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MEMORANDUM

TO: Business Clients
RE: Business Guidance to Respond to COVID-19 at the Workplace
DATE: Thursday, April 23, 2020

This memorandum is designed to provide general advice to employers seeking to limit exposure to COVID-19 and/or to respond to a documented case of COVID-19 at your place of business. The response employers fashion to a documented case of COVID-19 may be governed by the Families First Coronavirus Response Act (“FFCRA”) which **went into effect on April 1, 2020.**

Each situation is unique; therefore, we ask that you contact our office to discuss your individual concerns.

I. Understanding COVID-19 and its Symptoms

The “novel coronavirus” is scientifically known as severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2 for short. Becoming infected with SARS-CoV-2 can trigger a potentially deadly respiratory disease called **Covid-19**, an illness which presents with three main acute symptoms: fever, a deep, dry cough and a shortness of breath which can become quickly life-threatening.

While roughly 80% of cases report mild symptoms, some progress into severe pneumonia and multi-organ failure and can lead to death. Current data indicates the risk of death for those contracting COVID-19 notably increases for individuals above the age of 60 or for individuals with autoimmune conditions.

The following symptoms may appear **2-14 days after exposure.**

- Fever
- Cough
- Shortness of breath

II. How Does the Virus Spread?

The virus is thought to spread mainly from person-to-person, specifically:

- Between people who are in close contact with one another (within about 6 feet).
- Through respiratory droplets produced when an infected person coughs or sneezes.
 - These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.

NOTE: The legal implications of COVID-19 are evolving rapidly, and every employer’s situation is unique, please contact our office to discuss your plans, questions and concerns.

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- People are thought to be most contagious when they are most symptomatic (the sickest).
- Some spread might be possible before people show symptoms; there have been reports of this occurring with this new coronavirus, but this is not thought to be the main way the virus spreads.

III. Slowing the Spread

Employers should plan to respond in a flexible way to varying levels of disease transmission in the community and be prepared to refine their business response plans as needed.

Consider minimizing face-to-face contact between employees or assign work tasks that allow employees to maintain a distance of six feet from other workers, customers and visitors, or to telework if possible.

Employers are encouraged to take time to study the work environment to identify areas where workers might be exposed to COVID-19 at the workplace. Once identified, take appropriate actions to protect workers.

If you have not already, consider putting in place policies and procedures related to illness, cleaning and disinfecting, and work meetings and travel.

Clean AND disinfect frequently touched objects and surfaces such as workstations, keyboards, telephones, handrails, and doorknobs. Dirty surfaces can be cleaned with soap and water prior to disinfection.

Avoid using other employees' phones, desks, offices, or other work tools and equipment, when possible. If necessary, clean and disinfect them before and after use.

REQUIRED: Pursuant to Oklahoma Governor Kevin Stitt's Executive Order 2020-07, **package delivery companies** are required to "institute a daily temperature check and use of a short questionnaire about potential exposure [to COVID-19], to be administered at the start of each shift for any worker handling packages."

REQUIRED: Pursuant to Oklahoma City Mayor David Holt's Revised Proclamation of State of Emergency, all employers of essential businesses within the limits of The City of Oklahoma City are prohibited from having "meetings of ten (10) or more" people.

REQUIRED: Pursuant to Oklahoma City Mayor David Holt's Revised Proclamation of State of Emergency, all employers of essential businesses within the limits of The City of Oklahoma City are directed to practice "social distancing which may include but is not limited to maintaining six (6) feet between both employees and the general public, off-setting shifts and/or days, and requiring employees to conduct work remotely" to the extent possible.

Visit <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

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IV. *Encountering COVID-19 at the Workplace*

Employers should actively encourage sick employees to stay at home.

- ✓ Be sure that your business is complying with the *Families First Coronavirus Response Act* (FFCRA) which requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19.

Employees who appear to have symptoms (i.e., fever, cough, or shortness of breath) upon arrival at work or who become sick during the day should immediately be separated from other employees, customers, and visitors and sent home.

