

Coronavirus (COVID-19) Guidance and Resources for Employers

The HR Pros / March 2020

This page has links to all of the content related to COVID-19 currently available on the HR Support Center, including news alerts, guides, policies, letters, and forms. We will be updating it frequently.

News Alerts

- Families First Coronavirus Response Act - What We Know So Far: [Page 2-3](#)
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Policies

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FAQs

- COVID-19 FAQ: [Pages 9-12](#)
- When Business Threats Are Contagious: 10 Answers for Employers Navigating the Coronavirus: [Pages 12-14](#)

Guides

- Links to Coronavirus (COVID-19) Government Resources: [I attached doc below](#)
- Tips to Handle an Infectious Disease Outbreak: Frequently Asked Questions: [I attached doc below](#)

Letters

- Sample Coronavirus (COVID-19) Communication to Employees: [I attached doc below](#)
- Notice of Furlough (COVID-19): [I attached doc below](#)
- Notice of Layoff: [I attached doc below](#)
- Notice of Temporary Layoff: [I attached doc below](#)

Forms

- Work From Home Agreement: [I attached doc below](#)
- Acknowledgment of Receipt of Company Property & Financial Obligation Form: [I attached doc below](#)

Families First Coronavirus Response Act - What We Know So Far

HR 6201, also known as the Families First Coronavirus Response Act, was passed by the House of Representatives on March 14 with further changes by the House on March 16. The bill, however, must still be considered by the Senate, which may make additional changes, and signed by the president. Because the bill is still in the legislative process, we do not know what the final version will look like.

At present, the act is a very short, quickly written bill, and most of the questions about how to execute or implement these requirements will be clarified over time by lawmakers and federal agencies. We will post new information as it becomes available and as we have had time to review it. Below are the main points of what employers need to know about the bill in its early form.

Summary

If this act passes and is enacted, employees will be eligible for 10 days of sick leave (full pay for self, 2/3 pay for family care) and use of 12 weeks of Family and Medical Leave Act (FMLA) leave (two weeks unpaid and then up to 10 weeks at 2/3 pay) for several circumstances related to COVID-19.

Effective Date of Law

- Legislation indicates that it would be effective not more than 15 days after enacted and would expire December 31, 2020.
- Currently, the bill as written does not appear to have any retroactive application.

Key Elements for Employers

- FMLA expansion
- Paid sick leave
- Payroll tax credit

Emergency FMLA Expansion

Covered Employers: Employers with fewer than 500 employees are covered.

Covered Employees: Any employee who has been employed for at least 30 calendar days, though employers can choose to exclude employees who are health care providers or emergency responders.

Covered Leave Purpose: To care for a child under 18 of an employee if the child's school or place of care has been closed, or the childcare provider is unavailable, due to a public health emergency, defined as an emergency with respect to the coronavirus declared by a federal, state, or local authority.

Duration:

- Up to 12 weeks of job-protected leave.

Compensation:

- No pay for the first 10 days of leave (employee can, but is not required, to use any other leave available to them, including the emergency sick leave discussed below). Employers may not require employees to use paid leave during this period.
- After 10 days, employers must pay two-thirds of the employee's regular rate of pay for the number of hours they would normally be scheduled to work, capped at \$200/day and \$10,000 total.

Reinstatement to Position after Leave:

- The same reinstatement provisions apply as apply under the traditional FMLA. However, restoration to the position does not apply to employers with fewer than 25 employees if certain conditions are met: The job no longer exists because of changes affecting employment caused by an economic downturn or other operating conditions that affect employment caused by a public health emergency, subject to the following conditions: the employer makes reasonable efforts to return the employee to an equivalent position, and the employer makes efforts to contact a displaced employee if anything comes up within a year of when they would have returned to work.

