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Best Practices for Workplace Safety During COVID-19 Outbreak

OSHA requires employers to maintain a safe workplace. While every work environment is different, the following general recommendations may decrease the likelihood of exposure to the coronavirus.

- Make hand sanitizer and disinfectant wipes available for employee use.
- Clean and disinfect frequently touched items and surfaces daily.
- Require employees to work from home if possible.
**Remember wage and hour rules apply even when employees are teleworking. The DOL published FAQs about the Fair Labor Standards Act (FLSA) at: <https://www.dol.gov/agencies/whd/flsa/pandemic>*
- Require employees who have been exposed to stay home for at least 14 days.
**Employers can take an employee's temperature during this pandemic and require those showing symptoms (including fever, cough, shortness of breath) to stay home until it is safe to return to work. A medical certification is probably not practical under the current circumstances. Therefore, employers should not allow employees to return to work until being symptom free without the aid of any medication for at least 72 hrs. For medical questions about COVID-19 call 211 or a medical provider.
If employees are unable to work from home, exempt employees must still be paid for any week in which they performed any work. Non-exempt employees do not have to be paid. However, employers may want to consider offering temporary additional paid time off during this unique and difficult time.
- If an employer has reason to believe an employee has been exposed to the coronavirus, the affected employee(s) should be notified, the workplace should be thoroughly cleaned, and confidentiality of those involved must be maintained.
- Provide employees with links to information online, such as the Centers for Disease Control Prevention website, <https://www.cdc.gov/coronavirus/2019-ncov/index.html>, and Iowa's website, <https://www.coronavirus.iowa.gov>
- Consider implementing rules to contain the spread of the coronavirus, such as:

- Only allowing designated personnel in the workplace.
- Prohibiting employees from reentering the workplace for 14 days if they have been exposed to the virus or have traveled within the last 14 days.
- Prohibiting employees who experience symptoms from reentering the workplace until they are symptom free for 72 hours without the use of medications.
- Requiring anyone reentering the workplace to wash their hands with soap and water for at least 20 seconds, after touching frequently used items and surfaces, and after sneezing or coughing. If soap and water are not available, require use of an alcohol-based hand sanitizer that contains at least 60% alcohol.
- Requiring employees to disinfect their personal workspace before use.
- Prohibiting employees from entering a coworker's workspace or using their items.
- Requiring employees to maintain a distance of at least 6 feet from coworkers.
- Reminding employees to sneeze or cough into their elbows or a tissue.
- Reminding employees to avoid touching their faces or shaking hands.
- Requiring employees to notify designated personnel if they believe they or their coworkers have been exposed to the virus.
- Prohibiting gatherings of 10 or more people in the workplace.
- Requiring business to be conducted via phone or video conference where possible.
- Prohibiting non-essential business travel.
- The CDC's mitigation strategies can be found at:
<https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf>
- OSHA's Guidance on Preparing Workplaces for COVID-19 can be found at:
<https://www.osha.gov/Publications/OSHA3990.pdf>

New Temporary Leave Requirements-The Families First Coronavirus Response Act (FFCRA)

The FFCRA expands FMLA leave and requires emergency paid leave under certain circumstances. The Act applies to most public employers, and private employers with fewer than 500 employees. It takes effect on April 1, 2020 and runs through December 31, 2020. It is not retroactive. The two most significant parts of the FFCRA are outlined below.

- The Emergency Family and Medical Leave Expansion Act (EFMLA)
 - Employees who have been employed for at least 30 calendar days are entitled to leave if they are caring for a child whose school or place of care is closed (or child care provider is unavailable) due to a public health emergency and cannot telework.
 - The first 10 days do not have to be paid, but employees can use Emergency Paid Sick Leave (discussed below) or other paid leave provided by the employer.
 - After the initial 10 days of leave, employers must provide paid leave at 2/3 the employee's regular rate up to a maximum of \$200 per day and \$10,000 total.
 - Health insurance benefits must be maintained.
 - EFMLA does not entitle employees to more than 12 weeks of FMLA leave. An employee who has already used FMLA leave in the same FMLA year would not be entitled to 12 weeks of EFMLA leave.
 - Employers with fewer than 50 employees may be exempt if these provisions would jeopardize the viability of the business.
 - The failure to properly pay employees is a violation of FMLA. However, there is no private right of action for damages against employers with fewer than 50 employees, but the Department of Labor (DOL) can still bring an enforcement action.
 - The DOL published FAQs about EFMLA at:
<https://www.dol.gov/agencies/whd/fmla/pandemic>
- Emergency Paid Sick Leave Act (EPSL)
 - Employers must provide up to 80 hours of paid sick leave if they are unable to work (and unable to telework) because they:
 1. are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 2. have been advised by a health care provider to self-quarantine related to COVID-19;

