

# COVID-19 ADVICE FOR EMPLOYERS

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The following is a brief summary of considerations for California employers as you face the ever-changing challenges surrounding COVID-19. We are providing only general recommendations in this memo since every industry is different and each employer runs a distinct operation. How you decide to proceed should be based upon an individual assessment for your particular operation and circumstances. As the conditions are continuing to evolve, we recommend that you work closely with your legal counsel to determine how to best proceed for your employees and your operation.

## Considerations

### 1. Communicate with your employees.

- Provide an email or memorandum to employees ensuring them that safety is your highest priority.
- If you have instituted additional hygiene and safety measures, communicate your policies to employees in writing.
- If you decide to close your operation or reduce hours/days, put together a memorandum explaining your decision so that everyone receives the same message.

### 2. Assess your work force and determine whether you should make any modifications.

- Consider whether you can let employees work from home and whether you will require them to do so.
- If you decide to let employees work from, or mandate telecommuting, develop a written policy that explains your expectations for employees who are working from home and addresses issues such as meal and rest breaks, productivity, time keeping, etc.
- For those employees that are required to come to work, develop a plan for how you will attempt to ensure their safety, including hygiene policies, mandatory notification to management if an employee is not feeling well, asking your employees if they believe they have been exposed, etc.

### 3. Consider your policies related to paid and unpaid leaves.

- Ensure that you are allowing your employees to use paid sick leave they have available if the employees want to use it. You cannot require employees to use paid sick leave.
- Consider providing extra sick leave for 2020 (paid or unpaid).
- Consider providing extra PTO for 2020 (paid or unpaid).
- If you have an attendance policy, consider making exceptions for absences related to COVID-19.

### 4. Plan for how to respond if an employee has COVID-19 or has been exposed?

- *If an employee is diagnosed with COVID-19:*
  - Clean the workplace and areas that the employee used or frequented.
  - Consider closing the facility down for 14 days and offer PTO/Sick Leave/Telecommuting to the other employees.
  - Determine how to will tell other employees without violating the diagnosed employee's right to privacy.
  - How much paid time off will you provide?
  - How much job protected leave will you provide?
  - Does the leave fall under the Family Medical Leave Act or the California Family Rights Act?
  - Can you require the employee to take a Fitness for Duty Exam before the employee returns to work?
  - Will you be required to clean the entire workplace if an employee was diagnosed?

- *If an employee has secondary exposure (i.e., employee has a family member/roommate/spouse/partner/friend diagnosed with COVID-19 that they have been in close contact with during the last 14 days) or tertiary exposure (i.e., employee has a family member/roommate/spouse/partner/friend that has been quarantined due to close contact with someone within the last 14 days who has been diagnosed with or being screened for coronavirus) consider the following:*

- Determine if the diagnosed individual was instructed to self-quarantine, wants to self-quarantine, or should be directed not to return to work.
- Clean the workplace and areas that the employee used or frequented.
- Consider closing the facility down for 14 days and offer PTO/Sick Leave/Telecommuting to the other employees.
- Determine how to will tell other employees without violating the right to privacy of the employee who has been diagnosed.

#### 5. Does workers' compensation apply?

- An employee could potentially be eligible for workers' compensation coverage if the employee was exposed to COVID-19 at work by a coworker or a visitor in the workplace.
- Work closely with your workers' compensation carrier to ensure that claims are being filed, if necessary.

#### 6. Do you close your operation?

- Consider whether your operation should be temporarily shut down or whether you should reduce the hours, days or weeks that an employee may work.
- Consider whether you will continue to have exempt employees work. If so, ensure that you are following wage and hour laws regarding pay for exempt employees.
- Stay up to date regarding Executive Orders, Press Releases and new legislation at both the State and Federal level. One key piece of pending Federal legislation is H.R. 6201 (Families First Coronavirus Response Act), which passed the U.S. House of Representatives on March 14, 2020 and is expected to be considered by the U.S. Senate soon. If passed in its current form, H.R. 6201 will have significant impacts for many employers, as it includes mandatory paid sick leave and mandatory paid leave under the FMLA, among others. You can review H.R. 6201 using the following link: <https://www.congress.gov/bill/116th-congress/house-bill/6201/text>
- Research your company's ability to obtain relief or assistance through programs such as:
  - Unemployment Insurance Work Sharing Program  
[https://edd.ca.gov/Unemployment/Work\\_Sharing\\_Program.htm](https://edd.ca.gov/Unemployment/Work_Sharing_Program.htm)
  - Rapid Response Program  
[https://www.edd.ca.gov/pdf\\_pub\\_ctr/de8714rrb.pdf](https://www.edd.ca.gov/pdf_pub_ctr/de8714rrb.pdf)

#### 7. Provide employees with information about wage replacement options.

- Employees may be eligible for unemployment benefits, paid family leave and/or disability if they are laid off, have had their hours are reduced, their workplace has shut down operation, they have to miss work to care for a child whose school is closed, they are exposed to or contract COVID-19, etc. These programs are administered by the Employment Development Department. Information about these programs can be viewed at: [https://edd.ca.gov/about\\_edd/coronavirus-2019.htm](https://edd.ca.gov/about_edd/coronavirus-2019.htm)

### Resources

Review these additional resources for guidelines from the California Labor Commissioner's Office and the Center for Disease Control. As mentioned above, the situation is continuing change by the minute, so ensure that you are reviewing the most recent information possible.

- <https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm>
- <https://www.labor.ca.gov/coronavirus2019/>
- <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx#>
- [https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fguidance-business-response.html](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fguidance-business-response.html)

Our firm will continue to stay on top of this rapidly changing situation and we are here to assist our clients in developing a plan for their individual operations.