Note: Employers covered here but not by the rest of the FMLA (i.e. those with fewer than 50 employees) are not subject to civil action by employees (only action by the Secretary of Labor). The bill reserves the right for the Secretary to exclude certain care providers and first responders from the list of “eligible employees” and exempt small businesses with fewer than 50 employees if business viability was jeopardized.

Emergency Paid Sick Leave

Covered Employers: Employers with fewer than 500 employees.

Covered Employees: All employees (no matter how long they have been employed). Employees who are health care providers or emergency responders may be excluded.

Covered Leave Purposes:

1. When quarantined or isolated subject to federal, state, or local quarantine/isolation order;
2. When advised by a health care provider to self-quarantine (due to concerns related to COVID-19);
3. When experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. When caring for an individual doing #1 or #2 (2/3 pay);
5. When caring for a child whose school or place of care is closed due to COVID-19 (2/3 pay); or
6. When the employee is experiencing any other substantially similar condition (2/3 pay).

Duration of Leave:

- Full-time employees are entitled to 80 hours of paid sick leave.
- Part-time employees are entitled to sick leave equal to the number of hours worked on average over a typical two-week period.

Rate of Pay:

- Sick leave must be paid at the employee’s regular rate of pay for leave used for the employee’s own illness, quarantine, or care.
- Sick leave must be paid at two-thirds of the employee’s regular rate if taken to care for a family member or to care for a child whose school has closed, or if the employee’s childcare provider is unavailable due to the coronavirus.
- Pay is capped at \$511/day and \$5,110 total for reasons 1, 2, and 3 described above.
- Pay is capped at \$200/day and \$2,000 total for reasons 4, 5, and 6 described above.

Interaction with Other Employer-Provided Paid Sick Leave and other Paid Leave:

- This bill does not pre-empt existing state and local paid sick leave requirements.
- Employers cannot require employees to use other leave first.
- Sick leave provided for under the bill does not carry over from year to year, and the requirements expire December 31, 2020.

Notice Requirements: Employers must post a model notice to be provided by the federal government.

Note: The bill reserves the right for the secretary to exclude certain care providers and first responders from the list of “eligible employees” and exempt small businesses with fewer than 50 employees if business viability was jeopardized.

EEOC Guidance for Employers During a Pandemic

The spread of the Coronavirus (COVID-19) has employers rightly concerned about how to handle threats of contagion in the workplace. Along with those worries come concerns about violating other laws in the process of trying to keep the workplace safe. Specifically, the ADA comes to mind; if we send someone home who appears sick, have we then discriminated against someone with a disability? Thankfully, the Equal Employment Opportunity Commission (EEOC) has answered a number of common questions that employers are asking. We've pulled out those we think are most relevant, below, but the full EEOC Pandemic Preparedness webpage can be [found here](#).

As of March 11, 2020, COVID-19 has been declared a pandemic.

FROM THE EEOC:

The following questions and answers discuss employer actions when the WHO and the CDC report an influenza pandemic.

- **May an ADA-covered employer send employees home if they display influenza-like symptoms during a pandemic?**

Yes. The CDC states that employees who become ill with symptoms of influenza-like illness at work during a pandemic should leave the workplace. Advising such workers to go home is not a disability-related action if the illness is akin to seasonal influenza or the 2009 spring/summer H1N1 virus. Additionally, the action would be permitted under the ADA if the illness were serious enough to pose a direct threat.

- **During a pandemic, how much information may an ADA-covered employer request from employees who report feeling ill at work or who call in sick?**

ADA-covered employers may ask such employees if they are experiencing influenza-like symptoms, such as fever or chills and a cough or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.

If pandemic influenza is like seasonal influenza or spring/summer 2009 H1N1, these inquiries are not disability-related. If pandemic influenza becomes severe, the inquiries, even if disability-related, are justified by a reasonable belief based on objective evidence that the severe form of pandemic influenza poses a direct threat.