3. are experiencing COVID-19 symptoms and are seeking a medical diagnosis;
 4. are caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
 5. are caring for a child of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions;
 6. are experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
- For reasons 1-3 (care for self), paid leave is based on the employee's regular rate up to a maximum of \$511 per day and \$5,110 total.
 - For reasons 4-6 (care for others), paid leave is at 2/3 the employee's regular rate up to a maximum of \$200 per day and \$2,000 total.
 - Employers cannot require use of other leave before EPSL.
 - The failure to properly pay employees under the EPSLA is a violation of the FLSA.
 - The DOL published FAQs about EPSL at:
<https://www.dol.gov/agencies/whd/fmla/pandemic>
- Employers will receive a dollar for dollar payroll tax credit for all qualifying wages paid as a result of the FFCRA.
 - *Tip: Employers should carefully document the reasons for leave, the dates of requested leave, and require a statement from the employee that they are unable to work or telework.
 - DOL has placed a hold on enforcement of the FFCRA through April 17th:
<https://www.dol.gov/agencies/whd/field-assistance-bulletins/2020-1>
 - DOL published additional information about the FFCRA on March 24:
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
 - The full text of the FFCRA can be found at:
<https://www.congress.gov/bill/116th-congress/house-bill/6201/text>
 - Workplace posters can be found at:
<https://www.dol.gov/agencies/whd/posters>

Temporary Financial Assistance-Coronavirus Aid, Relief, and Economic Security Act (CARES)

- **Paycheck protection program:** The Cares Act created a temporary loan program to help employers retain employees during this crisis. More information about the program can be found at: https://www.sba.gov/page/guidance-businesses-employers-plan-respond-coronavirus-disease-2019-covid-19?utm_medium=email&utm_source=govdelivery
- **Pandemic Unemployment Assistance:** The Cares Act also expands unemployment benefits by, among other things, authorizing states to increase benefits by \$600 per week.
- The full text of the Cares Act can be found at: <https://www.congress.gov/bill/116th-congress/house-bill/748/text>

Optional Workforce Reductions

1. Furloughs are short-term reductions in wages or hours to keep workers employed and eligible for benefits. Employers can apply for Iowa Workforce Development's Voluntary Shared Work (VSW) program by filling out an application, which can be found at: https://www.iowaworkforcedevelopment.gov/sites/search.iowaworkforcedevelopment.gov/files/60-0333%20Voluntary%20Shared%20Work%20Plan%20Application_0.pdf.

For questions about the VSW program email vsclaims@iwd.iowa.gov, call 866-239-0843, or visit: <https://www.iowaworkforcedevelopment.gov/voluntary-shared-work-frequently-asked-questions>

2. Layoffs terminate the employment relationship with the possibility of re-hiring when the crisis is over. Keep in mind that the Worker Adjustment and Retraining Notification Act (WARN) requires 60 days' advance notice of layoffs absent exception. Iowa requires 30 days' notice. If layoffs are a direct result of a natural disaster or unforeseen business circumstances, an employer need only provide as much notice as is practicable and the reasons for reducing the notification period. Consult with Iowa Workforce Development's Dislocated Worker Program staff to ensure compliance with regulations that apply to mass layoffs. Email questions to Dislocated.Worker@iwd.iowa.gov

New Iowa Unemployment Benefits

- Employees may now be eligible for unemployment benefits if they:
 - are laid off or furloughed due to COVID-19;
 - have to stay home to self-isolate and cannot telework;
 - have to care for family members; or

- are unable to work due to illness related to COVID-19
- If related to COVID-19, fact-finding interviews and work search requirements are waived.
- Claims filed and identified as a direct or indirect result of COVID-19 will not be charged to employers, meaning tax rates will not be affected.
- Effective March 31, 2020, for claims related to COVID-19, paid time off does not have to be exhausted in order to be eligible for benefits.
- Claims for unemployment benefits can be filed at:
<https://www.iowaworkforcedevelopment.gov/file-claim-unemployment-insurance-benefits>
- For more information go to: <https://www.iowaworkforcedevelopment.gov/>
- Questions? email: IWDCOVID@iwd.iowa.gov or call: 866-239-0843