

# HR Best Practices for Small Businesses Responding to COVID-19



Helping Small Businesses Run

# CDC Guidance for Employers



Helping Small Businesses Run

# CDC Guidance for Workplace Safety

---

## **Hand washing**

- Stop using handshakes
- Have employees wash hands thoroughly upon arrival
- Schedule regular hand washing reminders throughout the workday

## **Regularly disinfect surfaces**

- Especially doorknobs, tables, desks, hand railings, water coolers, microwaves, refrigerators, etc.

## **Increase ventilation**

- Open windows, turn on fans, or adjust AC to promote air circulation

## **Encourage work from home where possible**

## **Utilize video conferencing for meetings**

## **If meeting in person is necessary, take precautions:**

- Adjust or postpone meetings for large groups
- Meet in well-ventilated spaces
- Maintain 6 feet of distance between attendees

## **Eliminate shared food in the workplace**

## **Cancel travel if possible**

## **Hang posters from the CDC**

# Keeping public space safe

---

## **Stagger customer flow with booking and scheduling**

- Reduce customer interaction
- Allow ample time between bookings to sanitize

## **Disinfect touched services between every customer**

- Common touch points include pin pads, self-checkout touch screens, shopping carts and baskets, door handles, etc.

**Provide hand sanitizer and/or disinfecting wipes** at key locations like the front door or cash register

## **Make transactions online or phone pre-orders when possible**

- Eliminate point-of-sale contact
- Handoff orders curbside or at the door

## **Encourage customers to use tap-and-pay**

## **Limit attendance at larger gatherings**

**Remove tables and chairs to reduce capacity and create distance**

# Employer FAQs on Illness and Quarantine



Helping Small Businesses Run

# As an employer, am I allowed to take temperatures or ask about employee health?

**Yes, but be reasonable.**

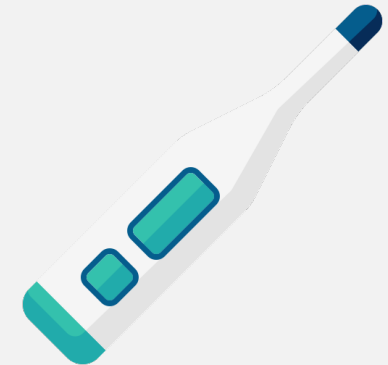
Based on current CDC guidance, you can take an employee's temperature when they arrive to work.

If you ask health questions, keep them very specific to symptoms of COVID-19. Do not ask open-ended health questions.

**Remember that not all COVID-19 carriers will immediately display symptoms.**

Checking temperatures is not a fail-safe way to protect employees; maintaining all of your other safety precautions is critical.

The average incubation period of is 5 days, but can be up to 14.



# How should I handle a sick employee?

## **Send them home.**

You're entitled to send employees home anytime you believe someone to be sick with something contagious — whether it's COVID-19, the flu, or anything else that other employees are at risk of catching.

## **Have them determine with their healthcare provider when it's safe to come back to work.**

The decision to discontinue home isolation precautions should be made on a case-by-case basis, in consultation with healthcare providers and state and local health departments.



# Can I require a note for an employee to return after sick leave?

**Technically, yes. But the CDC asks that you don't.**

While you can ask for a formal doctor's note, the CDC is asking employers not to.

Healthcare providers are under intense strain right now, and these requests add more to their workloads at a time when they should instead be prioritizing time towards patient care.

Generally, an individual with COVID-19 should be able to safely to return to work 24 to 48 hours after the symptoms have subsided.





# Can I require an employee with a sick family member to stay home?

**Yes — only if the family member is showing symptoms of or has tested positive for COVID-19.**

Individuals in contact with a family member with COVID-19 symptoms have likely been exposed and should self-isolate in line with the CDC's recommendations.

You cannot send an employee home for having a family member with any other illness or condition.

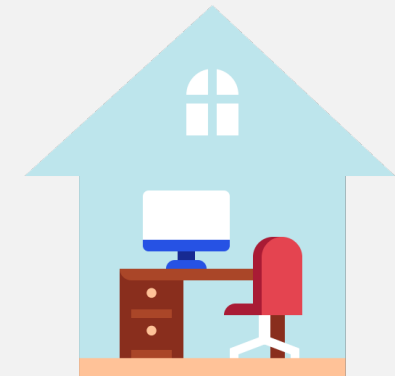


# Employees don't want to come to work. Can I require them to?

**Yes, you can require them to come in — as long as there's no legitimate threat and they don't require accommodation.**

You can enforce attendance policies if there's no legitimate threat to employees coming in to work.

If someone willingly discloses that they are concerned because they are immunocompromised — or live with someone who is — it's strongly recommended to let that person work from home or take leave.



# An employees has multiple degrees of separation from a possible COVID-19 exposure. Can I require them to go home?

**Technically yes, you can send them home.**

This decision is up to you as the employer.

You can send them home as long as it's a non-discriminatory reason.

Try to let them work remotely if possible.

