

COVID-19 FAQ Sheet: Employers

What if an employee appears sick?

If any employee presents themselves at work with a fever or difficulty in breathing, this indicates that they should seek medical evaluation. While these symptoms are not always associated with influenza and the likelihood of an employee having the COVID-19 coronavirus is low, it pays to err on the side of caution. Retrain your supervisors on the importance of not overreacting to situations in the workplace potentially related to COVID-19 in order to prevent panic among the workforce.

One of our employees has a suspected but unconfirmed case of COVID-19. What should we do?

Take the same precautions as noted above. Treat the situation as if the suspected case is a confirmed case for purposes of sending home potentially infected employees. Communicate with your affected workers to let them know that the employee has not tested positive for the virus but has been exhibiting symptoms that lead you to believe a positive diagnosis is possible.

One of our employees self-reported that they came into contact with someone who had a presumptive positive case of COVID-19. What should we do?

Take the same precautions as noted above. Treat the situation as if the suspected case is a confirmed case for purposes of sending home potentially infected employees. Communicate with your affected workers to let them know that the employee is asymptomatic for the virus but you are acting out of an abundance of caution.

Can we require an employee to notify the company if they have been exposed, have symptoms, and/or have tested positive for the COVID-19 coronavirus?

Yes, you should require any employee who becomes ill at work with COVID-19 coronavirus symptoms to notify their supervisor. Employees who are suffering from symptoms should be directed to remain at home until they are symptom-free for at least 24 hours.

While outside of work, if an employee begins experiencing symptoms, has been exposed to someone that is exhibiting symptoms, or has tested positive, the employee should contact your company by telephone or email and should not report to work.

Can I send employees home who exhibit potential symptoms of contagious illnesses at work?

Yes, sending an employee home who displays symptoms of contagious illnesses would not violate the ADA's restrictions on disability-related actions.

Can I take an employee's temperature at work to determine whether they might be infected?

The Americans with Disabilities Act (ADA) places restrictions on the inquiries that an employer can make into an employee's medical status, and the EEOC considers taking an employee's temperature to be a "medical examination" under the ADA. The ADA prohibits employers from requiring medical examinations and making disability-related inquiries unless (1) the employer can show that the inquiry or exam is job-related and consistent with business necessity, or (2) the employer has a reasonable belief that the employee poses a "direct threat" to the health or safety of the individual or others that cannot otherwise be eliminated or reduced by reasonable accommodation.

Taking an employee's temperature may be unlawful if is not job-related and consistent with business necessity. The inquiry and evaluation into whether taking a temperature is job-related and consistent with business necessity is fact-specific and will vary among employers and situations. The EEOC's position during a pandemic is that employers should rely on the latest CDC and state or local public health assessments to determine whether the pandemic rises to the level of a "direct threat." The assessment by the CDC as to the severity of COVID-19 will provide the objective evidence needed for a medical examination. If COVID-19 coronavirus becomes widespread in the community, as determined by state or local health authorities or the CDC, then employers may take an employee's temperature at work.

However, as a practical matter, an employee may be infected with the COVID-19 coronavirus without exhibiting recognized symptoms such as a fever, so temperature checks may not be the most effective method for protecting your workforce.

What steps can we take now to minimize risk of transmission?

Repeatedly, creatively, and aggressively encourage employees and others to take the same steps they should be taking to avoid the seasonal flu. For the annual influenza, SARS, avian flu, swine flu, and now the COVID-19 coronavirus, the best way to prevent infection is to avoid exposure.