- **During a pandemic, may an ADA-covered employer take its employees' temperatures to determine whether they have a fever?**

Generally, measuring an employee's body temperature is a medical examination. If pandemic influenza symptoms become more severe than the seasonal flu or the H1N1 virus in the spring/summer of 2009, or if pandemic influenza becomes widespread in the community as assessed by state or local health authorities or the CDC, then employers may measure employees' body temperature. However, employers should be aware that some people with influenza, including the 2009 H1N1 virus, do not have a fever.

- **When an employee returns from travel during a pandemic, must an employer wait until the employee develops influenza symptoms to ask questions about exposure to pandemic influenza during the trip?**

No. These would not be disability-related inquiries. If the CDC or state or local public health officials recommend that people who visit specified locations remain at home for several days until it is clear they do not have pandemic influenza symptoms, an employer may ask whether employees are returning from these locations, even if the travel was personal.⁽³¹⁾

- **May an employer encourage employees to telework (i.e., work from an alternative location such as home) as an infection-control strategy during a pandemic?**

Yes. Telework is an effective infection-control strategy that is also familiar to ADA-covered employers as a reasonable accommodation.⁽³⁵⁾

In addition, employees with disabilities that put them at high risk for complications of pandemic influenza may request telework as a reasonable accommodation to reduce their chances of infection during a pandemic.

- **During a pandemic, may an employer require its employees to adopt infection-control practices, such as regular hand washing, at the workplace?**

Yes. Requiring infection control practices, such as regular hand washing, coughing, and sneezing etiquette, and proper tissue usage and disposal does not implicate the ADA.

- **During a pandemic, may an employer require its employees to wear personal protective equipment (e.g., face masks, gloves, or gowns) designed to reduce the transmission of pandemic infection?**

Yes. An employer may require employees to wear personal protective equipment during a pandemic. However, where an employee with a disability needs a related reasonable accommodation under the ADA (e.g., non-latex gloves, or gowns designed for individuals who use wheelchairs), the employer should provide these, absent undue hardship.

- **During a pandemic, may an employer ask an employee why he or she has been absent from work if the employer suspects it is for a medical reason?**

Yes. Asking why an individual did not report to work is not a disability-related inquiry. An employer is always entitled to know why an employee has not reported for work.

- **May an ADA-covered employer require employees who have been away from the workplace during a pandemic to provide a doctor's note certifying fitness to return to work**

Yes. Such inquiries are permitted under the ADA either because they would not be disability-related or, if the pandemic influenza were truly severe, they would be justified under the ADA standards for disability-related inquiries of employees.

As a practical matter, however, doctors and other health care professionals may be too busy during and immediately after a pandemic outbreak to provide fitness-for-duty documentation. Therefore, new approaches may be necessary, such as reliance on local clinics to provide a form, a stamp, or an e-mail to certify that an individual does not have the pandemic virus.

What to do about the Coronavirus

Over the past few weeks one question, in particular, has been pouring in – what do I, an employer, need to do about the Coronavirus? As HR professionals (you and us!), epidemiology and the prevention of pandemic are not our specialties. Thankfully, though, the CDC is on the job. Below are some links to useful information. The basic takeaways are actually quite simple, and go something like this:

- Wash your hands, wash your hands, wash your hands. For at least 20 seconds.
- Keep your hands off your face.
- If you feel sick, **stay home**.
- If your employees feel sick, **encourage them to stay home**.
- If your employees are visibly sick, **send them home**. This may cost you both money and productivity, but if they infect the rest of your workforce, that will ultimately be much more costly and dangerous to public health. Check state law for any “reporting time pay” requirements.
- If you cough or sneeze, do it into a tissue if possible, and then throw it away. Your elbow/upper arm is next best. If you accidentally cough or sneeze into your hands, wash them immediately and disinfect anything you touched on your way to do so (e.g., doorknobs and sink handles).
- Disinfect frequently touched objects often (e.g., doorknobs, sink handles, fridge and microwave doors, water cooler buttons, your phone).

