

Managing Human Resources in a Pandemic: 5 Things Employers Can Do Now

March 13, 2020



With this week's pandemic declaration and increasing cases of COVID-19 here and abroad, employers are facing a variety of challenges. Here are the top 5 things employers can do NOW to respond to the pandemic:

1. **Maintain a Safe Workplace**
2. **Manage Employee Time Off**
3. **Avoid Medical Inquiries**
4. **Consider Expanding or Requiring Work from Home**
5. **Keep Employees Informed**

See below for a more detailed discussion of each of these items. We will continue to keep you updated on issues relating to how COVID-19 is impacting the workplace.

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1. ***Maintain a safe workplace.*** Employers have a general duty under the Occupational Safety and Health Act to

provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm. While there are currently no OSHA standards or regulations regarding COVID-19, OSHA has published a comprehensive guidance on preparing workplaces for the virus. The guidance recommends a number of steps that every employer can take to reduce their employees' risk of exposure to COVID-19, including:

- Promote frequent and thorough hand washing, including by providing workers, customers, and worksite visitors with a place to wash their hands. If soap and running water are not immediately available, provide alcohol-based hand rubs containing at least 60% alcohol.
- Actively encourage workers to stay home if they are sick.
- Encourage respiratory etiquette, including covering coughs and sneezes.
- Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
- Provide customers and the public with tissues and trash receptacles.
- Inform and encourage employees to

self-monitor for signs and symptoms of COVID-19 if they suspect possible exposure.

- Minimize contact among workers, clients, and customers by replacing face-to-face meetings with virtual communications and implementing telework if feasible.
- Establish alternating days or extra shifts that reduce the total number of employees in a facility at a given time, allowing them to maintain distance from one another while maintaining a full onsite work week.

In addition, many companies are cancelling all business travel that requires air travel, cancelling all conference attendance, and using video conferencing wherever possible instead of face-to-face meetings.

2. ***Manage Employee Time Off.*** Employers should be prepared for employees who need time from work related to the pandemic. As OSHA recommends, employers should actively encourage workers to stay home if they are sick. Employers may also require employees to stay home if they have recently returned from a high-risk area, have been exposed to the virus, or if they are

visibly sick. Employers may also need time off due to quarantine measures, to care for sick family members, and to be home with children when there are school cancellations.

In anticipation of employees needing leave, employers should review their leave policies including vacation, sick leave, PTO, FMLA, and/or unpaid leaves of absences to determine what types of leave may be available to these employees. For guidance on how FMLA may apply, see the [Department of Labor's Questions and Answers regarding FMLA and COVID-19](#). Chicago and Cook County employers are reminded that local sick leave ordinances require that employees be permitted to use sick time for absences due to a school or business closure.

Employers may also decide what exceptions to these policies they are prepared to make, including providing additional paid time off to employees who need leave. If employers cannot provide paid time off to employees who are ill, they should consider what other actions they can take to ensure that these sick workers stay home. Any policy exceptions should be applied consistently to avoid any non-discrimination concerns.

Illinois Governor J.B. Pritzker has announced that he will file emergency rules to clarify workers who are unemployed due to COVID-19 will receive unemployment benefits to the full extent permitted by law.

- 3. *Avoid Medical Inquiries.*** Employers may be tempted to ask employees about their potential exposure to COVID-19-particularly if employees have recently returned from travel abroad-but the Americans with Disabilities Act (ADA) limits what employers can ask. The ADA prohibits both making disability-related inquiries and requiring medical examinations of employees, except under limited circumstances. The types of questions employers may wish to ask to assess Covid-19 risk may run afoul of these prohibitions. For example, asking employees whether they are immune-compromised is a disability-related inquiry because a compromised immune system can be closely associated with conditions such as cancer or HIV/AIDS. To avoid these issues, refrain from asking employees about health conditions.

- 4. *Consider expanding or requiring work***

from home. The CDC currently recommends social distancing and working remotely to reduce the spread of COVID-19. Governor Pritzker has echoed this guidance and encouraged business that can have employees work remotely to consider doing so immediately. Employers that already have work-from-home policies and procedures can utilize this option to maintain productivity during the outbreak. Employers should consider requiring all employees or departments that can do so to work from home, and to think carefully about other employees who could be allowed to do so. For employers who do not currently support remote work arrangements, now is the time to consider whether remote work is feasible. Work from home policies should cover (1) employee timekeeping, particularly for non-exempt employees; (2) expectations for employee work product and availability; and (3) what procedures are necessary to maintain the security of the company's confidential information.

5. ***Keep employees informed.*** The above steps require direct communication to employees about the actions the employer is taking as well as the

employees' obligations. Designating an individual or team that employees can contact with questions allows for open and consistent communication. Additionally, maintaining any relevant policy documents in an easily accessible location will avoid confusion and panic among employees.

Levenfeld Pearlstein continues to monitor developments regarding COVID-19 and is available to provide advice and guidance-remotely-to employers with questions about managing their workforce during the pandemic.

For more resources and LP's response to COVID-19, [visit this webpage.](#)

