



# COVID-19: HR Guidance and Best Practices

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# Agenda

- Current Guidance from the CDC
- Illness and Quarantine
- The Families First Coronavirus Response Act
- Reducing Hours or Closing

## SHRM and HRCI Credits

- **COVID-19 HR Guidance and Best Practices** is SHRM accredited
- **COVID-19 HR Guidance and Best Practices** is not pre-approved for HRCI credit. Attendees are encouraged to self-submit the deck to receive credit.
- The deck will be sent to all registrants within 24 hours of the event.

# **Current Guidance from the CDC**

# Keeping the Workplace Safe

- Stop handshaking
- Have employees wash their hands at the door and schedule regular handwashing reminders
- Hang posters from the CDC
- Disinfect surfaces like doorknobs, tables, desks, and handrails regularly
- Increase ventilation by opening windows or adjusting air conditioning
- Cancel travel if at all possible
- Adjust or postpone large meetings
- Use videoconferencing
- If in-person meetings are necessary, hold them in open, well-ventilated spaces
- Eliminate shared food

# Keeping Public Spaces Safe

- Use booking and scheduling to stagger customer flow
- Use online transactions where possible
- Consider limiting attendance at larger gatherings
- Remove tables and chairs to reduce capacity and create distance
- Encourage tap-and-pay
- Provide disinfecting wipes and hand sanitizer at the door



**Can we take  
temperatures or ask  
about health daily?**

Probably, but be reasonable.

# Illness and Quarantine





## Sick Employees

Sick employees need to go home and stay there, but when can they come back?

**They should talk to their healthcare provider.** The decision to discontinue home isolation precautions should be made on a case-by-case basis, in consultation with healthcare providers and state and local health departments.



**Can we require a note for them to return after sick leave?**

Yes, but the CDC asks that you don't.



**Can we ask about symptoms if employees are out sick and we don't know why?**

Yes, but keep it specific to COVID-19.



**Can we make an employee  
with a sick family member  
stay home?**

Yes, if the family member is  
showing symptoms of COVID-19.



**Employees don't want to come in. Can we make them?**

Yes, as long as there is no legitimate threat and they don't require an accommodation.



## Employees with an n<sup>th</sup> Degree of Separation

In *most* workplace settings, the CDC does not currently recommend special scrutiny for people exposed to asymptomatic people with potential exposures to COVID-19. (That probably describes half the country right now.)

There are, and will be more, settings and locations where the CDC will recommend monitoring all employees.





## Employees with an n<sup>th</sup> Degree of Separation

If you decide to send someone home anyway, we recommend that you pay them for the time and not take it from their sick leave or PTO bank.

Risks if they *can't* work from home and you *don't* pay them:

- Very unlikely—a “regarded as disabled” ADA claim
- Reasonably likely—stewing on how to get you back with a discrimination or wage and hour claim



## Work From Home Policies

1. Hours of work
2. Expectations regarding reachability
3. Expectations regarding productivity
4. Check-ins
5. Office expenses





## Reminders About Pay

### **Non-exempt employees**

- Must be paid for all hours worked, even at home.
- If you send them home before their shift is complete, you may owe reporting time pay, even if they are symptomatic.



## Reminders About Pay

### Exempt employees

- No partial day deductions *ever*. You can fill in with paid time off.
- If they do any work (including at home) during a workweek, they are entitled to their full weekly salary.
- Exception: full day deductions may be taken if they take time for *personal reasons*.
- Exception: full day deductions may be taken if they are *actually sick*, do no work, and you offer a *bona fide sick leave plan*.

# **Families First Coronavirus Response Act**



# Highlights

- FMLA expansion
- Paid sick leave
- Payroll tax credit

# FMLA Expansion

## Coverage

- Applies to all employers with fewer than 500 employees. Yes, even those under 50.
- Employees who are health care providers or emergency responders do not need to be provided with this leave.
- The Secretary of Labor may issue regulations to exempt *certain* employers with fewer than 50 employees if it would jeopardize viability as a going concern.