Encourage employees to follow these guidelines by distributing them or posting them around the workplace. And now is also a great time to start thinking -- if you haven't before -- about what hardware and software employees may need to enable them to work from home.

[Coronavirus Home Page](#)

[Prevention and Treatment](#)

[Handwashing – How To and Science](#)

[Coughing and Sneezing – Hygiene Etiquette](#)

[COVID-19 FAQs](#)

[10 Answers for Employers](#)

Closing Business for COVID-19: Pay and Benefits as of March 5, 2020

The information below covers the scenario where an employer decides to close by choice or is required to close by public health authorities. If a state of emergency is declared by your state or the federal government, the information below could change.

When the company closes its operations temporarily, non-exempt employees only need to be paid only for actual hours worked

For non-exempt employees, the company may:

1. Pay the employee for the time, even though they did not work (uncommon, but you may be feeling generous);
2. Require they take the day off unpaid;
3. Require they use any available vacation time or PTO; or
4. Allow employees to choose between taking an unpaid day or using vacation or PTO

All four options are compliant with state and federal law. We generally recommend option 4 - allowing employees the option of using vacation time or PTO, but not requiring it.

When the company closes temporarily, exempt employees must be paid their regular salary

This holds true whether the office closure is for full or partial days. You may, however, require exempt employees to use accrued vacation or PTO during a closure if you have a policy that indicates you will do so, or if this has been your practice in the past. If your office has closed for emergencies in the past and you have *not* required exempt employees to use vacation or PTO, and you want to require that this time around, you should indicate - ahead of the closure, if possible - that you are changing your policy or practice on this issue. When it comes to accrued vacation or PTO, it is safest to give employees advance notice if there are situations where you will use their accrued hours whether they like it or not.

For exempt employees who do not have sufficient vacation or PTO to cover the closure, you are still required to provide them with their full regular salary. The only scenario where you will not be required to pay an exempt employee their full salary is if the office is closed for *an entire workweek* (or the employee is unable to come in for an entire workweek) and *they do no work at all from home*.

Employees will be able to file for unemployment insurance

Depending on the length of the closure employees may be able to file for unemployment insurance. Waiting periods range from 1-3 weeks and are determined by state law. Be prepared to respond to requests for verification or information from the state UI department if you close for longer than the mandatory waiting period.

Benefits continuation is up to you

The employer gets to decide how to manage health benefits during a furlough. The employer may continue to share the premium with affected employees, or cancel their coverage and offer COBRA. Canceling insurance likely does not make sense in the case of a furlough of a few weeks, but when you're talking about a longer temporary layoff without a clear or anticipated return date, this could make more sense. It's important to address any benefits implications in your communication with employees. If you continue cost-sharing, you will want to clearly delineate logistics for employees to pay their portion of the premium. Assuming you want to keep employees on benefits during a short furlough, I recommend you confirm with your insurance carrier that you can leave employees on your health insurance if they aren't actively working and discuss other questions with your insurance carrier or broker.

Work From Home

About this Policy

Topic

- Benefits
- Technology & Privacy

Employees are permitted to work from home (WFH) occasionally or regularly, depending on a number of factors and the arrangements they've made with their manager. Working from home is a privilege that may be revoked at any time. The Company may request that an employee be present in the office at any time (regardless of scheduled WFH time) or deny a request to work from home based on business needs, employee performance, or viability of doing the work from home. To be eligible to WFH, an employee must have access to reliable internet and a space that is free from excessive noise or distraction.

Submitting Requests

Employees must enter their remote work request in *[website/calendar/team communication tool]* and notify appropriate team members. Requests for recurring or extended WFH arrangements will be considered after *[3, 6, 12 months]* of employment, or in the case of a public health emergency.

Employees wishing to request additional remote workdays in any given workweek are required to speak with their manager in advance for approval. If approved, the employee must enter the request in *[website/calendar/team communication tool]* and notify appropriate team members.

