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Proactive Steps for Employers to Take in Light of the Coronavirus (COVID-19) Outbreak

March 6, 2020

As COVID-19 spreads throughout the United States and around the globe, employers are wondering what they can or should be doing to ensure health and safety among their personnel.

We have listed below the key steps that we believe employers should implement or consider implementing.

Given that this is a rapidly evolving topic, employers should regularly monitor the Centers for Disease Control & Prevention website and similar websites for local authorities for any updated guidance as the situation evolves. In addition, employers should consult counsel on specific situations that are not covered by these general guidelines.

1. **Designate a Point Person or Team.** One employee (or a team of employees) should be tasked with leading the effort on coronavirus readiness and response. Employees should be informed as to how, and to whom, to report any potential exposure to coronavirus.

2. **Monitor Daily for Official Updates.** A designated individual should check the CDC website every day for any changes in the CDC's guidance. The CDC has specific guidance regarding workplaces, schools, large community events and healthcare settings.

   The same designated individual should also check for updates on any local or state government pages, such as the California Department of Health or the San Francisco Department of Health.

   By complying with any such official guidance, employers can demonstrate that they are taking reasonable steps to protect employees in the workplace.

3. **Create an Infectious Disease Outbreak Response Plan.** Employers should review their current emergency plans and consider preparing one specifically focused on COVID-19. The CDC has provided guidance regarding key considerations in drafting such a plan.

   The goal of any such plan should be to minimize exposure risk while also maintaining business operations. Employers should ensure the plan is flexible and consistent with applicable law and public health recommendations. Employers might also consider testing their plan for any gaps and ensuring they have updated contact information for employees in case of emergencies or office closures.

4. **Limit Business Travel to Affected Areas.** Employers should regularly consult the Travel Health Notices posted by the CDC and curtail all business travel to areas that are listed as "Warning Level 3, Avoid Nonessential Travel." Employers with operations or facilities in areas listed as CDC Level 3 should consult with local counsel on appropriate steps to ensure workplace safety.

5. **Consider Limiting Business Travel to Other Areas.** Employers should consider curtailing business travel to other locations, including those listed by the CDC as "Alert Level 2, Practice Enhanced Cautions." Some employers are taking broader steps to limit all nonessential business travel for the time being. Regardless, if an employee expresses concerns or refuses to engage in business travel due to fear of COVID-19, the employer should take such concerns seriously and explore alternatives, such as holding videoconferences or postponing the travel.

6. **Suggest That Employees Limit Personal Travel.** It may be unlawful to require employees to refrain from engaging in personal travel to affected areas. However, employers can ask that employees exercise caution in their personal travel decisions and require employees to notify the employer if they do travel to an area that is CDC Level 2 or 3. Employers can also warn employees that if they do choose to engage in such travel, they may be asked to work from home upon their return and demonstrate they are symptom-

free before returning to the worksite. If an employer chooses to adopt such a policy, it should notify employees in writing and ask that they acknowledge such notice.

7. **Consider Limiting Large Work Events.** In its most recent guidance, the CDC suggested employers consider cancelling large work-related meetings and events. Employers should review any large upcoming events and consider whether to cancel or reschedule them or to arrange for such events to take place via videoconferencing software. Employers can also suggest employees exercise caution in attending large non-work events but should not punish employees for engaging in lawful off-duty conduct.

8. **Consider Limiting In-Person Meetings and Visitors to the Workplace.** Encourage employees to conduct meetings by videoconference when possible. Employers in higher-risk locations can consider limiting visitors to their worksites or asking visitors to verify whether they have potentially been exposed to COVID-19.

9. **Instruct Employees on Proper Hygiene.** Send an email communication to employees with reminders on cough and sneeze etiquette and hand hygiene. Asking employees to acknowledge having read the email can help ensure they take the time to review the information. The CDC also recommends employers place posters relating to these concepts in the entrance to the workplace and other workplace areas where they are likely to be seen (such as bathrooms and kitchens).

10. **Stock the Workplace with Adequate Supplies.** To reinforce messages about proper hygiene, provide employees with tissues, no-touch disposal receptacles and hand sanitizer. Placing these materials throughout the workplace and in conference rooms (and even placing posters next to these items) helps encourage good hygiene habits.

