

COVID 19: WORKPLACE TIPS FOR EMPLOYERS

On March 23, 2020, Governor Jay Inslee issued a state order compelling Washingtonians to stay at home to reduce the spread of COVID 19, unless they are essential employees or engaging in essential daily activities. The order is in effect until midnight on April 8th, but it could be extended. Current information about COVID 19 can be obtained from the Center for Disease Control (www.cdc.gov) and Washington Department of Health (www.doh.wa.gov). Current information about Governor Inslee's order can be found on the Governor's website (www.governor.wa.gov).

COVID 19 and Governor Inslee's order directly impact Washington's businesses and employees. Here are important workplace tips that businesses need to know:

1. Take steps to ensure the safety of your workers and customers. The Department of Labor, Occupational Safety and Health Administration has issued "Guidance on Preparing Workplaces for COVID 19", which can be found at <https://www.osha.gov/Publications/OSHA3990.pdf>.
2. Consider whether remote work or telework is feasible for your business. If it is, identify the functions critical to continuing your business operations and whether your business has the technological capability to support your necessary employees to work remotely.
3. Provide leave and sick time as required by applicable federal, state and local laws. Please note that employee rights to leave and sick time are rapidly evolving right now as federal, state and local governments work quickly to respond to COVID 19.
 - The City of Seattle's Paid Sick & Safe Time Ordinance was recently amended to allow employees who work in Seattle to use paid sick and safe time when their family member's school or place of care has been closed.
 - Under Washington's Paid Sick Leave Act, employees can use accrued paid sick leave if their place of business is closed by a public official due to a health-related reason. Employees can use accrued paid sick time if their child's school or place of care is closed for a health-related reason.
 - Under Washington's Paid Family Medical Leave Act, employees may also be eligible for paid family medical leave. Employees apply for this benefit through Washington Labor & Industries (<https://paidleave.wa.gov>).
 - Employees may also be entitled to leave under the recently passed federal Families First Coronavirus Response Act. More information on this new law can be found at (www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave).
4. The Equal Employment Opportunity Commission has offered guidance to employers during the COVID 19 pandemic. According to the EEOC's guidance, employers may do the following without violating the Americans with Disabilities Act or Rehabilitation Act:
 - Ask employees if they are experiencing symptoms of COVID-19 (these include symptoms such as fever, chills, cough, shortness of breath, or sore throat), provided that such information is maintained as confidential medical information.

- Measure employees' body temperature, provided that such information is maintained as confidential medical information. However, the EEOC cautions that some people with COVID 19 do not have a fever per current CDC guidance.
- Tell employees who become ill with COVID 19 symptoms to stay home or leave work. When employees return to work, employers may require a doctor's note that certifies the employee's fitness for duty. However, the EEOC acknowledges that, due to the burden on the healthcare system, employers may need to be flexible about the documentation provided by the employee.
- Screen job applicants for symptoms of COVID-19 after making a conditional job offer, as long as it does so for all entering employees in the same type of job.
- Withdraw a job offer when it needs the applicant to start immediately but the individual tests positive for COVID-19 or has symptoms of it.

See: www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm.

This information is provided to you by the Korean American Bar Association of Washington (KABA). For more information, please consult an attorney or contact KABA at kabawaboard@gmail.com to request a referral to an attorney who can assist you with your business needs.