Costs

The Company will supply the employee with appropriate office supplies and reimburse the employee for all other reasonable business-related expenses. Employees must get pre-approval for expenses associated with working from home if they are more than \$40 in total. Any equipment supplied by the Company is to be used for business purposes only, unless otherwise specified. Employees must take appropriate action to protect these items from damage or theft.

The Company is not responsible for costs associated with initial setup of the employee's home office such as remodeling, furniture or lighting, or for repairs or modifications to the home office space.

Security

As with employees working in the office, those who WFH will be expected to ensure the protection of proprietary Company and customer information through use of locking doors, desks, file cabinets, and media storage, regular password maintenance, and any other steps appropriate for the job and the environment. Unless you live alone, computers should be locked when you walk away and other household members should be not allowed access to or use of Company property.

Expectations

When working from home employees must:

- Work their full, typical schedule
- Attend all meetings in a virtual capacity
- Achieve the same level of production as in the office
- Maintain equivalent availability for colleague and client communication, supervisor questions, etc.
- Be available online and by phone for the duration of their usual workday, minus breaks and rest periods
- Respond promptly to communication via messaging app, email, and phone
- Take all required break and rest periods, as if they were in the office
- Communicate consistently regarding their workload and status (break, lunch, working on a project, etc.)
- Follow all company procedures and policies
- Refrain from using alcohol or illegal drugs

COVID-19 FAQ

Below are the most frequently asked questions we've received related to COVID-19. We will be updating this FAQ in the coming days, weeks, and months.

Questions about Employee Safety

- **Can employees refuse to travel to areas considered safe from COVID-19?**

Answered by The HR Pros

You can require employees to travel as long as you meet your general duty under OSHA to provide a workplace (including any travel location) that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.

To ensure that you are not subjecting an employee to excessive risk, check the CDC's Traveler's Health Notices for the latest guidance and recommendations for each country where the employee is traveling.

Perhaps more important than whether you can force an employee to travel is whether you should. Requiring a fearful employee to travel will erode trust and confidence and likely cause them significant anxiety. Consider video calls or videoconferencing as an (inexpensive!) alternative to traveling for the next few weeks or months.

Also keep in mind that employees who are immunocompromised or have other relevant disabilities may be entitled to an accommodation (such as not traveling, given current conditions) under the ADA.

- **Can we send employees home if they are symptomatic?**

Answered by The HR Pros

Yes. The Centers for Disease Control and Prevention (CDC) **has advised** employers that employees who appear to have symptoms of COVID-19 (e.g., cough, shortness of breath) should be separated from other employees and sent home immediately. If the employee feels well enough to work, consider whether they can effectively telecommute.

Note: Non-exempt employees may be entitled to a few extra hours of pay if you're in a state with reporting time pay, but this cost will be well worth it to maintain the safety of the workplace.

- **What if my employee discloses that their family member or roommate has COVID-19?**

Answered by The HR Pros

Our recommendation is to follow guidance from the Centers for Disease Control and Prevention (CDC). Employers should ask employees who live with someone confirmed to have COVID-19 to notify a designated HR representative or their supervisor as soon as possible. The employer and employee should then refer to CDC guidance to assess risk and determine next steps—see Tables 1 and 2 in the CDC's **Interim US Guidance** for Risk Assessment and Public Health Management.

- **Given COVID-19, if an employee is out of the office due to sickness, can we ask them about their symptoms?**

Answered by The HR Pros

Yes, but there's a right way to do it and a wrong way to do it. In most circumstances, employers shouldn't ask about an employee's symptoms, as that could be construed as a disability-related inquiry. Under the circumstances, however—and in line with an employer's responsibility to provide a safe workplace—we recommend asking specifically about the symptoms of COVID-19 and making it clear that this is the extent of the information you're looking for.

Here's a suggested communication: "Thank you for staying home while sick. In the interest of keeping all employees as safe as possible, we'd like to know if you are having any of the symptoms of COVID-19. Are you experiencing a fever, cough, and/or shortness of breath?"

