CORONAVIRUS

By now, employers are aware of the coronavirus (officially named COVID-19) and its growing impact on the global supply chain. Employers are increasingly faced with a related concern—how the virus may impact the workforce, and what employers should be doing right now.

Those who wish to exercise extra caution while information about the coronavirus and its impact develops should keep the following considerations in mind as they consider policies to address the current situation.

SELECT A POINT PERSON

- Employers should appoint a coordinator and/or team with defined roles and responsibilities for preparedness and response planning in the wake of the coronavirus. This person and/or team should have an expertise in all equal employment opportunities laws to ensure that implementation of preparedness procedures do not conflict with the Americans with Disabilities Act (ADA), Family Medical Leave Act and other anti-discrimination laws.

EMPLOYEE COMMUNICATION

- Employers should share with employees information about the signs and symptoms of the coronavirus and preventative measures. Employers can refer to CDC, the WHO and OSHA for interim guidance on what is known about the virus and recommended preventative practices.

A CLEAN WORKPLACE

- Employers should conspicuously place posters in the workplace advising employees to stay home when sick, providing guidance on cough and sneeze etiquette and hand washing.

- Employers should provide tissues, no-touch disposal receptacles, hand sanitizer and other appropriate sanitation items.

- Employers should ensure that all frequently touched workspaces are routinely cleaned. Employers should consider providing employees with disposable wipes so that they can wipe down workspaces regularly.

ENCOURAGE SICK EMPLOYEES TO STAY HOME

- Employers should actively encourage sick employees to stay home until they are free of any symptoms (including fever, cough and respiratory ailments) without the use of symptom-altering medicines for 24-hours.

- Employers should make sure that their sick leave policies are known to employees.

- Employers should exercise flexibility where necessary if an employee is sick but is without available leave or an employee needs to stay home to care for a sick family member.

- Where applicable, employers should talk with companies that provide them with contract or temporary employees about the importance of encouraging sick employees to stay home and suggest that these companies maintain flexible sick leave policies during this time.

- Employers may not want to require a health care provider's note to verify an employee's acute respiratory illness or ability to return to work, as providers' offices at this time may be extremely busy and unable to provide proper documentation promptly.

- Employers should advise employees to check themselves for symptoms of acute respiratory illness before starting travel, and to notify their supervisor and stay home if they are sick after returning from travel.

TAKE EXTRA CAUTION WHEN EMPLOYEES COME TO WORK SICK

- Employers should follow their existing ADA process for medical inquiries even if an employee's suspected illness may stem from the coronavirus.

  o Note, this includes following the ADA requirements for medical exams. For example, taking an employee's temperature constitutes a medical exam, which generally requires an individualized reason to believe the employee may not be safely at the workplace.

- Recent travel to an area impacted by the coronavirus may be a reason to ask questions of the employee. However, an employee's connection with an area impacted by the virus is not a sufficient reason to inquire. Employers should ensure that employees are not being sent home from work based on their connection to a certain location alone.

- Employers should treat employees who are absent or who are sent home from work based on suspected symptoms of the coronavirus similarly to employees who are absent or sent home from work for other illnesses. An employer may require that an employee use paid leave to the extent it is available just as it would for other ill workers.

MAINTAIN CONFIDENTIALITY IF AN EMPLOYEE CONTRACTS THE CORONAVIRUS

- Employers should inform fellow employees of their possible exposure risk, but should maintain confidentiality as required by the ADA.

- Employers should refer potentially exposed employees to CDC guidance on how to conduct an exposure risk assessment.

CONSIDER CREATIVE WORK ALTERNATIVES

- Employers who are able to accommodate a work-from-home policy or flexible work schedules should consider doing so if concerns of the impact of the coronavirus increase.

- Employees who have been traveling, including to areas where coronavirus is widely transmitted, may be required or encouraged to work from home. However, to avoid misstep, contact counsel early in the process for guidance on this issue.

PLAN FOR INCREASED ABSENCES

- Identify essential business functions and consider cross-training employees to perform essential functions in the event that key staff members are ill or absent from the workplace.

- Evaluate potential impact on performance and obligations under contracts, including government contracts.