

COVID-19: HR Guidance and Best Practices

Presented by
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Agenda

- Current Guidance from the CDC
- Illness and Quarantine
- The Families First Coronavirus Response Act
- Reducing Hours or Closing

Poll #1

Which of these top your list of concerns regarding COVID-19?

Poll #2

Which actions have you taken in response to COVID-19?

Current Guidance from the CDC

Webinar 101

- We will send the recording and slides
- Please participate in our polls
- We welcome your questions – please use the questions box

Keeping the Workplace Safe

- Stop handshaking
- Have employees wash their hands at the door and schedule regular handwashing reminders
- Hang posters from the CDC
- Disinfect surfaces like doorknobs, tables, desks, and handrails regularly
- Increase ventilation by opening windows or adjusting air conditioning
- Cancel travel if at all possible
- Adjust or postpone large meetings
- Use videoconferencing
- If in-person meetings are necessary, hold them in open, well-ventilated spaces
- Eliminate shared food

Keeping Public Spaces Safe

- Use booking and scheduling to stagger customer flow
 - Use online transactions where possible
 - Consider limiting attendance at larger gatherings
 - Remove tables and chairs to reduce capacity and create distance
 - Encourage tap-and-pay
 - Provide disinfecting wipes and hand sanitizer at the door
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**Can we take
temperatures or ask
about health daily?**

Probably, but be reasonable.

