

**BLOGS**

COVID-19;Workplace Safety

OSHA Issues Additional Guidance for Employers in Responding to COVID-19

Public health officials and business leaders are grappling with how to respond to the increasing number of presumptive and confirmed cases of COVID-19 across the United States. Seattle has closed public schools for two weeks in light of coronavirus and banned large gatherings, including sporting events. This week, many higher education institutions, including the University of Minnesota, Duke University, Georgetown, and the University of Notre Dame, canceled in-person classes and announced that they are temporarily switching to an online learning environment. Nationally, various music festivals, conferences, sports and other events have been canceled in light of concerns about the spread of coronavirus. In addition, on March 11th, President Trump announced that the U.S. would ban most incoming travelers from Europe except for individuals arriving from the U.K. With all of this going on, what are some things that employers should do to ensure that their workplaces stay as safe and healthy as possible?

In addition, employers should continue to proactively track federal, state and local government guidance on the evolution of COVID-19 and recommendations for businesses.

One organization that has issued new guidance this week is the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). On March 9, 2020, OSHA published Guidance on Preparing Workplaces for COVID-19. While the Guidance is not legally binding and does not impose any new legal obligations on employers, it is a helpful resource for employers in ensuring their workplaces are safe and healthy.

The 35-page OSHA guidance document identifies steps that all employers can take to reduce the risk of employee exposure to SARS-CoV-2 (the virus that causes COVID-19), as well as specific recommendations to protect workers based on their occupational risk of exposure to the virus. OSHA recommends that all employers:

- stay on top of guidance from federal, state, local, tribal, and/or territorial recommendations and resources about the workplace;
- develop an infectious disease preparedness and response plan that can guide protective actions against COVID-19, including:
 - identification of the ways employees may be exposed to the virus in the workplace;
 - a plan to implement recommendations made by public health officials, such as contingency planning for increased absenteeism or the need for social distancing, staggering of work shifts, downsizing operations, delivering remote services, or adopting other exposure-reducing measures; and planning for interrupted supply chains or delayed deliveries; and
 - identifying other steps to reduce the risk of worker exposure in the workplace

- prepare to implement basic infection prevention measures by:
 - encouraging frequent and thorough handwashing, including providing workers, customers, and worksite visitors a place to wash hands or alcohol-based hand rubs;
 - encouraging workers to stay home when sick;
 - encouraging good respiratory etiquette (covering coughs and sneezes);
 - providing tissues and trash receptacles to customers;
 - establishing policies and practices like flexible worksites or hours when the appropriate health authorities recommend the use of social distancing;
 - discouraging the sharing of phones, desks, offices, or other work tools and equipment, where possible; and
 - maintaining regular housekeeping practices and using cleaners with EPA-approved emerging viral pathogens claims in accordance with manufacturers instructions
- develop policies and procedures to promptly identify and isolate sick individuals, where appropriate;
- develop, implement, and communicate about workplace flexibilities and protections, including:
 - actively encouraging sick employees to stay home;
 - adopting sick leave policies that are flexible and consistent with public health guidance;
 - ensuring employees know and understand sick leave policies, including how to report that they are sick or experiencing symptoms of COVID-19;
 - communicating with companies providing contract or temporary employees the importance of such employees staying home when sick; and
 - providing training about proper hygiene practices and workplace controls, such as personal protective equipment (PPE).

As medical and public health knowledge of the respiratory illness caused by the coronavirus continues to evolve, the Guidance also identifies various ways to control what OSHA terms workplace hazards, including exposure to COVID-19. Some of these control measures include engineering controls (e.g., isolating employees from work-related hazards such as physical barriers like sneeze guards, ventilation symptoms, or drive-thru windows), administrative controls (e.g., discontinuing nonessential travel to locations with ongoing COVID-19 outbreaks, changing shifts to increase distance between employees during workweek), safe work practices (e.g., creating a work environment that promotes personal hygiene, requiring hand washing or use of alcohol-based hand rubs), and appropriate use of employer-provided PPE when appropriate based on the nature of the work performed (e.g., facepiece respirators for those working within 6 feet of patients known to be, or suspected of being, infected with SARS-CoV-2). The Guidance also provides specific steps that employers should consider taking to protect employees performing very high exposure risk jobs to those who perform lower exposure risk jobs.

While OSHA does not have a specific standard covering COVID-19, the agency has identified a number of general OSHA requirements that may apply and will minimize the risk of occupational exposure to COVID-19. OSHA states that the most relevant standards for employers are:

- OSHAs Personal Protective Equipment (PPE) standards, which require the use of gloves, eye and face protection, and respiratory protection;
- OSHAs General Duty Clause, which requires employers to provide each employee with employment and a place of employment, which are free from recognized hazards that are causing or likely to cause death or serious physical harm;
- OSHAs Bloodborne Pathogens standard, which OSHA notes applies to occupational exposure to human blood and other potentially infectious materials that do not typically include respiratory secretions, but may provide guidance that helps control the transmission of COVID-19; and
- OSHAs standards applicable to use of hazardous chemicals used in disinfection.

In addition to keeping abreast of the evolving guidance provided by OSHA and the CDC, employers should also make sure to follow any recommendations of public health authorities and labor and industry agencies at the state or local level, which may have more stringent requirements. Employers should also remain cognizant of their responsibility not to make any employment-related determinations based on race, country of origin, or any other protected class status, follow leave requirements under the Family and Medical Leave Act, and maintain the confidentiality of employees with confirmed COVID-19 to the fullest extent possible.