

LEGALLY SPEAKING

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ISOLATE, INVESTIGATE, DECONTAMINATE: THE THREE EMPLOYER MUST-DOs, EVEN AMIDST CONSTANT GUIDELINE CHANGES

Many Ohioans have stopped tracking all of the guideline and policy changes associated with COVID-19. We have grown accustomed to the uncertainty. No gatherings over ten people, unless the gathering is a peaceful protest. Always wear a mask, except for when it is not required. Maintain social distancing at all times, except when it is unreasonable to do so. Quarantine when you travel to Texas and Florida, but not New York or Michigan. Quarantine if you had direct contact with someone who tested positive for COVID-19, unless you are not required to quarantine.

The rules and the guidelines seem to be constantly changing. This has led to many employers questioning exactly what they are supposed to do when faced with the inevitable – an employee tests positive for COVID-19. Although the guidelines from CDC and the Ohio Department of Health seem to change frequently, there are three actions all employers must immediately implement upon learning of a positive case in the workplace.

1. Isolate

Immediately upon learning of a positive case of COVID-19 in the workplace, or a direct exposure, the Employer should immediately isolate the individual. In all likelihood, an employee who underwent testing would be quarantining while awaiting test results; however, if the Employer finds itself in the situation where an employee learns while at work of a positive test result or that he or she was directly exposed to someone who tested positive, then the Employer needs to immediately isolate that employee and send him/her home to quarantine. Likewise, if an employer learns that a customer, vendor, or other invitee tested positive, the Employer should isolate any employee who came in contact with the infected individual.

2. Investigate

After the employee has been isolated away from other employees, the Employer should investigate to identify potentially exposed individuals and locations within the workplace where the infected employee or invitee traversed or worked. Ultimately, the Employer wants to identify all places and people who could potentially have been exposed to the virus. The Employer should immediately report any known employee or customer infections to the local health department. The local health department will offer guidance and direction on any and all needs to quarantine based on the exposure type and length for each impacted person.

3. Decontaminate

After the Employer isolates the infected individual and investigates to determine the identity of other individuals and workplace locations impacted by the exposure, it needs to professionally deep clean and sanitize the worksite locations impacted by the infected employee. This decontamination effort is above and beyond the daily cleaning and sanitizing that should be occurring throughout the workplace and workday.

In summary, the rules related to workplace shut downs, quarantining, and other return to work guidelines continue to change, which creates compliance challenges for employers. However, even amidst the changing guidelines, Employers should be prepared to immediately implement the above three steps upon learning of a positive case of COVID-19 in the workplace. After isolating, investigating, and decontaminating, Employers should consult legal counsel to determine what, if any, additional steps are required based on the current local, state, and federal guidelines.

While the above guidance will assist employers in dealing with these complicated issues, please be reminded that this is an overview of developing legal issues and is not intended to be and should not be construed as legal advice. For more specific information, contact Bob Dunlevey, Board Certified Specialist in Labor and Employment Law, at (937) 641-1743 or Nadia A. Lampton at (937) 641-2055.