Remember that medical information must be kept confidential as required by the ADA. If the employee does reveal that they have symptoms of COVID-19, or has a confirmed case, you should see the CDC's Interim Guidance to determine next steps. Tables 1 and 2 will help you assess risk and determine what steps, if any, should be taken.

- **What if I have a fearful employee who refuses to come to work?**

Answered by The HR Pros

Generally, employees do not have a right to refuse to work based only on a generalized fear of becoming ill. If their fear is not based on objective evidence of possible exposure, you can enforce your attendance policies.

You should be prepared for employees who express anxiety about coming to work and evaluate any request on a case-by-case basis. Consider alternative arrangements such as telecommuting if possible. Employees who are immunocompromised or have other relevant disabilities may be entitled to a reasonable accommodation, such as working from home or taking a leave if working from home is not possible.

If the nature of the employee's position does not allow telecommuting, and there is no legitimate threat, reiterate the steps they can take to keep themselves safe from contracting the virus and explain the proactive steps you are taking to keep infection risk low in the workplace.

Questions about Employees Working from Home

- **Can we require or allow certain groups of employees, but not others, to work from home?**

Answered by The HR Pros

Generally, employees do not have a right to refuse to work based only on a generalized fear of becoming ill. If their fear is not based on objective evidence of possible exposure, you can enforce your attendance policies.

You should be prepared for employees who express anxiety about coming to work and evaluate any request on a case-by-case basis. Consider alternative arrangements such as telecommuting if possible. Employees who are immunocompromised or have other relevant disabilities may be entitled to a reasonable accommodation, such as working from home or taking a leave if working from home is not possible.

If the nature of the employee's position does not allow telecommuting, and there is no legitimate threat, reiterate the steps they can take to keep themselves safe from contracting the virus and explain the proactive steps you are taking to keep infection risk low in the workplace.

- **How do I make a telecommuting policy?**

Answered by The HR Pros

Although some employers will be comfortable sending everyone home with their laptop and saying, go forth and be productive, most will want to be a little more specific. A good telecommuting policy will generally address productivity standards, hours of work, how and when employees should be in contact with their manager or subordinates, and office expenses.

For instance, your policy might require that employees are available by phone and messaging app during their regular in-office hours, that they meet all deadlines and maintain client contacts per usual, and that they check in with their manager at the close of each workday to report what they have accomplished. Be sure to let employees know whom to contact if they run into technical difficulties at home.

You'll also want to specify how expenses related to working from home will be dealt with. If you don't expect there to be any additional expenses involved, communicate this. You don't want employees thinking this is their chance to purchase a standing desk and fancy ergonomic chair on your dime. That said, you should consider whether employees will incur reasonable and necessary expenses while working from home. Some states mandate reimbursement for these kinds of expenses, but it's a good practice to cover such costs even if it's not required by law.

Questions about Pay

- **If we choose to close temporarily, do we need to pay employees?**

Answered by The HR Pros

Although some employers will be comfortable sending everyone home with their laptop and saying, go forth and be productive, most will want to be a little more specific. A good telecommuting policy will generally address productivity standards, hours of work, how and when employees should be in contact with their manager or subordinates, and office expenses.

For instance, your policy might require that employees are available by phone and messaging app during their regular in-office hours, that they meet all deadlines and maintain client contacts per usual, and that they check in with their manager at the close of each workday to report what they have accomplished. Be sure to let employees know whom to contact if they run into technical difficulties at home.

You'll also want to specify how expenses related to working from home will be dealt with. If you don't expect there to be any additional expenses involved, communicate this. You don't want employees thinking this is their chance to purchase a standing desk and fancy ergonomic chair on your dime. That said, you should consider whether employees will incur reasonable and necessary expenses while working from home. Some states mandate reimbursement for these kinds of expenses, but it's a good practice to cover such costs even if it's not required by law.

