

# Best Practices for Employers In the Age of Coronavirus (COVID-19)

Newsletter from The Maloney Firm, APC

The Coronavirus pandemic requires employers to address a host of new issues and challenges. Given the coverage of the coronavirus in the news, we will jump right to the issues impacting California employers.

## **1. Communicate!**

- Let your employees know they should not come into work if they are sick.
- Remind employees they have paid sick days to use when they are sick.
- Allow employees to use other paid time off if they have exhausted their sick days.
- Encourage employees to work remotely, if your business allows, and let them know they may utilize this option.
- It may be necessary to accommodate Infected or at risk employees by allowing them to work from home.
- In light of recent school closures, parents may also need to work from home.
- Monitor employee travel, particularly if they are traveling to highly affected areas.

## **2. Ensure Employees are Paid Properly**

- If an hourly or salaried employee works remotely, remember they must be paid.
- If you permit an hourly employee to work remotely, ensure they can and do properly account for their hours worked, lunch breaks, overtime, etc.
- If employees are required to use personal devices for working remotely, consider potential reimbursement for internet data, phone usage, etc.

## **3. Determine if you must comply with Family and Medical Leave Act (FMLA) or California Family Rights Act (CFRA) requirements. FMLA/CFRA applies to Employers with more than 50 employees.**

- An employee who has worked more than 1250 hours in the past 12 months and has worked for your business at least 12 months is entitled to FMLA and CFRA leave.
- Qualified employees may take up to 12 weeks of unpaid leave to deal with a serious medical condition or to care for an immediate family member's serious medical condition.
- If your employees are subject to a Collective Bargaining Agreement (CBA) or additional paid time off is provided, make sure to comply with those policies as well.

## **4. California State Disability Insurance May Be Available**

- The Employment Development Department (EDD) announced that employees may apply for disability benefits if they are infected with COVID-19.
- State Disability Insurance (SDI) provides benefits, after a seven-day waiting period.
- Employees may also apply for Paid Family Leave (PFL) benefits if caring for a family member who is sick with COVID-19.

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## **5. Comply with the Health Insurance Portability and Accountability Act (HIPAA)**

- Keep employee health information confidential.
- Employers are permitted to share information about an employee's location or general condition to certain friends and family only if needed for the employee's care.
- Employers can only use and disclose only the minimum amount of information necessary to treat a patient, protect public health, or stop a serious and imminent threat to health and safety.
- Under no circumstances should an employer tell fellow employees the identity of one of their COVID-19 carrying coworkers.

## **6. Pandemic Guidance from the Equal Employment Opportunity Commission (EEOC)**

- Since COVID-19 has been declared a pandemic, employers may be able to require employees who show symptoms to go home or stay at home to recover
- Employers may also ask employees who have traveled to affected areas or who may have been exposed to COVID-19 to stay home.
- An employer may ask why an employee failed to report to work.
- Discrimination, harassment, and retaliation are prohibited on the basis of race/national origin, among other protected categories, including disability and health issues. Remind employees that violations will not be tolerated and please report it if witnessed.

## **7. Practical Considerations for Employers**

- Consider cross-training employees to make sure that essential functions continue if an employee must be out of the workplace.
- Prepare contingency plans for serving customers if service channels are disrupted.
- Determine if temporary staffing agencies may be able to help avoid service disruptions.
- Review contracts for potential liability in the event that a business is unable to meet with the requirements.
- Consider canceling non-essential meetings or gatherings with large groups.
- Make hand sanitizer and soap available in public meeting areas, break rooms, etc.

## **8. Review Your Insurance Coverage**

- If your business is shut down or experiences a significant loss, check with your broker or insurance agent to see if you may be covered.
- Determine if insurance covers your business in the event a customer or employee claims negligence led to exposure and infection.

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## 9. Resources

- Center for Disease Control - <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- CalOSHA guidance - <https://www.dir.ca.gov/dosh/Coronavirus-info.html>
- Federal OSHA - <https://www.osha.gov/SLTC/covid-19/>
- World Health Organization - <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>
- EEOC - <https://www.eeoc.gov/>
- COVID-19 Testing Kits - <http://www.diseasedetector.net>
- Los Angeles County Department of Public Health - <http://publichealth.lacounty.gov/>
- Beach Cities Health District - <https://www.bchd.org/>

**For help with any questions you may have:  
Contact The Maloney Firm**



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