



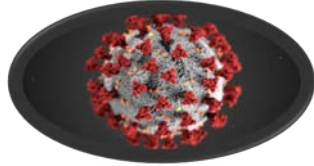
Employment Update

Keeping You Informed About Employment Matters

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COVID-19: Changing the Way We Work

By Christopher B. Lunny



Each day, we receive more news and developments on the COVID-19 pandemic. Changes are rapidly occurring, as evidenced by unfolding federal travel bans and [guidance](#) from the State University System of Florida to encourage students to return to their homes. In the meantime, the Centers for Disease Control and Prevention (CDC) have issued succinct guidance to help employers maintain a safe workplace. The CDC [recommends](#) that employers encourage their staff to:

- Regularly wash hands;
- Cover coughs and sneezes;
- Routinely disinfect common surfaces; and
- Stop handshaking.

While these basic points are helpful, employers will no doubt confront new and different challenges as employee interaction could begin to model “social distancing” or as businesses envision a greater likelihood of de-centralized operations and telework options. While most observers agree that employers can require sick workers to go home, employers must also prepare for communications to employees that are concerned about co-workers who (1) live with an individual who has traveled to an area of concern; or (2) are not manifestly ill but who nonetheless evoke concern from colleagues given a changed appearance of behavior.

Against this backdrop, employers must carefully measure their options and obligations, particularly in light of the Americans with Disabilities Act (ADA). Fortunately, during the 2009 H1N1 pandemic concerns, the U.S. Equal Employment Opportunity Commission published a [technical assistance document](#) to help guide employers with measures that could be taken as part of pandemic preparedness. The EEOC bulletin reiterated the ADA’s general prohibition against employee disability-related inquiries, but noted that inquiries can be permitted if they are job-related and consistent with business necessity. Stated differently, there are times when an employer can ask employees if they are experiencing flu-like symptoms in order to ensure that the employee does not pose a direct threat. The bulletin contains a list of helpful Q&A which, broadly speaking, provide insights that can be applied to today’s COVID-19 concerns.

While implementing preparedness measures, employers must also be mindful of the ADA’s privacy rules which prohibit employers from sharing personal health information about employees. If an employee tests positive for COVID-19, employers should relay information about a possible exposure to the pertinent workforce without disclosing personally identifiable information. The [current CDC guidance](#) provides that individuals who have had close contact with a person who tests positive for COVID-19 should self-quarantine. If you have any questions, please call the Radey Law Firm at 850-425-6654.

This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.