

COVID-19 Preparedness for Employers

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Miller Nash Graham & Dunn has prepared the following checklist of issues for employers to consider in responding to COVID-19 (“CV”). This is a rapidly evolving situation, and your business should regularly check the [Oregon Health Authority](#), [Washington State Department of Health](#), and [Centers for Disease Control](#) websites for updates. This checklist is not intended to provide specific legal advice, but to provide general best practices and issues to consider. We are available to assist with the challenging questions that are arising for businesses in responding to specific situations, as well as provide information about other resources.

EMPLOYMENT ISSUES

Basic Health Precautions

- Remember employers’ obligation under OSHA to maintain a workplace “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” Cooperate with public health authorities (CDC and state and local health authorities) at all times.
- Remind staff of basic health precautions recommended by public health authorities. Encourage and enable recommended safe hygiene practices in the workplace.
- Require staff to inform you if they have CV-like symptoms, have recently traveled to a CV-affected area (as designated by CDC), have come into contact with a person who has CV, or have tested positive for CV.
- Require staff to stay home if they are displaying flu-like symptoms, such as fever, cough, or vomiting. Staff should remain home until they are symptom-free, without the use of medication, for 24 hours.
- Encourage staff with worsening symptoms to contact their primary care doctors (or if none, urgent care or other clinics) for instructions or advice about testing. Designate a separate area in your workplace where you will temporarily quarantine those staff members until they leave.
- Consider whether your workforce participates in activities that are at elevated risk, including work in healthcare, deathcare, laboratory, solid waste and wastewater management operations, janitorial work, or international travel to areas with ongoing, person-to-person transmission of CV. Follow any public health advice regarding appropriate protocols for those staff members.
- As the situation progresses, consider whether OSHA’s standards for personal protective equipment may apply, consistent with advice from public health authorities. If necessary, refer to OSHA’s standards for bloodborne pathogens as a useful analogy for how to treat respiratory particles that may spread CV.
- Consider whether to suspend nonessential travel.
- Record any workplace contractions of CV on OSHA 300 log (per OSHA, CV is reportable even though the common cold and flu are not reportable).
- Consider reporting workplace contractions of CV as workers compensation exposures.

Planning for Disruptions

- Review telecommuting policies and update as necessary. Evaluate each staff member’s duties to determine which could adapt to telecommuting. Instruct potentially telecommuting staff to ensure they have plans in place (for example, staff with work-issued laptops might bring them home nightly; all staff should know how to use remote work technology if necessary).

- Evaluate essential levels of staffing to maintain operations and develop contingency plans for shutting down portions or the entirety of operations if staffing levels drop due to staff illness or quarantine.
- Review call-in procedures and update as necessary, including considering alternative methods to handle a larger volume of call-outs.
- Review emergency notification protocols. Consider whether weather-related closure systems provide a useful starting point for CV-related notifications.
- In conjunction with public health authorities, disclose relevant information about exposures in your workplace. Do not share names of individual staff who are infected or exposed.

Supporting Individual Staff Members

- Communicate regularly with staff, even if there is no new information to report.
- Ensure that all CV-related standards are applied consistently to avoid concerns about bias against protected classes.
- Communicate clearly that discrimination and harassment related to CV are prohibited under policy and law. No person should be subject to bias, harassment, or discrimination related to CV. Promptly follow-up on any reports of bias, harassment, or discrimination.
- Some staff will express concerns about coming to work even if there is no particular elevated risk factor. Consider your response. Will you require staff to come to work, or allow them to be absent? Consider whether absent staff will be allowed to telecommute, to use paid leave, and to what extent.
- Remind staff of duty not to retaliate against staff who raise health or safety concerns.
- Remind all staff of their rights to unpaid leave under FMLA and OFLA, of applicable disability laws, and their rights to paid sick leave.
- Consider ways in which you are willing to flex family, medical, and sick leave policies. For example, consider allowing staff to use leave to stay home as necessary to comply with CV protocols and related closures, even if they are not sick or do not have serious health conditions. Consider whether and how to pay employees who miss work to comply with CV protocols and have no applicable accrued leave. Remember that employees are less likely to report if they will lose pay.
- Consider which staff have immigration status that might be affected by entity closures or if employment is interrupted.
- The CDC has requested that employers not request doctors' notes to validate staff members' need for leave or to allow staff back to work after recovery.
- Consider whether you will pay staff for any 14-day quarantine period that follows a period of international travel. Consider whether your rules will be different for work-related and personal travel.

Working with Labor

- Review collective bargaining agreements for clauses that address issues affected by CV. For example, clauses affecting telecommuting, changes in work duties, or emergency closures could be on-point.
- Consider whether CV-related protocols might affect mandatory subjects of bargaining.
- Meet with union leadership now to anticipate potential collective bargaining issues related to CV.

PROCUREMENT, SUPPLY CHAIN, AND INSURANCE ISSUES

- Review your emergency contracting policies to ensure that you can act quickly to address needs.
- Review your needs for construction materials or other hard goods over the next six months and determine whether you can and should preorder or stock up.
- Consult with your insurance provider or risk manager on your coverage for claims arising from COVID-19 and if there are any recommend or required pre-loss activities that your entity should be conducting.

Again, we are aware that this is a highly impactful situation on businesses, and we are available to assist.



Jeffrey Condit's core practice focuses on public law, including municipal, special district, K-12, and higher education law. He focuses on the business and governance side of this practice, including statutory authority and construction, administrative law, public contracting, public finance, legislation, franchise drafting and negotiation, public records and meetings, government ethics, public construction contracting, prevailing-wage issues, and election law.

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