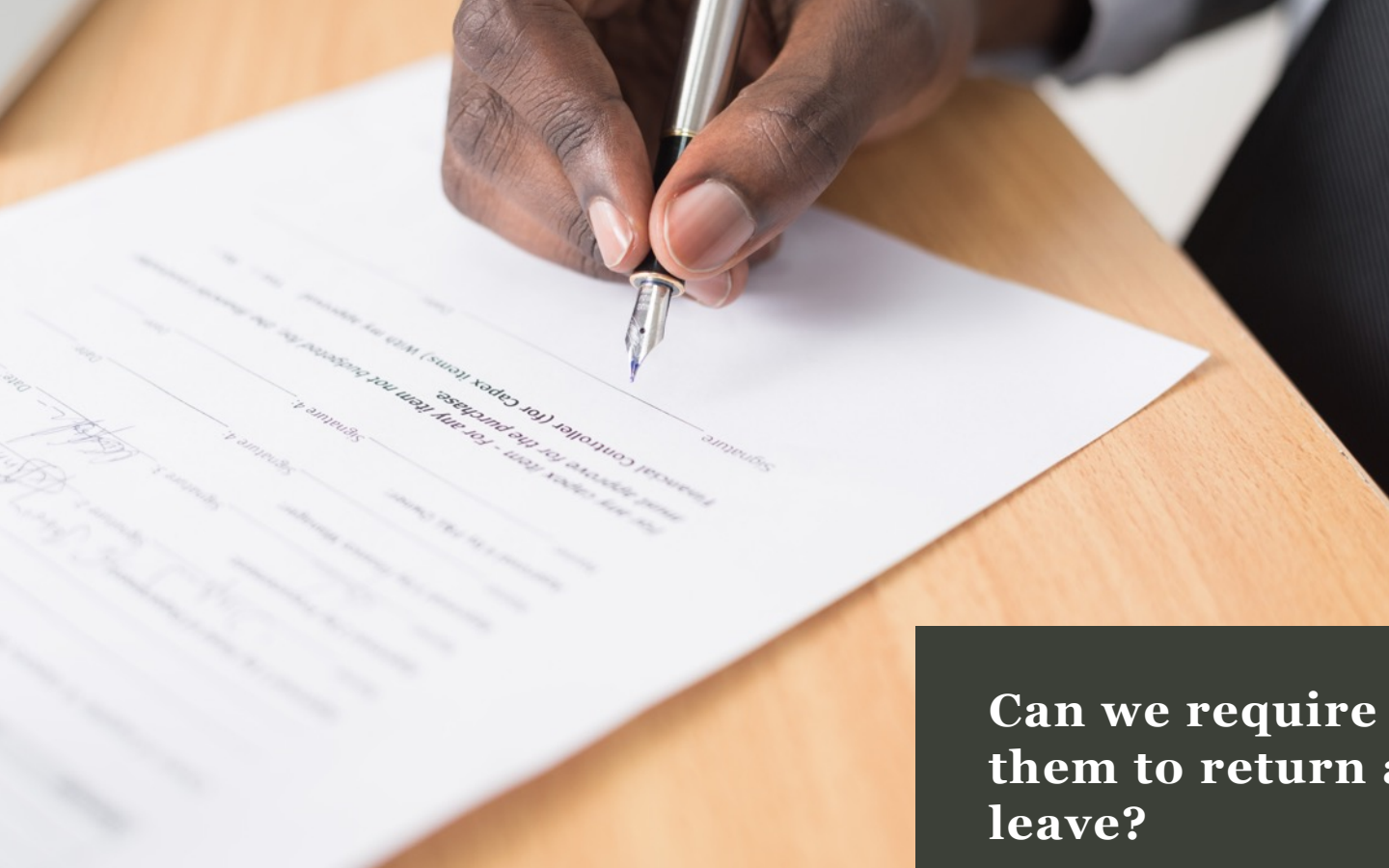
Illness and Quarantine

Sick Employees

Sick employees need to go home and stay there, but when can they come back?

They should talk to their healthcare provider. The decision to discontinue home isolation precautions should be made on a case-by-case basis, in consultation with healthcare providers and state and local health departments.





Can we require a note for them to return after sick leave?

Yes, but the CDC asks that you don't.



Can we ask about symptoms if employees are out sick and we don't know why?

Yes, but keep it specific to COVID-19.



Can we make an employee with a sick family member stay home?

Yes, if the family member is showing symptoms of COVID-19.



Employees don't want to come in. Can we make them?

Yes, as long as there is no legitimate threat and they don't require an accommodation.

Employees with an nth Degree of Separation

In *most* workplace settings, the CDC does not currently recommend special scrutiny for people exposed to asymptomatic people with potential exposures to COVID-19. (That probably describes half the country right now.)

There are, and will be more, settings and locations where the CDC will recommend monitoring all employees.



A black and white photograph of a person wearing a headset, likely a call center agent, working in a call center. The person is seen from the side, looking towards the left. The background is blurred, showing other people and lights in a large, open-plan office space.

Employees with an nth Degree of Separation

If you decide to send someone home anyway, we recommend that you pay them for the time and not take it from their sick leave or PTO bank.

Risks if they *can't* work from home and you *don't* pay them:

- Very unlikely—a “regarded as disabled” ADA claim
- Reasonably likely—stewing on how to get you back with a discrimination or wage and hour claim



Work From Home Policies

1. Hours of work
2. Expectations regarding reachability
3. Expectations regarding productivity
4. Check-ins
5. Office expenses



Reminders About Pay

Non-exempt employees

- Must be paid for all hours worked, even at home.
- If you send them home before their shift is complete, you may owe reporting time pay, even if they are symptomatic.



Reminders About Pay

Exempt employees

- No partial day deductions *ever*. You can fill in with paid time off.
- If they do any work (including at home) during a workweek, they are entitled to their full weekly salary.
- Exception: full day deductions may be taken if they take time for *personal reasons*.
- Exception: full day deductions may be taken if they are *actually sick*, do *no* work, and you offer a *bona fide sick leave plan*.

Families First Coronavirus Response Act



Highlights

- FMLA expansion
- Paid sick leave
- Payroll tax credit

FMLA Expansion

Coverage

- Applies to all employers with fewer than 500 employees. Yes, even those under 50.
- Employees who are health care providers or emergency responders do not need to be provided with this leave.
- The Secretary of Labor may issue regulations to exempt *certain* employers with fewer than 50 employees if it would jeopardize viability as a going concern.

