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Communicating with Employees About a Positive COVID-19 Case in the Workplace

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As the number of COVID-19 cases in the United States continues to rise, one question facing employers is when and what information to communicate to employees about a confirmed case of COVID-19 in the workplace.

When should we tell employees if someone has a confirmed case?

Start communicating as soon as you learn there is a confirmed case. Start with those who were in close contact with the affected employee, defined by the CDC as someone who was within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to taking a COVID-19 test that results in a positive COVID-19 test).

What do we communicate?

Work with the employee who has the confirmed case to identify all the employees with whom he or she has had close contact. Once identified, tell those individuals that you have received information that a colleague with whom they may have had close contact during the past 14 days has informed the company that he or she has tested positive. If the individuals are not already working remotely, you should send these employees home for 14 days after their last contact with a person who has COVID-19 and advise them to self-quarantine and self-monitor for symptoms. To maintain employee privacy, you should not divulge the name of the employee who tested positive. (Yes, it is likely to leak out, and there is nothing you can do about that other than say that the company does not divulge health information about its employees and discourages gossip.)

Do we tell every employee?

In addition to informing all the employees in close contact, you should also inform employees who may have been exposed in other ways (shared bathrooms, elevators, conferences, meetings), because under the general duty clause of the Occupational Safety and Health Act, employers have a duty to maintain a safe work environment. This allows employees to conduct their own risk assessment of their potential exposure. It also makes sense to inform employees who may have traveled to the office or been at conferences or other places with the employee during the 14-day window leading up to the time the employee began feeling ill. There is no legal reason to inform employees who work in other locations unless you anticipate that in the next 14 days they could be in contact with others in

the office who may have been exposed so they can take precautions and perform their own risk assessments. If you want to inform them, though, you can.

What advice do we give employees who may have been exposed?

It depends.

- As to the employees in close contact, they need to go home. The advice should be to self-quarantine for 14 days after their last contact with a person who has COVID-19 and follow all the other CDC recommended guidance here.
- As to other employees, reiterate your current COVID-19 policies.

Is there any other responsibility the employer has?

- There is currently no federal law that imposes a legal obligation on employers to report cases of COVID-19 or other communicable diseases in the workplace to the CDC or other federal or state agencies. Any mandatory reporting is typically addressed at the state and local levels, by state and municipal public health departments and agencies, so check your state and local requirements.
- Consider whether others have been in contact with your employee in the course of performing his or her job, such as vendors, customers, co-tenants, etc. If so, then notification should go to them as well, protecting the name of the individual, but letting them know of the positive test and timeframe during which they may have been exposed.

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