Questions about Leaves of Absence

- **Do any leaves apply to COVID-19?**

Answered by The HR Pros

Whether FMLA or a state family and medical leave or insurance program will apply to a particular case of COVID-19 will be fact-specific. Even if FMLA or state leaves do not apply, though, we would recommend that employers treat leaves related to this illness as job-protected, both for legal reasons and because it's the right thing to do. If you're in a state with a sick leave law, that will apply if the employee is sick, a family member is sick, or (in many states) when an employee is told to stay home by a public health authority.

Questions about Unemployment

- **If we close temporarily, will employees be able to file for unemployment insurance?**

Answered by The HR Pros

Depending on the length of the closure, employees may be able to file for unemployment insurance. Waiting periods range from 1-3 weeks and are determined by state law. Be prepared to respond to requests for verification or information from the state UI department if you close for longer than the mandatory waiting period.

When Business Threats Are Contagious: 10 Answers for Employers Navigating the Coronavirus

Employers are facing an unprecedented challenge navigating COVID-19. As the virus spreads, it is generating fear and uncertainty. Employers need clear answers they can trust. They want to know how they can protect their employees, what their obligations are under the law, and what steps they may need to take if the situation gets worse. We've put together this FAQ in the hope that it helps you manage this challenge and adapt to the circumstances ahead.

1. Can employees refuse to travel to areas considered safe?

You can require employees to travel as long as you meet your general duty under OSHA to provide a workplace (including any travel location) that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.

To ensure that you are not subjecting an employee to excessive risk, check the CDC's [Traveler's Health Notices](#) for the latest guidance and recommendations for each country where the employee is traveling.

Perhaps more important than whether you can force an employee to travel is whether you should. Requiring a fearful employee to travel will erode trust and confidence and likely cause them significant anxiety. Consider video calls or videoconferencing as an (inexpensive!) alternative to traveling for the next few weeks or months.

Also keep in mind that employees who are immunocompromised or have other relevant disabilities may be entitled to an accommodation (such as not traveling, given current conditions) under the ADA.

2. Can we send employees home if they are symptomatic?

Yes. The Centers for Disease Control and Prevention (CDC) has [advised employers](#) that employees who appear to have symptoms of COVID-19 (e.g., cough, shortness of breath) should be separated from other employees and sent home immediately. If the employee feels well enough to work, consider whether they can effectively telecommute.

Note: Non-exempt employees may be entitled to a few extra hours of pay if you're in a state with reporting time pay, but this cost will be well worth it to maintain the safety of the workplace.



3. What if my employee discloses that their family member or roommate has COVID-19?

Our recommendation is to follow guidance from the Centers for Disease Control and Prevention (CDC). Employers should ask employees who live with someone confirmed to have COVID-19 to notify a designated HR representative or their supervisor as soon as possible. The employer and employee should then refer to CDC guidance to assess risk and determine next steps—see Tables 1 and 2 in the CDC’s [Interim US Guidance](#) for Risk Assessment and Public Health Management.

4. Do any leaves apply?

Whether FMLA or a state family and medical leave or insurance program will apply to a particular case of COVID-19 will be fact-specific. Even if FMLA or state leaves do not apply, though, we would recommend that employers treat leaves related to this illness as job-protected, both for legal reasons and because it’s the right thing to do. If you’re in a state with a sick leave law, that will apply if the employee is sick, a family member is sick, or (in many states) when an employee is told to stay home by a public health authority.

5. If an employee is out of the office due to sickness, can we ask them about their symptoms?

Yes, but there’s a right way to do it and a wrong way to do it. In most circumstances, employers shouldn’t ask about an employee’s symptoms, as that could be construed as a disability-related inquiry. Under the circumstances, however—and in line with an employer’s responsibility to provide a safe workplace—we recommend asking specifically about the symptoms of COVID-19 and making it clear that this is the extent of the information you’re looking for.