Adds leaves for:

- Care for a child under 18 if their school or place of care is closed for public health emergency.
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FMLA Expansion

Pay Provision

- No pay for first 10 days of leave (employee may use any other leave they have available to them- including new emergency sick leave).
- After 10 days, pay at 2/3 regular rate of pay for number of hours they would normally be scheduled to work up to cap of \$200/day and \$10,000 total.

Job Restoration

Required, except for employers with fewer than 25 employees if:

- Job no longer exists because of changes affecting employment caused by public health emergency; AND
 - Reasonable efforts to find equivalent positions were made (and failed) and employees are contacted if anything comes up within a year of when they would have come back.
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Emergency Paid Sick Leave

Coverage

- All private employers with fewer than 500 employees
- All employees, no matter how long employed
- Employer can exclude employees who are health care providers or emergency responders
- Secretary of Labor may issue regulations to exempt employers under 50 if it would jeopardize viability as a going concern

Emergency Paid Sick Leave

Uses

1. If subject to a federal, state, or local quarantine or isolation order
2. When advised by health care provider to self-quarantine
3. For seeking medical diagnosis for symptoms of COVID-19
4. To care for an individual who qualifies under #1 or #2 (2/3 pay)
5. To care for child if school or place of care is closed (2/3 pay)
6. When experiencing other substantially similar condition (2/3 pay)

Emergency Paid Sick Leave

Amount

- Full time employees get 80 hours (2/3 pay for uses #4, 5, 6)
- Part time employees get the number of hours worked on average over a 2-week period (2/3 pay for uses #4, 5, 6)
- Caps of \$511/day and \$5,110 total for uses #1, 2, 3
- Cap of \$200/day and \$2,000 total for uses #4, 5, 6

Reducing Hours or Closing

Reducing Hours or Pay for Non-Exempt Employees

Non-exempt employees only need to be paid for hours worked.

Remember reporting time pay if you send people home after they've already arrived at work for the day.

A reduction in hourly *wage* may require a certain amount of notice under state law and cannot be retroactive if you are mid pay-period.



Reducing Pay for Exempt Employees

You can implement a pay cut, either for everyone or for certain departments or types of jobs. Check for unintentional discrimination.

Employees must remain above the federal minimum salary for exempt employees (\$684/week) or the higher state minimum. *No prorating!*



Reclassifying Exempt Employees as Non-Exempt

This is legal unless done to avoid the salary basis requirements under the FLSA.

Don't do this on a very short-term basis (e.g., three weeks or less).

Ensure state notice requirements are met and that it isn't applied retroactively if you're halfway through a pay period.



Furlough v. Temporary or Permanent Layoff

Furlough: Temporary reduction in hours of work or weeks of work. This could be, “we only need you 10 hours this week” or, “we’re closing for two weeks, see you all soon.” Probably involves an estimated date of reopening.

Temporary Layoff: A layoff with the intention of rehire, generally within six months. (WARN notice does not apply if six months or less.)

Permanent Layoff: A layoff with no anticipated rehire date.



Furloughs

Communicate in writing.

Share options for use of paid leave, including those that may be outside your regular policy.



Furloughs

Address health insurance benefits and premiums and any other benefits that may be affected, such as stipends.



Furloughs

Employees will be eligible for unemployment insurance and many states are waiving waiting weeks.



What if we can't make payroll?

Call an attorney to determine the best course of action under your circumstances in your state.



Staying Afloat

The Small Business Administration (SBA) will work directly with state Governors to provide targeted, low-interest loans to small businesses and non-profits that have been severely impacted by the Coronavirus.

The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to \$2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.

Find more information on the SBA's Economic Injury Disaster Loans at: [SBA.gov/Disaster](https://www.sba.gov/disaster).

Thank you