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KEEPING EMPLOYEES SAFE DURING THE COVID-19 PANDEMIC

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High-Risk Employees Should Not be Afraid to Request Reasonable Accommodations from Their Employers.

Many employees are concerned about their specific health concerns in the midst of this pandemic. Employee safety must come first. The CDC has identified certain categories of individuals who may be at a higher risk of severe complications if they develop COVID-19. This information is available at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>. Local, state, or federal quarantine or stay-at-home orders may also identify such groups.

High-risk employees may wish to request reasonable accommodations from their employers. For example, according to the EEOC, “employees with disabilities that put them at high risk for complications of pandemic influenza may request telework as a reasonable accommodation to reduce their chances of infection during a pandemic.” See Question 10 at: https://www.eeoc.gov/facts/pandemic_flu.html.

Telework may not be an option for all employees. Still, high-risk employees should consider their individual circumstances and discuss with a medical provider whether it is safe to remain in the workplace. Whether employees who are granted accommodations to stay home will be paid will depend on the applicable collective bargaining agreement, employer policies, and local, state, and/or federal laws.¹

¹ Under the new Families First Coronavirus Response Act, for instance, the Department of Labor issued a temporary rule and regulations that may entitle high-risk covered employees to up to eighty (80) hours of emergency sick leave. According to the DOL, a quarantine or isolation order that makes employees eligible for the emergency paid sick leave under the federal law includes:

“when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of Employees to be unable to work even though their Employers have work for them.”

29 C.F.R. § 826.10(a). The new regulations also clarify that an employee who meets all other requirements of the law is eligible for emergency paid sick leave if a health care provider advises the employee to self-quarantine based on a belief that the employee is “particularly vulnerable to COVID-19.” 29 C.F.R. § 826.20(3)(i)(C). The temporary rule and regulations are available at: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-07237.pdf>.

Employees and Unions Must Remain Vigilant About Safety.

Now is the time to exercise all tools available to protect employee safety. For example:

- Review and consider health and safety provisions in collective bargaining agreements, employer policies, and federal, state and local laws.
- Speak up if employees feel threats to their safety, like being forced to work in areas of potential COVID-19 exposure without proper notification, sanitation, PPE, or training.
- Stay on top of CDC and other safety guidelines to ensure that employers are not putting employees in harm's way.
- Establish direct lines of communication with appropriate employer representatives who can address health and safety issues promptly.

The Occupational Safety and Health Administration (OSHA) continues to update its website with interim guidance and other resources for preventing exposures to, and infection with, COVID-19. <https://www.osha.gov/SLTC/covid-19/>. Whether or not employees are covered by OSHA, these resources may be helpful to remind employers what they should be doing to keep their workers safe.

In these challenging times, employee health and safety are paramount. In the event that you have specific questions or issues that arise regarding employee safety, please do not hesitate to contact our office.

Nothing herein is intended to provide legal advice. The law is still developing on these new and evolving COVID-19 related issues. Our team is with you and your members as you navigate these challenging times. We are always available to answer our clients' questions.



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