



Coronavirus/Covid19 and Your Workforce FAQ'S

Employees Who Refuse to Work with Customers

Employees in specific industries, particularly healthcare, are more susceptible to transmission.

- Cal-OSHA has issued interim guidance for healthcare workers:
<https://www.dir.ca.gov/dosh/Coronavirus-info.html>
- Service refusals based on employee concerns must carefully be assessed to determine actual risk.
- Businesses must consider how they will handle employee requests to refuse service to a customer based on travel or signs/symptoms.
- Avoid the appearance that a customer is being denied service due to the customer's race, national origin or ancestry.

Important Considerations:

Discrimination laws require employees be treated equally, without regard to race, national origin, ancestry or any other protected characteristic.

- Perception/association claims
 - Decisions about sending employees home, requiring a doctor's note, placing an employee on leave, etc. must be made without regard to the above.
 - Choose a path and be consistent.
- Don't tackle this alone.

General Employer Questions:

1. Will coronavirus contracted in the workplace be covered by workers' comp?
If COVID-19 is contracted by an employee in the course of the employee's work, provide workers' compensation paperwork.

2. Some workers' compensation legal analysts have suggested carriers will deny claims.

Answer: This is highly fact-specific and ultimately will be up to the insurance carrier.

Should we be buying face masks for the workplace?

3. CDC, Steps to Prevent Illness:

"If you are NOT sick: You do not need to wear a facemask unless you are caring for someone who is sick (and they are not able to wear a facemask). Facemasks may be in short supply and they should be saved for caregivers."

Answer: According to the CDC, no.

4. Do we have to pay employees if we send them home?

- Reporting time pay applies if non-exempt employees are sent home from work, unless an exception applies.

- <https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm>

- Non-exempt employees do not otherwise need to be paid.

- Exempt employees must be paid their full salary for any week in which they perform any work.

- Deductions may be made from leave banks and under certain other limited circumstances, as usual.

- Employees may utilize accrued paid time off.

Answer: Yes, under some circumstances.

Do we notify employees if a coworker has been sent home due to exposure? How about customers? How?



5. If an employee is sent home due to potential exposure to a confirmed/presumptive case of COVID-19, identify each person with whom the employee was in close proximity during the relevant period of time.
- Advise affected employees/customers of potential exposure.
 - Do not identify the employee by name.
 - Emphasize no diagnosis; no symptoms; abundance of caution
 - Will notify immediately if the employee is diagnosed
 - Business decision: quarantine, self-quarantine, or advise only?

Answer: Yes.

Employer Resources

- Disaster Loan Assistance Program: <https://disasterloan.sba.gov/ela/>
- CDC Employer Guidance: <https://www.cdc.gov/coronavirus/2019-ncov/specificgroups/guidance-business-response.html>
- Cal-OSHA Guidance on Protecting Workers: <https://www.dir.ca.gov/dosh/coronavirus/Health-Care-General-Industry.html>
- EEOC Pandemic Flu Guidance: https://www.eeoc.gov/facts/pandemic_flu.html
- DIR Coronavirus Wage & Hour Guidance: <https://www.dir.ca.gov/dlse/2019Novel-Coronavirus.htm>
- DIR (Cal-OSHA) Guidance for Healthcare Workers: <https://www.dir.ca.gov/dosh/Coronavirus-info.html>
- DOL FMLA Q&A: <https://www.dol.gov/agencies/whd/fmla/pandemic>

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