

COVID-19 Anti-Retaliation Ordinance FAQ

What is the COVID-19 Anti-Retaliation Ordinance?

- Mayor Lightfoot made it clear: if you are sick, stay home. Yet current paid sick leave laws do not protect employees from being fired if they remain at home with COVID-19 symptoms or are subject to a quarantine order or isolation order.
- Under the COVID-19 Anti-Retaliation Ordinance, an employer cannot terminate or demote an employee who follows an order from the Mayor, the Governor, the Chicago Department of Public Health (CDPH), or a private medical provider to stay at home due to COVID-19.

Under what circumstances can an employee stay at home without fear of termination or demotion?

- Under the proposed COVID-19 Anti-Retaliation Ordinance, an employer cannot terminate or demote an employee who follows an order from the Mayor, the Governor, the Chicago Department of Public Health (CDPH), or a private medical provider to:
 - Remain at home or seek medical treatment because the employee is experiencing COVID-19 symptoms;
 - Obey the Stay at Home Order by staying home from a non-essential business;
 - Obey a quarantine or isolation order; or
 - Obey a CDPH order regarding the duties of hospitals and other congregate facilities to take efforts to reduce potential transmission of COVID-19.

Under what circumstances may an employee still be required to come into work?

- Under current public health orders, employees at essential businesses may still be expected to work and could face discipline for failing to come to work.
- Furthermore, the most recent guidance from the Chicago Department of Public Health indicates that critical infrastructure workers may be expected to continue working after potential exposure to COVID-19, provided they are not experiencing symptoms.

How will this ordinance be enforced?

- The Office of Labor Standards within the Department of Business Affairs and Consumer Protection may take enforcement actions against a business that violates the ordinance, including fines for each violation that the Director of Labor Standards identifies. Employees are encouraged to submit complaints by calling 3-1-1.
- An employee who is terminated or demoted for one of the prohibited reasons under the ordinance may also file a lawsuit. An employee who files a lawsuit may be eligible for reinstatement, three times the value of backpay, and attorney's fees.

What does a business need to do to comply with this ordinance?

- Compliance with this ordinance is simple: a business must avoid terminating or demoting any employee for remaining at home pursuant to the directives of public health officials. If a business reasonably but mistakenly believes that it is following

public health guidelines, it will not be liable under the ordinance if it cures the mistake within 30 days.

How does this ordinance compare to the Chicago Paid Sick Leave Ordinance and the expanded Paid Sick Leave protections in the Families First Coronavirus Response Act (FFCRA)?

Don't they already protect workers?

- Although each of these laws offer important protections for workers during the COVID-19 crisis, they both have significant gaps that the COVID-19 Anti-Retaliation Ordinance fills.
- The Paid Sick Leave Ordinance guarantees that workers can accrue at least one hour of Paid Sick Leave for every 40 hours worked and ensures that workers can use this accrued time off for various purposes, including many that would fall under COVID-19. However, it does not protect an employee who seeks time off for a quarantine order, which applies to someone who is not sick but has been exposed to someone else who is sick. Additionally, the Paid Sick Leave Ordinance only provides an employee with a limited number of paid hours; once those are exhausted, the employee does not have any additional protection against termination.
- The COVID-19 protections in the FFCRA do not apply to nearly 80 percent of employees within Chicago, as it excludes all businesses with more than 500 employees and may exempt businesses with less than 50 employees. Like the Paid Sick Leave Ordinance, it also limits an employee to a certain number of paid hours of sick leave.