



535 Grand Avenue, Grand Junction, CO 81501
PO Box 1449, Grand Junction, CO 81502
970-243-7789 ♦ www.lighthousehrs.net

Compliance Connection

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Coronavirus Employment Practice Resources

Background

As the COVID-19 (Novel Coronavirus) makes its way to the west, including Colorado, business owners and employers must remain aware of best practices in order to proactively meet the challenges our workplace environments may face.

*The following information is provided as a summary of information collected from official websites and various legal firms in order to assist as guidance for employee relations and workplace concerns. **As this information changes rapidly, it is encouraged to check with the resource websites often.** Please remember, this information is only offered as a guideline and employers should check with legal counsel prior to modifying or implementing policies and practices in response to the COVID-19.*

In addition, we have provided some resources for flyers and posters you may use to distribute throughout your place of work.

Workforce Impacts

- **Colorado Department of Labor & Employment enacted the Colorado Health Emergency Leave with Pay (Colorado Help) effective March 11, 2020 and remains in effect for 30 days or as long as the State of Disaster Emergency lasts, up to a maximum of 120 days.**
 - Colorado employers in certain industries (leisure and hospitality, food services, child care, education (all levels and related services such as cafeterias and transportation), home health care (serving the elderly, disabled, ill, or other high-risk patients), employed in a nursing home, doing business in a community living facility) are required to:
 - Provide up to four (4) days of paid sick leave for an employee a) “with flu-like symptoms, and b) who is being tested for COVID-19.” The CDLE further states the leave terminates if the employee tests negative.
 - If an employer already offers adequate sick time, they are not required to offer this in addition to sick leave. However, if an employee has fully exhausted such leave, and meets the above criteria, they must receive the relief.
 - These four (4) days must be paid at the employee’s regular rate of pay (defined in the COMPS Wage Order #36) and number of regular worked hours prior to any illness due to flu-like symptoms.
 - Follow all Family Medical Leave regulations, both state and federal, regarding designated leave. In addition, employers may not terminate an employee for an inability to provide documentation from a care provider during an illness covered by these emergency rules.

- **For more information, please click on [Colorado HELP](#)**
- **Workplace Concerns:** COVID-19 impacts the workplace in many different ways, including the following, just to name a few. Employers must consider how they will address these issues:
 - School closures causing childcare issues
 - Employees requesting to stay home/call-offs
 - Businesses facing slowdown periods in business causing reduced working hours
 - Furlough days due to lack of business, mitigating the spread, etc.
 - Travel restrictions affecting business travel
 - Reduced workforce due to illnesses or quarantines, including volunteers
 - Lack of vacation/sick leave available for sick or quarantined employees
- **Proactive Processes:** Taking a proactive approach to as many of these issues as possible allows employers to mitigate some of the impacts. During this epidemic, businesses need to review related workplace policies, including, but not limited to, the following:
 - Communication systems (cellular, network and manual) - alerts for the following: staff, customers/patients/families
 - Vacation/PTO/Sick policies
 - Requiring a provider's note to return
 - Exempt v. hourly employees
 - Absence policies
 - Isolation policies
 - Family Medical Leave Act/Americans with Disabilities Act and Amendment Act (limited)
 - Telecommuting as appropriate
 - Information Systems – computers, network access, etc.
 - Business travel, including workers' compensation policies
 - Contingency staffing (temporary, travel, etc.)
 - Emergency/Disaster preparedness plans, including job coverage, volunteer action plans, etc.
 - Crisis Prevention and Response
 - [Crisis + Emergency Risk Communication Information](#)
 - [Mitigation Strategies for COVID-19](#)

Employee Safety

- We all know that OSHA (Occupational Safety and Health Administration) requires business professionals to provide a work environment free from any recognized hazards, including providing training to employees in a language they can understand.
- Providing a safe workplace may include distributing information on the following:
 - Basic information from the CDC:
 - [Basic Information on COVID-19-19](#)
 - [Additional Information on COVID-19](#)
 - [Information for if you are sick with COVID-19](#)
 - [Preventing the spread of germs](#)
 - [Symptoms of COVID-19](#)
 - Preventative practices from CDC:
 - [Proper handwashing technique](#)
 - [Cover your cough and sneeze](#)
 - Staying home when ill
 - [Stay home when ill](#)
 - Appropriate Precautions
 - [Environmental Cleaning and Disinfection](#)

Legal Considerations

- As with any workplace policy, business professionals must consider legal implications or risks when enforcing policies related to communicable diseases. The following are statements from the Center for Disease Control (CDC), Harvard Business Review, and/or the Society for Human Resource Management (SHRM):
 - **Required Quarantine:**
 - Employers who have employees who traveled high risk areas should require employees not to return to the work site for 14 days.
 - Public health organizations recommend that companies bar employees or visitors from coming to the workplace for a period 14 days after a “medium” or “high-risk” exposure to the virus...
 - As of 3/10/20, the countries listed in the “medium” to “high” risk categories include the following:
 - China
 - Iran
 - Other countries with sustained community transmission (such as Japan and Italy)
 - **Discriminatory Practices:** Ensure that employees from protected classes are not targeted in enforcement of policies:
 - Asians
 - Elderly
 - **Americans with Disabilities Act and Amendment Act:** When an organization takes action regarding an employee with symptoms, they may be regarding that employee as “disabled” under the Americans with Disabilities Act Amendment Act if the action lasts longer than a “transitory and minor” period of time.
 - **Unemployment Insurance:** If employees are restricted from coming to work due to quarantines or site shut-downs, they may be entitled to unemployment benefits due to a “lay-off” or partial separation. Per Governor Polis’ statement “For workers who test positive and lack access to paid leave, the governor is directing CDLE to identify additional supports and wage replacement such as access to unemployment insurance.”
 - [Colorado State of Emergency](#)
 - **National Labor Relations Act (NLRB) and OSHA:** non-supervisory personnel may have the right to refuse to work in conditions if they believe the conditions are unsafe. However, this belief must be based on “reasonable, good-faith” information. Further, employers must remain aware of union representation and collective bargain provisions. In addition, employees may have the right to wear protective equipment, regardless of the employer’s policies.

Employers must stay abreast of quickly developing conditions regarding COVID-19 and how it may impact the community and workplaces. The following are websites for your convenience:

- [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease](#)
- [Public Health Response to the Coronavirus Disease 2019 Outbreak](#)
- [Mesa County Public Health - Coronavirus Response - COVID-19](#)

Disclaimer:

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