
Coates' Canons Blog: Preparing Local Government Workplaces for the New Coronavirus

By Diane Juffras

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Yesterday, the federal Centers for Disease Control and Prevention (CDC) said that it was a matter of when, not if, the new coronavirus would begin to affect communities here in the United States. "It's not so much of a question of if this will happen anymore but rather more of a question of exactly when this will happen," Dr. Nancy Messonnier, director of the CDC's National Center for Immunization and Respiratory Diseases, said in a news briefing. Consistent with that warning, the CDC has issued an interim guidance for employers on how to plan for and respond to the new virus. Here are the highlights of the CDC guidance.

Background

Coronaviruses are a large family of viruses, some of which infect humans and some of which infect animals. The most familiar coronaviruses are those that cause the common cold. The "new" coronavirus that is causing concern among public health authorities worldwide was first detected in Wuhan, China in December 2019. It has now been identified in at least 37 locations internationally, including cases in the United States. The disease the virus causes has been named "coronavirus disease 2019," abbreviated "COVID-19".

The new coronavirus, or COVID-19, is a respiratory illness that spreads from person to person, as well as when a person comes into contact with the virus on surfaces such as door handles and equipment. In this respect, COVID-19 is much like the common cold or flu, only the symptoms of this virus appear to be more severe, at least in some people.

Those who are actively sick with the new coronavirus can spread the illness to others with whom they are in close contact. The CDC defines close contact as:

- being within approximately 6 feet of a person with COVID-19 for a prolonged period of time, such as when caring for, living with, visiting, or sharing a health care waiting area or room with a person with the new coronavirus; or
- having direct contact with infectious secretions of a person with the new coronavirus (for example, being coughed on).

It is clear from this definition of close contact that the workplace has the potential to be a place where the new coronavirus spreads. That is why CDC recommends that persons with COVID-19 be isolated at home (or in the hospital, depending on how sick they are) until they are better and no longer pose a risk of infecting others.

The CDC's Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19), February 2020

The CDC's Interim Guidance is divided into two sections, the first for managing the workplace when there is the possibility of a case of the new coronavirus in a work setting, the second for planning for continuity of operations in the event of a possible widespread outbreak of the virus.

Managing the Workplace When COVID-19 is Present or Suspected

Because the symptoms of the new coronavirus are similar to those of a severe cold or of the flu, the CDC recommends that employers ***actively encourage sick employees to stay home***. More specifically, it recommends that:

- employees who have symptoms of a respiratory illness stay home and not come to work until they are free of fever

(that is, their temperature is below 100.4° F or 37.8° C using an oral thermometer), and free of signs of a fever, and any other symptoms *for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines* (e.g. cough suppressants);

- employers make sure that their sick leave policies are flexible and non-punitive; that employees are aware of these policies; and, in particular, that they not require employees sick with respiratory illnesses to provide a healthcare provider's notes to verify their illnesses or fitness to return to work, as in the event of an outbreak, healthcare providers may not be able to provide such documentation in a timely way; and
- employers also be flexible about an employee's need to stay home to care for a sick family member.

In addition, the CDC recommends that employers *separate and send home immediately* any employees who appear to have respiratory illness symptoms (that is, cough, shortness of breath) when they arrive at work or develop such symptoms during the workday. It also suggests publicizing the need for employees to cover their coughs and sneezes and to practice hand washing with soap. Employers may also want to consider providing alcohol-based hand sanitizers that contains at least 60-95% alcohol throughout the workplace.

*If you learn that one of your employees has been confirmed to have the new coronavirus (COVID-19 infection), you should inform other employees of their possible exposure to COVID-19 in the workplace. **You may not, however, identify the person with the virus** and must **maintain the confidentiality** of their medical information as required by the Americans with Disabilities Act (ADA) and by N.C.G.S. § 130A-143, which keeps confidential the identity and medical information of people with communicable diseases. You may not be able to stop employees from speculating about who has been infected, but neither the manager, department head, human resources department or anyone in any supervisory capacity should confirm or deny who has become ill and with what infection or disease.*

Preparing for Widespread Infections with COVID-19

In the second part of the Interim Guidance, the CDC advises employers to plan for how to minimize exposure between employees and between employees and the public, if public health officials call for social distancing. It also advises employers to prepare for increased numbers of employee absences due to both the illness of employees and their immediate family members and to possible closures of schools and daycare programs.

Employers may deal with both the need for social distancing and an increased number of employee absences by instituting telecommuting or remote work policies and flexible work hours and staggered shifts. A key component of any remote work plan is to ensure that the necessary information technology and infrastructure needed to support multiple employees working from home is in place before it becomes needed.

Other Resources for Employers

For more information on the new coronavirus itself, employers can consult the CDC's COVID-19 website or its FAQ page on the virus. Employers can refer employees who have or are suspected of having the new coronavirus to the CDC's information page, *What to Do If You Are Sick with Coronavirus Disease 2019 (COVID-19)*.

And finally, employers may wish to consult my book *Are You Prepared? Legal Issues Facing North Carolina Public Employers in Disasters and Other Emergencies*. Part 1 deals with preparing for emergencies, Part 2 addresses Fair Labor Standards Act (FLSA) issues that arise during both natural disasters and public health emergencies and Part 3 covers issues specific to public health emergencies such as pandemic viruses. You can purchase it here. Note that I receive no part of any proceeds from sales of this book. All proceeds go to supporting the work of the School of Government.

Links

- www.nytimes.com/2020/02/25/health/coronavirus-us.html
- www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fguidance-business-response.html



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- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-143.html
 - www.cdc.gov/coronavirus/2019-ncov/about/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2Fabout%2Findex.html
 - www.cdc.gov/coronavirus/2019-ncov/faq.html#disease-basics
 - www.cdc.gov/coronavirus/2019-ncov/downloads/sick-with-2019-nCoV-fact-sheet.pdf
 - www.sog.unc.edu/publications/books/are-you-prepared-legal-issues-facing-north-carolina-public-employers-disasters-and-other-emergencies