**Right now, the CDC does not recommend special scrutiny for people exposed to asymptomatic people with potential COVID-19 exposure.**

**If you send someone home who can't work remotely, it's recommended you pay them for the time and not take it from their sick leave or PTO.**

If you don't pay them, you could run the risk of an ADA discrimination claim.



# Reminders About Pay and Policies



Helping Small Businesses Run

# Work from Home Policies

---

If at all possible, the CDC encourages you to let employees work from home at this time. When creating a work from home policy, consider defining:

- **Hours of work:** During what hours do you expect them to be online or working?
- **Expectations regarding reachability:** Do you need them to be available by phone, a messenger app, email, or something else?
- **Expectations regarding productivity:** You can set expectations on work output, but try to be mindful of realistic challenges employees may have while working remotely (i.e. kids at home due to cancelled school or childcare).
- **Check-ins:** Outline any set times or frequency expectations for check-ins.
- **Office expenses:** In most cases, it's recommended that employers should cover reasonable and necessary office expenses. Outline any approval requirements you may have.

# Reminders about pay: Non-exempt employees

---

**Remember that non-exempt employees must be paid for all hours worked, even at home.**

Even if hours are severely reduced and they are only working periodically or checking in for meetings, those hours must still be paid.

De minimis rule: If an employee is doing so little work that it'd be unreasonable to track it, you don't have to pay in those cases.

**If you send them home before their shift is over (even if they're symptomatic), you may owe reporting time pay.**

Reporting time pay requirements vary by state.

# Reminders about pay: Exempt employees

---

**If an exempt employee does any work in a workweek (including at home), they are entitled to their full weekly salary.**

This includes if you are sending them emails that they respond to, scheduling calls, or any other time they work.

**There are a few exceptions when a full day deduction may be made from the full workweek pay:**

Full day deductions may be taken if they take time for personal reasons.

Full day deductions may be taken if they are actually sick, do no work, and you offer a bona fide sick leave plan (requires 5 paid days off that can be used for sickness).

**You can't take a partial day deduction from their wages, even if they get sent home.**

You can fill it in with paid time off, if they have some available.

# The Families First Coronavirus Response Act

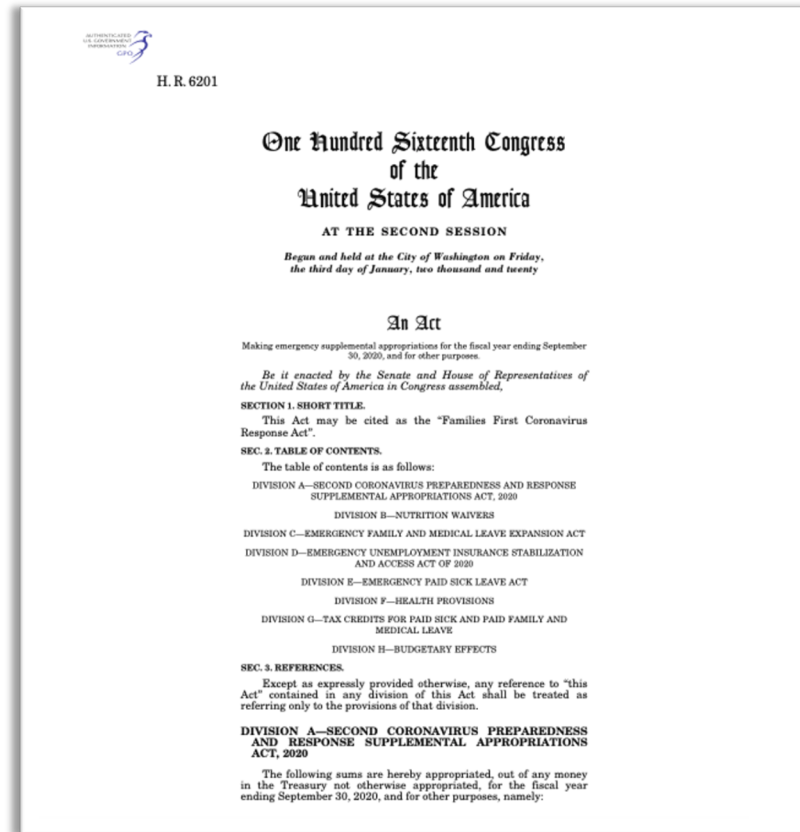


Helping Small Businesses Run



# The Families First Coronavirus Response Act

Effective: April 1, 2020 - December 31, 2020



- ✓ Provides relief to individuals and businesses in response to the COVID-19 outbreak in the US
- ✓ Sections employers should take note of:
  - ✓ Family and Medical Leave Act (FMLA) Expansion
  - ✓ Emergency paid sick leave
  - ✓ Payroll tax credit

# FMLA Expansion

---

## Adds leaves for:

- Care for a child under 18 if their school or place of care is closed for public health emergency.

## Coverage

- Applies to all employers with less than 500 employees — even those under 50
- There are two exceptions:
  - Businesses with fewer than 50 employees will be eligible to apply for an exemption from some leave requirements if they would jeopardize the viability of the business. The Department of Labor is expected to describe how exemptions will work soon.
  - Employers of health care providers or emergency responders may elect to exclude those employees from the expanded paid or family leave benefits.

