



CHECKLIST FOR EMPLOYERS IN WASHINGTON STATE REGARDING COVID-19

WHAT: Help to employers to keep workers safe and manage risks in the uncharted waters of COVID-19.

HOW: Prevention is the best medicine. Here is a general checklist to help keep workers safe, manage workplace and work force changes, and minimize risk:

DO:

- Put safety first.
- Appoint specific group/task force/workplace coordinator to be responsible for COVID-19 issues during the pandemic and as things begin to re-open and your workplace transitions back to work.
- Follow current CDC guidelines found here: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>. Interim guidelines for “Critical Infrastructure Workers” who may have been exposed are found here <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>.
- Look to state and local health departments for guidance for steps to take based on local conditions. If state and local governments choose to be more protective than the CDC, you should follow that more protective guidance. If you’re based in Washington, Department of Health guidelines are found here: <https://www.doh.wa.gov/Coronavirus/Workplace>.
- If you are a member of an industry association/organization that is providing COVID-19 guidance, consider its recommendations for industry-specific best practices as part of your planning. OSHA provides specific guidance for some industries: <https://www.osha.gov/SLTC/covid-19/>
- Plan for the possibility that an employee tests positive or is suspected for COVID-19 and appropriate communications about the exposure. <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html> and https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm



- Make sure you check back with the resources above, as guidance is constantly updated. Additionally, some federal politicians are advocating for a broad liability shield to protect employers from liability as they reopen.
- Plan for the possibility that a visitor to office/customer is later found to be positive or is suspected of having COVID-19 and appropriate communications about the exposure.
- Keep your board up to date and informed.
- Consider whether you have insurance or should purchase insurance that covers injury or claims related to COVID-19.
- Document what you are doing, why, and the source for such decisions.
- Ensure appropriate reporting and handling of workers' compensation claims.
- Examine what worked well and what didn't while your employees were working prior to and during the shut down. What lessons learned should you adopt? Be thoughtful about the possibility that we may be forced into future shutdowns and put policies in place that would have been helpful this time to ensure a smoother transition to remote working during future shutdowns.
- Review applicable state or local government orders and laws, as well as your own sick leave and other leave policies, to address potential absence issues related to COVID-19.
- Post all required notices.

DO NOT:

- Do not disclose names of employees who have tested positive for COVID-19.
- Do not confirm the health status of employees or communicate about an employee's health to anyone who does not have a need to know that as part of their job duties (*e.g.*, HR).
- Do not agree with competitors to reduce employees' wages, salaries, benefits or hours, or to not poach workers.
- Do not ignore safety complaints or concerns by employees or retaliate against them for raising concerns or complaints.



- Do not attempt to reclassify employees as independent contractors. Likewise, be cautious about how you pay and schedule exempt workers to avoid jeopardizing their exempt status.
- Do not terminate an employee who has COVID-19 without consulting counsel; but DO send the employee home.
- Do not terminate an employee who has a diagnosed disability without consulting counsel, as that person may have a legitimate basis to seek accommodation during the pandemic.
- Do not fail to pay employees for all hours worked prior to any layoffs or stop-work orders.
- Do not discriminate, for example, by allowing only young or healthy employees to return to work right away but telling older or unhealthy employees (considered more susceptible to COVID-19) to stay at home.
- Do not conduct health screening or diagnostic testing on workers without understanding the regulatory landscape, including confidentiality obligations. https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm.
- Do not destroy potential evidence or documents.

Click here to see available COVID-19 resources prepared by Summit Law Group: <https://www.summitlaw.com/covid-19-resources>.

Click here to learn more about what Summit Law Group can do to assist with COVID-19 employment issues: <https://www.summitlaw.com/covid19-employment-issues>

Please Note:

Recipients of this checklist are encouraged to confer with their legal counsel for guidance in implementing a layoff. The provision of this checklist is for informational purposes only. It is not intended as legal advice or to establish an attorney-client relationship. Thank you.