

Coronavirus Raises Employment Issues: Tips For Navigating This New Territory

March 13, 2020 | by Andrew Berns

The World Health Organization has recently identified the COVID-19 Coronavirus as a pandemic. Many businesses find themselves in uncharted territory as it relates to their obligations to employees and clients, not to mention potential exposure, both from the perspective of liability and health concerns. Our Employment Law group ([link](#)) offers this list of common questions and information to help address some concerns.

What if an employee comes to work and appears sick? How can we check the symptoms?

There are many symptoms that may be exhibited by employees, and they could be associated with the flu, upper respiratory infections and/or coronavirus. It is most important to focus on flu-like symptoms. If an employee appears ill, you may require that he/she stay home and seek medical attention. However, you cannot take matters into your own hands by taking his/her temperature or in any way examining the employee.

What should we do if one of our employees or someone who has visited our office has tested positive for coronavirus?

First, you should contact your local department of health. You should promptly send all of your employees home for a period of 14 days, or as recommended by the department of health. For certain industries, employees may be able to work remotely.

Also, you should investigate to determine who may have been most at risk. Investigate to determine the level of exposure and be mindful of those that have been identified as a higher level of risk to contract the virus. This includes other employees, clients or outside vendors. It is also advisable that

you notify everyone who has been present in your office and may have been exposed to the employee. Take all reasonable efforts to disinfect the office immediately.

Can an employee refuse to come to work?

Generally, employees may only refuse to work if they believe they are in imminent danger. The Occupational Safety and Health Act (OSHA) defines imminent danger to include “any conditions or practices in any place of employment which are such that a danger exists which can reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act.” If an employee refuses to come to work and does not have a reasonable threat of imminent harm, he or she may be terminated. Before doing so, particularly in a time such as this pandemic, it is suggested that you consult with counsel.

Is the company required to protect an employee’s position if he/she asks to care for a close family member who is infected, or if he/she is infected, or if he or she is quarantined as a result of exposure to coronavirus?

If you employ more than 50 employees, you may be required to provide an employee with family leave to care for themselves or a close member of his/her family. The New Jersey Family Leave Act permits employees up to 12 weeks of leave to care for a close family member that may be infected. The Family and Medical Leave Act (federal statute), requires employers with 50 or more employees to provide leave to an employee for up to 12 weeks to care for themselves.

Is the business required to pay employees for sick time?

Your business must adhere to your company policies regarding paid time off. As a result of the New Jersey Earned Sick Leave Law, employers must at least provide one hour of leave for every 30 hours worked, up to a maximum of 40 hours per year. Given the current media and extensive use of social media, a bit of flexibility is advisable. You do not want your business to be in the headlines for what appears to be callous disregard of employee health or solely motivated by the bottom line. Employees

may also be eligible for temporary disability insurance from the State of New Jersey or any private disability policy.

Where can I turn for assistance dealing with coronavirus?

Businesses should rely on trained human resources professionals and legal counsel in this situation. In addition, the Center for Disease Control recently issued guidance for businesses, which can be found [here](#).

OSHA also released guidance, which can be found [here](#).

Unfortunately, these are troubling times with a great deal of uncertainty. It is important to take prudent steps to minimize exposure to your employees. That is important to prevent potential liability to the business and to promote efficiency and continuity of the business. Do not panic, but remember to be sensible and follow health guidelines.