11. **Perform Routine Workplace Cleaning.** Ensure frequently touched workspaces are routinely cleaned, and provide disposable wipes that employees can use to wipe such surfaces after using them. The CDC is not recommending any additional disinfection beyond routine cleaning at this time. However, if an employer learns an employee might have been exposed to the virus, the employer may consider taking additional measures.

12. **Instruct Sick Employees to Stay Home.** The CDC currently recommends that employees with symptoms of acute respiratory illness stay home and not come to work until they are free of fever or other symptoms for at least 24 hours without the use of symptom-altering medicines. Employers can rely on this guidance and instruct employees to comply with it.

    Consider how federal and state leave and disability laws and the employer's own policies may apply to sick employees or employees taking care of sick family members. Such employees may be eligible for paid leave under an employer's policy, short-term disability or paid family leave benefits through the state, or similar benefits through a private insurer.

    Employers should consult their policies and applicable laws to determine whether it is appropriate to require a sick employee or an employee who took care of a sick person to produce a doctor's note before returning to work. The CDC warns that medical facilities may be busy and unable to provide such documentation in a timely way. If that is the case, employers can consider allowing the employee to work remotely while waiting to receive the certification.

13. **Consider Instructing Potentially Exposed Employees to Stay Home.** The CDC is regularly updating its risk assessment guidelines for individuals who have traveled to high-risk areas or been in contact with others who have tested positive for COVID-19. If an employee reports any such travel or exposure, employers should apply the CDC's risk assessment guidelines as a reasonable step to protect other employees.

    Current common guidance is that employees who have traveled to a CDC Level 3 country or otherwise report potential exposure should be instructed not to come to the workplace for at least 14 days after exposure. However, employers should regularly check for updates from the CDC or local authorities and comply with the most recent available guidelines.

    If employees are asked to stay home due to possible exposure but are not yet exhibiting symptoms, consider whether it is feasible to ask them to work remotely. If remote work is not possible due to the nature of the employee's role, consider whether to put the employee on paid or unpaid leave. Federal and state laws may impact this analysis. Note that employees who are temporary furloughed may be eligible for state unemployment benefits.

14. **Respond Swiftly to Any COVID-19 Diagnosis.** If an employee reports they have tested positive for COVID-19, the employer should respond swiftly but carefully to protect other employees from exposure and respect the privacy of that individual. The CDC is currently recommending employers inform fellow employees of their possible exposure to COVID-19, but the employer should refrain from disclosing the identity of the affected employee. Employees may also be required to notify relevant public authorities and should consider taking steps to decontaminate or temporarily shut down the workplace.

15. **Be Prepared for Increased Requests to Work from Home.** Employers should expect increased absenteeism and requests to work from home, even from employees who do not exhibit symptoms or have reason to think they have been exposed to the virus. Some companies have recently announced office closures. In addition, school and daycare programs may close, leaving employees without childcare arrangements. Others may have particular health risks that require them to take extra caution against potential exposure to the virus.

    Be prepared to respond to these requests in a consistent way that addresses any legitimate concerns from the employee and ensures productivity can be maintained. Identify essential business functions required to maintain operations, and consider how those functions can be performed from home. Identify those functions that cannot be performed remotely (i.e., receptionist or facilities-related duties), and consider how to respond to remote work requests from those employees. Be clear that any work from home arrangement is temporary in light of the current situation to avoid setting a precedent that employees can work from home indefinitely.

    Update work from home policies so performance can still be monitored for remote workers. If employees are required to work from home, be prepared to reimburse related expenses. Ensure non-exempt employees continue to accurately record their hours worked and take all applicable meal and rest breaks.

    Coordinate with IT to ensure your systems are prepared for an increase in employees working from home. Make sure company confidential information (in both electronic and hard copy form) is adequately protected.

16. **Avoid Discrimination and Harassment.** Employers should be careful to implement policies, procedures and protocols in a way that does not single out employees based on any protected characteristic, but particularly national origin or ethnicity. There have already been reports of xenophobia and backlash toward Asian employees, and particularly Chinese workers. The CDC has explicitly warned the public not to assume that someone of Asian descent is more likely to have COVID-19.

Coronavirus resource hub

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