<u>Basic Guide for Employers with Employees Who Continue to Need to Work in the Office</u>

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There are many legitimate reasons that some businesses have employees continuing to work in their usual workplace despite the SARS-CoV-2 coronavirus. Those employers want to know what practical steps they can take to protect their employees still working in their usual offices. This short article is intended to provide basic issues employers should consider and to provide some practical steps.

**<u>Centers for Disease Control and Prevention ("CDC") and
Equal Employment Opportunity Commission ("EEOC")</u>**

First, employers should regularly watch the CDC's web site. The CDC's site contains a wealth of information, including a web page called "<u>Resources for Businesses and Employers</u>." https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html.

Importantly, the EEOC has endorsed the CDC's recommendations. The EEOC has specifically stated that the Americans with Disabilities Act ("ADA") does not "interfere with or prevent employers from following the guidelines and suggestions made by the CDC or state/local public health authorities about steps employers should take regarding COVID-19." The EEOC made this statement in another helpful guidance called "<u>What You Should Know About the ADA, the Rehabilitation Act, and COVID-19</u>." https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

This EEOC guidance is a good resource for employers, as it provides eight questions and answers that employers should familiarize themselves with. Among other things, the EEOC says that the ADA allows employers to require employees to stay home if they have symptoms of the COVID-19. To be sure, the EEOC says that "employees who become ill with symptoms of COVID-19 should leave the workplace."[2] The EEOC has also said that "[d]uring a pandemic, ADA-covered employers may ask employees [who call in sick] if they are experiencing symptoms of the pandemic virus."

The EEOC noted that "[e]mployers should remember that **guidance from public health authorities is likely to change** as the COVID-19 pandemic evolves. Therefore, **employers should continue to follow the most current information on maintaining workplace safety**."

<u>Occupational Health and Safety Administration ("OSHA")</u>

OSHA's "general duty clause" requires employers to provide employees with a place of employment that is "free from recognized hazards that are causing or are likely to cause death or

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[2]   Such symptoms include fever, chills, cough, shortness of breath, or sore throat.

serious physical harm to his employees." 29 U.S.C. §654. But OSHA has expressly declared that there is not a "specific OSHA standard covering COVID-19."

Nevertheless, OSHA has published "Guidance on Preparing Workplaces for COVID-19," which may be accessed at https://www.osha.gov/Publications/OSHA3990.pdf.

OSHA has also created a web page specific to COVID-19: https://www.osha.gov/SLTC/covid-19/standards.html.

In its "Guidance on Preparing Workplaces for COVID-19," OSHA provided a bullet-point list of "good hygiene and infection control practices" that employers should consider implementing"

- 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.
- Provide tissues, no-touch trash cans, disinfectants and disposable towels for workers to clean their work surfaces.
- Encourage workers to stay home if they are sick.
- Encourage respiratory etiquette, including covering coughs and sneezes.
- Provide customers and the public with tissues and trash receptacles.
- Consider flexible work hours (e.g., staggered shifts), to increase the physical distance among employees and between employees and others.
- Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
- Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces, equipment, and other elements of the work environment.[3]

Other tips that health authorities have suggested include:

- Discourage handshaking – use other noncontact methods of greeting.
- Regularly disinfect "high touch "surfaces like doorknobs, light switches, tables, desks, countertops, handles, phones, keyboards, faucets, sinks and handrails.
- Stay at least 6 feet (2 meters) from other people.
- When possible, hold meetings in open, well-ventilated spaces.
- Limit food sharing.

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[3]   OSHA suggests, "When choosing cleaning chemicals, employers should consult information on Environmental Protection Agency (EPA)-approved disinfectant labels with claims against emerging viral pathogens. Products with EPA-approved emerging viral pathogens claims are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses. Follow the manufacturer's instructions for use of all cleaning and disinfection products (e.g., concentration, application method and contact time, PPE)."

Finally, employers should clearly communicate their workplace hygiene practice expectations to employees. This should include placing posters throughout the office and using other regular channels used to communicate with employees.

COVID-19 has disrupted many workplaces, but for many, teleworking or a shutdown are not options. Implementing the practical steps set forth above, and additional steps recommend by the CDC, should go a long way toward helping employers provide safe working environments for their employees.