



## **COVID-19: What's an Employer to Do?** **SEBRIS BUSTO JAMES**

If you have employees, you will eventually receive a question about what your company is doing to respond to COVID-19, popularly known as the “coronavirus.”

The US Centers for Disease Control and Prevention has published guidance (available [here](#)) for employers who have concerns about COVID-19. For employers in Washington, the Washington State Department of Health has published additional guidance (available [here](#)). Below is a summary of this guidance, as well as some additional steps that we recommend employers take to best prepare themselves for this developing situation:

- Employers have an obligation to provide a safe working environment for all employees. This may require employers, among other things, to instruct employees who are ill, or who appear visibly ill, to go home.
- Employers should clearly communicate to all employees that they should remain home if they feel sick.
- Employers should review their own sick leave, vacation, and PTO policies to ensure that they are compliant with their obligations with respect to compensating employees for time spent away from work. As a reminder, Washington law requires employers to permit employees to use accumulated Paid Sick and Safe Leave not only for their own illnesses but also in circumstances where the employee’s child’s school (or the employer’s workplace) is closed by order of a public health official.
- For the duration of the outbreak, employers with the capability of managing remote workers should encourage all employees capable of working remotely to do so. Employers should review their work-from-home policies and procedures and ensure that front line managers are able to communicate effectively with employees who choose to work remotely.
- With more workers functioning remotely, employers should expect more stress on their remote systems and support functions. Employers should ensure that the tools used by remote workers are functioning effectively, have adequate bandwidth, and that support services are well-staffed.
- Employers should be sure that non-exempt employees who are working remotely are keeping accurate time records and taking all of their required breaks. Employers should collect this information regularly for compliance and to avoid payroll delays.
- For employers who are not working remotely, employers should make sure that employees have ample access to resources such as hand soap and sanitizers, and should encourage employees to take breaks as frequently as necessary to ensure that they are practicing good hygiene. Employers should also ensure that workplace surfaces are cleaned regularly.

- The obligation to provide a “safe working environment” extends to employee travel. Employees should be given the option to defer or cancel any workplace travel (including domestic travel) if the employee feels unsafe.
- Employers should review their expense reimbursement policies to be prepared to answer questions from employees about obtaining refunds or reimbursement for costs associated with canceled business-related travel, such as non-refundable flights or hotels.
- Employers should prepare for potentially significant increases in absenteeism and tardiness, much of which will likely be protected by various laws relating to medical-related leaves and accommodations. Employers should review their reasonable accommodation and medical leave processes and be prepared for a significant increase in the number of employee requests for time off to seek medical diagnosis or care or to attend to medical issues.
- Employers should monitor public communications from the Governor, and from the state and county Departments of Health, for information about potential State of Emergency declarations, facility closures, curfews, or other declarations that could have an impact on operations.
- Employers should review and update their contingency plans to account for the possibility of a decision from the Governor or a public health official that might render the employer’s facility closed, or that might make it practically impossible for employees to travel to work (such as a curfew).
- Employers should make sure that there are alternate chains of decision-making authority in the event that primary decision-makers become ill or incapacitated.
- Employers should make sure that they have a designated channel--such as a Slack channel or Intranet resource--that can be accessed remotely, and that employees can check for official company information and communications.

Employers with more specific questions or concerns are encouraged to contact counsel.