

# Duggan

## LAW CORPORATION

### **RETURNING ESSENTIAL WORKERS TO THE JOB AFTER POTENTIAL EXPOSURE TO COVID-19**

On April 8, 2020, the Centers for Disease Control implemented interim guidelines for permitting potentially-exposed employees to return to work, provided they remain asymptomatic and additional precautions are implemented to protect them and the community:



<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>

#### **What Is a “Potential Exposure?”**

A “potential exposure” means being a household contact or having close contact within 6 feet of an individual with confirmed or suspected COVID-19. The timeframe for having contact with an individual includes the period of time of 48 hours before the individual became symptomatic.

#### **What Should the Employer Do in This Situation?**

The CDC recommends the following pre-shift and throughout the work shift:

**Pre-Screen:** Employers should measure the employee’s temperature and assess symptoms prior to them starting work. Ideally, temperature checks should happen before the individual enters the facility. See the EEOC’s current guidance which provides that an employer may take an employee’s temperature, but employers need to treat that as confidential medical information. [https://www.eeoc.gov/facts/pandemic\\_flu.html#q7](https://www.eeoc.gov/facts/pandemic_flu.html#q7)

Likewise, the DFEH has also issued guidance that an employer may measure employees’ body temperature for the limited purpose of evaluating the risk that employee’s presence poses to others in the workplace as a result of the COVID-19 pandemic; if employers plan to implement this, they should take employee temperatures in as private a manner as is practicable. [https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/DFEH-Employment-Information-on-COVID-19-FAQ\\_ENG.pdf](https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/DFEH-Employment-Information-on-COVID-19-FAQ_ENG.pdf)

**Regular Monitoring:** As long as the employee does not have a temperature or symptoms, they should self-monitor under the supervision of your occupational health program.

**Wear a Mask:** The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Employers can issue face masks or can approve employees' supplied cloth face coverings in the event of shortages. Note: If you are not able to provide masks and are instead having employees provide their own, you should reimburse for the masks.

**Social Distance:** The employee should maintain 6 feet and practice social distancing as work duties permit in the workplace.

**Disinfect and Clean Work Spaces:** Clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment routinely.

Relevant to the above recommendations, Sacramento County is now requiring essential businesses to develop a Social Distancing Protocol that must explain how the business is achieving the following, as applicable (<https://www.saccounty.net/COVID-19/Documents/Appendix%20A%20SDP%20Checklist%20Signs.pdf>):

- Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
- Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
- Providing hand sanitizer, soap and water or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
- Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens and styluses after each use;
- Regularly disinfecting other high-touch surfaces; and
- Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.
- Any additional social distancing measures being implemented - see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

### **What If My Employee Becomes Sick During Their Shift?**

If the employee becomes sick during their shift, they should be sent home immediately. Surfaces in their workspace should be cleaned and disinfected. Information on persons who had contact with the ill employee during the time the employee had symptoms and 2 days

prior to symptoms should be compiled. Others at the facility with close contact within 6 feet of the employee during this time would be considered exposed.

### **Best Practices for Temperature Checks:**

- Communicate with workers in advance regarding temperature checks and related implications (e.g., being sent home).
- Set a temperature screening threshold over which employees will not be permitted to enter the workplace. The CDC considers a person to have a fever when they have a temperature of at least 100.4 degrees Fahrenheit; taking into consideration potential margin of error for temperature taking, you may want to institute a range (e.g., 100-100.4°F range)
- If you can do so, try to use a thermometer that can register temperature without exposure to bodily fluids (e.g., no-contact thermometers). If you can't get a no-contact thermometer, you need to ensure that you are fully disinfecting in-between uses.
- As noted above, conduct the screening in a way that affords as much privacy to the individual as possible in order to comply with the EEOC and DFEH guidelines.

**As always, Duggan Law Corporation is available to answer any questions you have and to help you navigate these and any other employment-related issues.**