



Staffing Decisions and the Coronavirus: How to Address Employees' Concerns and Keep Your Workforce Healthy

As Bodman continues to receive questions about staffing in light of the COVID-19 ("Coronavirus") outbreak, we have prepared some scenarios that you may encounter with some suggested approaches to handling them.

In general, employers should remind their employees to wash their hands on a regular basis and to cough and sneeze into a tissue. Employers should also share the symptoms of the Coronavirus with their workforce and ask that employees with those symptoms stay home.

Question: *In the middle of the workweek, an employee reports to work with symptoms that seem consistent with those of the coronavirus: fever, cough and shortness of breath. He claims that it's just a cold. Can we send him home?*

Answer: Yes. The CDC recommends that anyone who is symptomatic should be isolated and seek health advice to determine if a medical evaluation is needed. Be careful about how you approach an employee whom you believe to be ill. Review your policies concerning medical documentation for extended leave and keep in mind that the employee's healthcare provider may be extremely busy and not able to provide documentation of the illness right away. Also be mindful of your obligations to pay salaried employees if they worked part of the week. Finally, keep in mind your obligations to protect other employees from harm.

Question: *What if the employee wants to return to work the next day? How long should the employee be kept out of work?*

Answer: The CDC recommends that employees who have symptoms of the Coronavirus stay home until they are symptom-free for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines such as cough suppressants. If the employee is diagnosed with the Coronavirus, they should remain home until they have been cleared to work by their healthcare provider.

Question: *One of our managers reported to HR that an employee posted on Facebook photos of her spending time with her relatives from China. Some of the individuals in the photos are wearing face masks and the manager is concerned that the employee may have been in close contact with individuals who have the Coronavirus. The manager would like the employee to stay home for 14 days. We are hesitant to require this because the employee appears healthy and would not be able to work remotely during her time away. How should we respond to our manager?*

Answer: If the relatives arrived within the last month, they most likely have been screened by the Department of Homeland Security and are asymptomatic. At this time, the CDC does not recommend testing, symptom monitoring

or special management for people exposed to asymptomatic people with potential exposure to the Coronavirus. Therefore, treat this employee as you would treat your other employees and allow her to work unless she appears with symptoms consistent with the Coronavirus. Also, remind your managers of their obligations under your non-discrimination policies. Exposure assumptions cannot be made based on national origin. Retaliation is another concern. Employees who raise safety and health concerns cannot be retaliated against.

Question: *We are a manufacturing plant so our workers cannot work from home. Our policies require employees to exhaust their PTO before they can take unpaid leave. How do we encourage workers to stay home if they feel sick and handle their leaves of absence?*

Answer: Remind your workforce that you are taking measures to ensure that you can remain in operation. You have the right to require sick employees to stay home if they present a direct threat to the rest of your workforce. In the face of a public health crisis, you can suspend or modify your attendance policies so that employees are not disciplined for not reporting to work if they have exhausted their PTO.

A myriad of situations may arise regarding the Coronavirus. Please contact any member of **Bodman's Workplace Law Group** if you need assistance. We will be providing frequent updates and additional FAQs as the situation develops.

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