The recent spread of the novel coronavirus (COVID-19) in the United States has caused employers to be increasingly concerned and uncertain regarding the future of their workforces. Below are some answers to frequently asked questions (FAQs) about the latest developments on the virus and guidance from federal agencies.

Note that the virus to which individuals are exposed is SARS-CoV-2. The disease it causes is COVID-19. For readability, these FAQs use the term “COVID-19.” Where appropriate, readers should read COVID-19 as the SARS-CoV-2 virus.

This general guidance is based on U.S. federal employment law and the current medical assessment of COVID-19, as of March 8, 2020. State and local laws may apply, and medical assessments may change, resulting in different conclusions.

### Sending Employees Home; Excluding Employees From Work; Requiring Employees to Work From Home; Returning Employees to Work

+ **Question 1.** May an employer send home an employee involuntarily who has or is exhibiting symptoms of COVID-19?

+ **Q2.** May an employer send home or require to work from home an asymptomatic employee who has been in close contact with someone with COVID-19 (e.g., a family member, close friend, etc.)?

+ **Q3.** May an employer send home or require to work from home an asymptomatic employee returning from travel to an area with “widespread sustained” transmission?
Q. May an employer require an asymptomatic individual with no known exposure to COVID-19 to telework from home for a certain period of time as a preventive or precautionary measure? *(Updated March 11, 2020)*

Q. When may an employee who was sent home for exhibiting symptoms (subjective or measured fever, cough, difficulty breathing) return to work?

Q. If an employee does not feel well enough to return to work at least 24 hours after no longer having a fever or exhibiting signs of a fever (without the aid of fever-reducing medications) or other symptoms, may he or she remain out of work?

Q. May an employer require a return-to-work doctor's note for an employee to return to work after exhibiting COVID-19 symptoms?

Q. If an employee says he or she is ready to return to work and has a doctor's return-to-work note, but the employer is concerned the employee will not be able to safely perform his or her duties, may an employer refuse to allow the employee to return to work?

### Vacation, Paid Time Off, and Paid Sick Leave

Q. May an employer require an employee with COVID-19 to use his or her vacation time and/or other paid time off for the absence?

Q. May an employer require an employee who is not exhibiting COVID-19 symptoms but who has been in contact with an individual with COVID-19 or is in a potential incubation period (e.g., after returning from travel to an area of risk, as noted by the CDC) to use his or her vacation time and/or other PTO for the absence?
Q1. May an employer advance any vacation time and/or paid time off to employees to cover COVID-19 absences?

Q2. May an employer set up a plan to excuse or otherwise not count absences related to COVID-19, whether for an actual illness or a quarantine period?

Q3. May an employer opt to pay an asymptomatic employee who has been quarantined, even if the employer's policy does not provide for paid leave?

Q4. Are COVID-19 absences covered by applicable state or local paid sick leave laws?

**Wage and Hour**

Q5. May an employer require a nonexempt employee to use vacation time/PTO in less than full-day increments?

Q6. May an employer require an exempt employee to use vacation time/PTO in less than full-day increments? *(Updated March 11, 2020)*

Q7. Must an employer pay a non-exempt employee during office, plant, or facility closures or other time spent away from work due to COVID-19? *(Updated March 11, 2020)*

Q8. May an employer dock an exempt employee's salary during office, plant, or facility closures or other time spent away from work due to COVID-19 if he or she has exhausted all applicable vacation time/sick leave/PTO (including under any applicable paid sick leave laws)? *(Updated March 11, 2020)*
Q19. How should an employer handle expenses, such as internet or phone service costs, for employees who are asked or required to telework? (Updated March 11, 2020)

Attendance

Q20. May an employer count an employee's time away from work due to the employee's own COVID-19 illness against the employee in terms of the employer's attendance policy?

Q21. Should an employer discipline employees who are away from work because of COVID-19 for violating its attendance policy?

Q22. Does an employer's waiver of strict compliance with its attendance policy regarding COVID-19 set a negative precedent, opening the door for employees with other serious illnesses to argue that their absences should not be counted against them in terms of the attendance policy?

FMLA

Q23. Is COVID-19 an FMLA-covered serious health condition?

Q24. What are the requirements for an FMLA-covered serious health condition?

ADA

Q25. Is COVID-19 considered a "disability"?

Q26. If an employer treats an employee as if he or she possibly has COVID-19 (e.g., by forcing him or her to stay home until an incubation period has passed), is that a valid basis for a "regarded as disabled" claim?
Q27. Is an employer’s knowledge that an employee has COVID-19 subject to HIPAA’s privacy restrictions?

Q28. May an employer disclose an employee’s actual or probable COVID-19 diagnosis to others? (Updated March 11, 2020)

**NLRA**

Q29. May an employee refuse to come to work due to a fear of becoming infected with COVID-19?

**Workplace Safety**

Q30. May an employee refuse to come to work due to a fear of becoming infected with COVID-19?

Q31. What are the requirements when respirators are provided by employers for voluntary use? What if the employer mandates respirator use?

Q32. May an employer refuse an employee’s request to wear self-provided respiratory protection and/or gloves?

Q33. When is an employer required to provide respiratory protection, and what are the OSHA compliance implications?

General guidance for all U.S. workers and employers:

For all workers, regardless of specific exposure risks, it is always a good practice to:

1. Frequently wash your hands with soap and water for at least 20 seconds. When soap and water are unavailable, use an alcohol-based rub with at least 60 percent alcohol. Always wash hands that are visibly soiled.

2. Avoid touching your eyes, nose, or mouth with unwashed hands.

3. Avoid close contact with people who are sick.
Interim guidance for most U.S. workers and employers of workers unlikely to have occupational exposures to COVID-19:

OSHA recommends that "employers should assess the hazards to which their workers may be exposed; evaluate the risk of exposure; and select, implement, and ensure workers use controls to prevent exposure. Control measures may include a combination of engineering and administrative controls, safe work practices, and PPE."

"In all workplaces where exposure to the COVID-19 may occur, prompt identification and isolation of potentially infectious individuals is considered a critical first step in protecting workers, visitors, and others at the worksite."

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Q4. Are there any OSHA requirements that must be followed when an employee is diagnosed with COVID-19?

Workers' Compensation

Q5. Could COVID-19 be covered by workers' compensation?