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BLOGS

COVID-19; Workplace Policies

Creating a COVID-19 Policy Is Not Enough: Don't Forget to Enforce It, Too

As we approach the second anniversary of the first confirmed U.S. case of COVID-19, it is hard to believe that we are two years into this global pandemic. Pre-2020, we likely never imagined we'd use the phrase "unprecedented times" so often, that toilet paper would become the hottest commodity for a time, or that we would contribute to a massive surge in shares of a company called Zoom. For many of us, our work lives changed in a number of ways, one of which being that the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) created standards designed to mitigate the risk of spreading the highly contagious COVID-19 virus through work. As more employees begin to return to communal working environments, it is important for employers to keep in mind that any policies they implement to satisfy legal obligations and otherwise promote safety regarding COVID-19 need to actually be enforced – otherwise, they could face serious ramifications.

Consider, for example, what happened to Sanoh America. OSHA received a complaint that the company's plant located in Mount Vernon, Ohio was not adhering to both internal and federal guidelines designed to minimize the risk of spreading COVID-19. Sanoh had implemented a social distancing policy in March 2020 and a mask-wearing policy in May 2020, but it reportedly became lax in policy enforcement over the next few months. After OSHA conducted an inspection on August 12, 2021, it found that over sixty Sanoh employees had tested positive for COVID-19 because Sanoh was not enforcing the policies it created months earlier. By the end of August 2021, that number had grown to almost ninety. Several employees were hospitalized, and multiple deaths occurred – one of which was determined by OSHA to have been work-related. Sanoh was cited for multiple OSHA violations, including failure to record a work-related death, and was assessed penalties totaling more than \$25,000.

Given the [OSHA vaccine Emergency Temporary Standard \(ETS\) seesaw](#), employers might be wondering about the scope of OSHA's role these days. According to the Columbus, Ohio Area Director of OSHA, employers will be held "accountable for failing to meet their obligations to minimize worker exposure to the coronavirus," including their internal policies as well as federal standards and guidelines.

Employers should be aware that instituting a policy designed to reduce the risk of spreading COVID-19 is one thing, but actually enforcing it is another and is critical. Taking the necessary steps to enforce safety policies can quite literally save lives. As the nation waits with bated breath for federal courts to reach a final determination on OSHA's vaccine ETS, employers should continue to ensure that their workforce is adhering to their internal policies, as well as all federal guidelines related to the coronavirus. The health and safety of your employees may depend on it.