new regulation and does not create any legal obligation.

Employers should use this guidance to help identify and minimize risks in the workplace and to develop their own plan for pandemic conditions. Employers also should be mindful that their COVID-19 preparedness plans stay in compliance with other employment-related laws and regulations, such as the Americans with Disabilities Act, the Fair Labor Standards Act, and the Family and Medical Leave Act, as well as state and local laws concerning sick leave.

If you have any questions about changes to workplace policies and practices in light of COVID-19, including but not limited to ensuring compliance with other employment-related laws and regulations, do not hesitate to contact William J. Tarnow, Alexis M. Dominguez, Corinne Biller, or any other member of Neal Gerber Eisenberg's Labor & Employment group.

---

#### CLIENT SERVICES

Labor & Employment  
COVID-19 Insights

---

#### RELATED PEOPLE

Alexis M. Dominguez  
William J. Tarnow II

To prepare your company for COVID-19, please consider the following recommendations:

**1) Develop an Infectious Disease Preparedness and**

**Response Plan:** If one does not already exist, employers should develop an infectious disease preparedness and response plan that can help guide employees to take protective action against COVID-19. In particular, plans should address the risks that employees might face at various worksites and/or while performing certain work tasks. Such considerations include:

- where, how, and to what sources of COVID-19 might workers be exposed;
- non-occupational risk factors at home and in the community;
- worker's individual risk factors, such as age, chronic medical conditions, immunocompromising conditions, and pregnancy status; and
- controls necessary to address those risks.

Plans also should address situations that may arise as a result of a broader COVID-19 outbreak, including increased rates of worker absenteeism, the need to implement exposure reducing measures, options for operating with a reduced and/or remote workforce, and interrupted supply chains for business activities.

**2) Implement Basic Infection Prevention Measures:**

Although such measures necessarily will depend on the industry and composition of the workforce, all employers can help promote good hygiene and infection control measures in the workplace. Examples of such measures include but are not limited to:

- promoting frequent and thorough hand washing and respiratory etiquette (i.e. covering coughs and sneezes) to all employees and visitors;

- providing alcohol-based hand sanitizer in bathrooms and other high-traffic areas;
- increasing the frequency of cleaning and disinfecting of high traffic spaces and high-touch surfaces to reduce contamination and spread;
- providing customers and the public with no-touch trash receptacles;
- exploring whether flexible workplace policies and procedures are feasible;
- encouraging (or requiring) workers to stay home if they are feeling ill; and
- discouraging employees from using phones, desks, offices, and other tools belonging to others.

**3) Develop Policies and Procedures for Identification of and Response to Sick Employees:** CDC guidance suggests that COVID-19 most commonly spreads via close contact with a sick person (i.e. within 6 feet); thus, employers should do what they reasonably can to protect employees from prolonged/repeated contact with such persons in the workplace. To that end, employers should advise employees to self-monitor for flu-like symptoms; be clear that employees should report feeling ill and/or possible exposure. Employers that already have telecommuting policies in place should reiterate that employees who feel ill or otherwise suspect that they may have been exposed to the COVID-19 should utilize of such policies, while employers that do not already have such policies in place should consider implementing them, if feasible. For those industries that cannot sustain employees working from home (i.e. healthcare, manufacturing, etc.), employers should provide reasonable personal protective equipment (PPE), when possible, and consider specific areas of the worksite that may be used to isolate employees who develop symptoms while working.

#### 4) Implement and Communicate about Workplace

**Flexibilities and Protections:** Employers should ensure that sick leave policies are sufficiently flexible to allow employees to care for themselves and their family members. Employers should not require a healthcare provider's note validating the presence of COVID-19 in order to justify an employee's absence from work; rather, employees who are experiencing flu-like symptoms should be encouraged to stay home until their symptoms resolve. Employers with contract workers also should ensure that such policies and practices are appropriately communicated to these workers as well.

**5) Implement Workplace Controls:** In addition to encouraging (or requiring) sick employees to limit their presence in the workplace, employers also should consider implementing certain workplace controls to further reduce the spread of the virus in U.S. workplaces. Such controls may include, but are not limited to:

- encouraging (or requiring) sick workers to stay home;
- minimizing contact among workers, clients, and customers by replacing in-person meetings with virtual meetings and implementing remote work, if feasible;
- conduct testing of technological capabilities and business systems to ensure support of remote work for extended periods;
- implementation of hygienic controls such as providing tissues, no-touch trash cans, hand soap, and hand sanitizer dispensers;
- changing or adding existing shifts so as to reduce the total number of employees in the facility at a given time;
- cancellation of nonessential business travel to locations with ongoing COVID-19 outbreaks;

- imposition of self-quarantine after all travel to locations with ongoing COVID-19 outbreaks;
- developing an emergency communications plan;
- providing workers with education and training on COVID-19 risk factors and protective behaviors;
- providing training to employees on the proper use of PPE; and
- installation of physical barriers, such as clear plastic sneeze guards, where feasible.

If you have any questions regarding this OSHA guidance or other Labor and Employment issues, please do not hesitate to contact Bill Tarnow, Alex Dominguez, Corey Biller or your Neal Gerber Eisenberg attorney.

---

*The content above is based on information current at the time of its publication and may not reflect the most recent developments or guidance. Neal Gerber Eisenberg LLP provides this content for general informational purposes only. It does not constitute legal advice, and does not create an attorney-client relationship. You should seek advice from professional advisers with respect to your particular circumstances.*