## Adds leaves for:

- Care for a child under 18 if their school or place of care is closed for public health emergency.

# FMLA Expansion

## Pay Provision

- No pay for first 10 days of leave (employee may use any other leave they have available to them- including new emergency sick leave).
- After 10 days, pay at 2/3 regular rate of pay for number of hours they would normally be scheduled to work up to cap of \$200/day and \$10,000 total.

## Job Restoration

Required, except for employers with fewer than 25 employees if:

- Job no longer exists because of changes affecting employment caused by public health emergency; AND
- Reasonable efforts to find equivalent positions were made (and failed) and employees are contacted if anything comes up within a year of when they would have come back.

# Emergency Paid Sick Leave

## Coverage

- All private employers with fewer than 500 employees
- All employees, no matter how long employed
- Employer can exclude employees who are health care providers or emergency responders
- Secretary of Labor may issue regulations to exempt employers under 50 if it would jeopardize viability as a going concern

# Emergency Paid Sick Leave

## Uses

1. If subject to a federal, state, or local quarantine or isolation order
2. When advised by health care provider to self-quarantine
3. For seeking medical diagnosis for symptoms of COVID-19
4. To care for an individual who qualifies under #1 or #2 (2/3 pay)
5. To care for child if school or place of care is closed (2/3 pay)
6. When experiencing other substantially similar condition (2/3 pay)



# Emergency Paid Sick Leave

## Amount

- Full time employees get 80 hours (2/3 pay for uses #4, 5, 6)
- Part time employees get the number of hours worked on average over a 2-week period (2/3 pay for uses #4, 5, 6)
- Caps of \$511/day and \$5,110 total for uses #1, 2, 3
- Cap of \$200/day and \$2,000 total for uses #4, 5, 6

# Reducing Hours or Closing

## Reducing Hours or Pay for Non-Exempt Employees

Non-exempt employees only need to be paid for hours worked.

Remember reporting time pay if you send people home after they've already arrived at work for the day.

A reduction in hourly *wage* may require a certain amount of notice under state law and cannot be retroactive if you are mid pay-period.



## Reducing Pay for Exempt Employees

You can implement a pay cut, either for everyone or for certain departments or types of jobs. Check for unintentional discrimination.

Employees must remain above the federal minimum salary for exempt employees (\$684/week) or the higher state minimum. *No prorating!*

## Reclassifying Exempt Employees as Non-Exempt

This is legal unless done to avoid the salary basis requirements under the FLSA.

Don't do this on a very short-term basis (e.g., three weeks or less).

Ensure state notice requirements are met and that it isn't applied retroactively if you're halfway through a pay period.

## Furlough v. Temporary or Permanent Layoff

**Furlough:** Temporary reduction in hours of work or weeks of work. This could be, “we only need you 10 hours this week” or, “we’re closing for two weeks, see you all soon.” Probably involves an estimated date of reopening.

**Temporary Layoff:** A layoff with the intention of rehire, generally within six months. (WARN notice does not apply if six months or less.)

**Permanent Layoff:** A layoff with no anticipated rehire date.



## Furloughs

Communicate in writing.

Share options for use of paid leave, including those that may be outside your regular policy.





## Furloughs

Address health insurance benefits and premiums and any other benefits that may be affected, such as stipends.





## Furloughs

Employees will be eligible for unemployment insurance and many states are waiving waiting weeks.



## What if we can't make payroll?

Call an attorney to determine the best course of action under your circumstances in your state.



## Staying Afloat

The Small Business Administration (SBA) will work directly with state Governors to provide targeted, low-interest loans to small businesses and non-profits that have been severely impacted by the Coronavirus.

The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to \$2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.

Find more information on the SBA's Economic Injury Disaster Loans at: [SBA.gov/Disaster](https://www.sba.gov/disaster).

## How to Engage ThinkHR on COVID-19

1. Check out our publicly available resources (like the blog!)
2. Featured Section for COVID-19 in Comply
3. More Webinars: Look out for more updates in coming weeks
4. Email our support center, if needed