Here’s a suggested communication: “Thank you for staying home while sick. In the interest of keeping all employees as safe as possible, we’d like to know if you are having any of the symptoms of COVID-19. Are you experiencing a fever, cough, and/or shortness of breath?”

Remember that medical information must be kept confidential as required by the ADA. If the employee does reveal that they have symptoms of COVID-19, or has a confirmed case, you should see the CDC’s [Interim Guidance](#) to determine next steps. Tables 1 and 2 will help you assess risk and determine what steps, if any, should be taken.

6. What if I have a fearful employee who refuses to come to work?

Generally, employees do not have a right to refuse to work based only on a generalized fear of becoming ill. If their fear is not based on objective evidence of possible exposure, you can enforce your attendance policies.

You should be prepared for employees who express anxiety about coming to work and evaluate any request on a case-by-case basis. Consider alternative arrangements such as telecommuting if possible. Employees who are immunocompromised or have other relevant disabilities may be entitled to a reasonable accommodation, such as working from home or taking a leave if working from home is not possible.

If the nature of the employee’s position does not allow telecommuting, and there is no legitimate threat, reiterate the steps they can take to keep themselves safe from contracting the virus and explain the proactive steps you are taking to keep infection risk low in the workplace.

7. Can we require or allow certain groups of employees, but not others, to work from home?

Yes. Employers may offer different benefits or terms of employment to different groups of employees as long as the distinction is based on non-discriminatory criteria. For instance, a telecommuting option or requirement can be based on the type of work performed, employee classification (exempt v. non-exempt), or location of the office or the employee. Employers should be able to support the business justification for allowing or requiring certain groups to telecommute.

8. How do I make a telecommuting policy?

Although some employers will be comfortable sending everyone home with their laptop and saying, go forth and be productive, most will want to be a little more specific. A good telecommuting policy will generally address productivity standards, hours of work, how and when employees should be in contact with their manager or subordinates, and office expenses.

For instance, your policy might require that employees are available by phone and messaging app during their regular in-office hours, that they meet all deadlines and maintain client contacts per usual, and that they check in with their manager at the close of each workday to report what they have accomplished. Be sure to let employees know whom to contact if they run into technical difficulties at home.

You'll also want to specify how expenses related to working from home will be dealt with. If you don't expect there to be any additional expenses involved, communicate this. You don't want employees thinking this is their chance to purchase a standing desk and fancy ergonomic chair on your dime. That said, you should consider whether employees will incur reasonable and necessary expenses while working from home. Some states mandate reimbursement for these kinds of expenses, but it's a good practice to cover such costs even if it's not required by law.

9. If we choose to close temporarily, do we need to pay employees?

It depends on the employee's classification.

Non-exempt employees only need to be paid only for actual hours worked. For these employees, you may:

1. Pay the employee for the time, even though they did not work;
2. Require they take the time off unpaid;
3. Require they use any available vacation time or PTO; or
4. Allow employees to choose between taking an unpaid day or using vacation or PTO.

All four options are compliant with state and federal law. We generally recommend option 4—allowing but not requiring employees to use vacation time or PTO. If your office is required to close by health authorities and your state has a sick leave law, employees may be able to use accrued paid sick leave during the closure.

Exempt employees must be paid their regular salary unless the office is closed for an entire workweek and they do *no work at all from home*. You can, however, require them to use accrued vacation or PTO during a closure if you have a policy that indicates you will do so, or if this has been your past practice. When it comes to accrued vacation or PTO, it is safest to give employees advance notice if there are situations where you will use their accrued hours whether they like it or not.

10. If we close temporarily, will employees be able to file for unemployment insurance?

Depending on the length of the closure, employees may be able to file for unemployment insurance. Waiting periods range from 1-3 weeks and are determined by state law. Be prepared to respond to requests for verification or information from the state UI department if you close for longer than the mandatory waiting period.