If an employee is confirmed to have COVID-19 infection, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Fellow employees should then self-monitor for symptoms (i.e., fever, cough, or shortness of breath).

V. *Other Considerations*

a. **GOVERNOR'S EXECUTIVE ORDER 2020-07:**

Already, the entire state of Oklahoma is subject to Governor Kevin Stitt's Sixth Amended Executive Order 2020-07.

The Executive Order, among other things, restricts all "non-essential" businesses located in a county experiencing community spread of COVID-19 and such businesses not identified as being within a critical infrastructure sector (a/k/a "essential businesses") as defined by the U.S. Department of Homeland Security (USDHS) to close.

The Executive Order, among other things, directs all persons entering the State of Oklahoma by air from an "area with substantial community spread [of COVID-19]...to quarantine for a period of 14 days from the time of entry into the State of Oklahoma or the duration of the person's presence in the State of Oklahoma, whichever is shorter."

- Specific areas of concern include:
 - New York Tri-State Area (Connecticut, New Jersey and New York)
 - State of Washington
 - State of California
 - State of Louisiana

You can access the Governor's Executive Memorandum defining "essential businesses" at <https://www.sos.ok.gov/documents/executive/1921.pdf>

b. MUNICIPAL ORDERS RELATED TO COVID-19

OKLAHOMA CITY: Businesses operating in Oklahoma City are subject to Mayor David Holt's Revised Proclamation of State of Emergency. You can access Mayor Holt's Emergency Proclamation at <https://www.okc.gov/home/showdocument?id=16535>

TULSA: Business operating in Tulsa are subject to Mayor G.T. Bynum's Executive Order 2020-04. You can access Mayor Bynum's Executive Order at <http://www.cityoftulsa.org/media/12617/2020-04.pdf>

Employers operating in other localities are encouraged to review local ordinances or local city websites to determine what, if any, active local orders are in place that affect their operations.

c. FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

The FFCRA provides certain paid leave benefits to employees of covered employers. Employers are required to post Employee Rights Posters in a conspicuous place for employee reference by **April 1, 2020!**

The FFCRA Notice can be found at https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Additional information about FFCRA can be found at <https://www.dol.gov/coronavirus>

SAMPLE COVID-19 INFECTION NOTICE TO EMPLOYEES

Dear [employee name]:

Please be advised that [Company name] was notified that an employee has [tested positive/insert circumstances] for COVID-19. As an immediate response to protect the health and safety of our workforce, we are [notifying all employees/insert preventative action taken, such as temporary closure or other action].

We are also taking the following steps (as applicable):

- [Instituting remote workforce]
- [Sanitizing and closing workplace]
- [Notifying building management]
- [Other]

We ask that you abide by the following federal Centers for Disease Control and Prevention (CDC) guidelines to protect your health and those around you:

- Wash your hands often with soap and water for at least 20 seconds, especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use a hand sanitizer that contains at least 60 percent alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Follow all recommendations provided by the CDC here:
<https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>.

If you, or someone in your household, exhibits COVID-19 related symptoms, please notify [HR or other/contact info] so that we may track any potential outbreaks within our company. All such personal information will be maintained confidentially.

Your health and safety are our priority. We are immediately assessing this situation and will contact you by [insert reasonable date/legally compliant date based on company action] via [email/phone] with any/all relevant workplace notices detailing your rights and protections as our employee.

You may contact [HR or other/contact info] with your questions.

These are trying times for us all, and we are here for you.

Respectfully,
[name]
[contact information]

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REQUIRED FFCRA NOTICE TO BE POSTED BY APRIL 1, 2020



The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee’s two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- 2/3 for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at 2/3 for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

<ol style="list-style-type: none"> 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; 2. has been advised by a health care provider to self-quarantine related to COVID-19; 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis; 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); 	<ol style="list-style-type: none"> 5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
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▶ ENFORCEMENT

The U.S. Department of Labor’s Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627

[dol.gov/agencies/whd](https://www.dol.gov/agencies/whd)



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