# FMLA Expansion

---

## Pay details

- The first 10 days of leave are unpaid. The employee may opt to use any other leave they have available to them in that time, including the new emergency sick leave.
- After 10 days, the employer is required to pay at two-thirds their regular rate of pay for the number of hours the employee would normally be scheduled to work, up to \$200/day and \$10,000 total.
- Employers will get this money back as a payroll tax credit. More details are coming from the IRS.

## Job protection

- Job restoration is required, except for employers with fewer than 25 employees if:
  - The job no longer exists because of changes affecting employment caused by a public health emergency; AND
  - Reasonable efforts to find equivalent positions were made (and failed), and employees are contacted if any positions come up within a year

# Emergency Paid Sick Leave

---

## Coverage

- All employees are covered, regardless of how long they've been employed.
- Applies to all private employers with less than 500 employees.
- The same two exceptions apply:
  - The Secretary of Labor may issue regulations to exempt businesses with fewer than 50 employees if it would jeopardize the viability of the business.
  - Employers of health care providers or emergency responders may elect to exclude those employees from emergency paid sick leave.

# Emergency Paid Sick Leave

---

**It can be used when the employee is:**

1. Subject to a federal, state, or local quarantine or isolation order
2. Advised by a health care provider to self-quarantine
3. Seeking medical diagnosis for symptoms of COVID-19
4. Caring for an individual who qualifies under #1 (eligible for two-thirds pay)
5. Caring for a child whose school or care is closed (eligible for two-thirds pay)
6. Experiencing other substantially similar conditions (eligible for two-thirds pay)

# Emergency Paid Sick Leave

---

## Pay details

- Full time employees get 80 hours worth of pay (or two-thirds pay for conditions 4, 5, 6)
- Part time employees get paid for the number of hours worked on average over a 2-week period (or two-thirds pay for conditions 4, 5, 6)
- Maximums:
  - Capped at \$511/day and \$5,110 total for conditions 1, 2, 3
  - Capped at \$200/day and \$2,000 total for conditions 4, 5, 6

# Handling Reduced Hours and Closures



Helping Small Businesses Run

# Reducing hours or pay: Non-exempt employees

---

**If you're reducing their hours, non-exempt employees only need to be paid for hours they actually worked.**

- Note that if you send people home after they've already arrived at work for the day, they may be eligible for reporting time pay.

**If you're reducing their hourly wage, that may require more notice under state law and cannot be retroactive mid pay-period.**

- The employee is entitled to notice so they can decide if they want to keep working under the new pay rate.



# Reducing hours or pay: Exempt employees

---

**Implement a pay cut — but check for unintentional discrimination.**

- Implement a pay cut for everyone, certain departments, or specific types of jobs.
- Document how these decisions are made if pay cuts are not the same for all employees to demonstrate that it is non-discriminatory.
- Make sure the employee's pay still remains above the federal minimum salary for exempt employees (\$684/week) or the higher state minimum depending on your location.

# Reclassify exempt employees as non-exempt

---

**If an exempt employee is doing so little of their usual work due to the circumstances, you can classify them as non-exempt**

- This is legal — so long as it's not done to avoid the salary basis requirements under the FLSA
- Don't do it on a short-term basis (i.e. three weeks or less) — you can't switch the classifications back and forth
- Make sure to meet state notice requirements, and it can't be applied retroactively if you're halfway into a pay period

# Furlough and layoffs: What's the difference?

---

**Furlough:** Temporary reduction in hours of work or weeks of work.

- Typically means there is an estimated date of reopening or return to normal hours worked.
- Furloughed individuals are still considered employees and stay on the payroll.
- Even though they remain employees, they are typically eligible for unemployment insurance.

**Temporary layoff:** A layoff with the intention to rehire, typically within six months.

**Permanent layoff:** A layoff with no intention or anticipated rehire.

# Furloughs: Things to consider

---

## **Communicate furloughs in writing.**

- Explain the intent to employees — why the furlough is happening and any timelines

## **Share options for how they can make use of paid leave.**

- Let them know if they can use any accrued PTO time they have.
- If they have a sick leave bank, you could offer to let them use it for furlough as well.

## **Furloughed employees may lose their existing health insurance coverage — it depends on your plan.**

- Check with your provider to understand your plan's provisions. If furloughed employees do lose coverage, they are likely eligible for coverage like federal COBRA or state mini-COBRA.

## **Most furloughed employees will be eligible for unemployment insurance.**

---

# What if we can't make payroll?

---

## Call an attorney.

- You may want some legal advice to decide the best course for action for your business.
- Liability can vary based on federal, state, and local laws where you operate, so you'll want professional legal advice.

# SBA Economic Injury Disaster Loan program

---

The Small Business Administration (SBA) is working to provide targeted, low-interest loans to small businesses and nonprofits severely impacted by COVID-19.

Working capital loans of up to \$2 million to provide economic support to help small businesses overcome this temporary loss of revenue.

Go to [SBA.gov/Disaster](https://www.sba.gov/Disaster) to learn more.

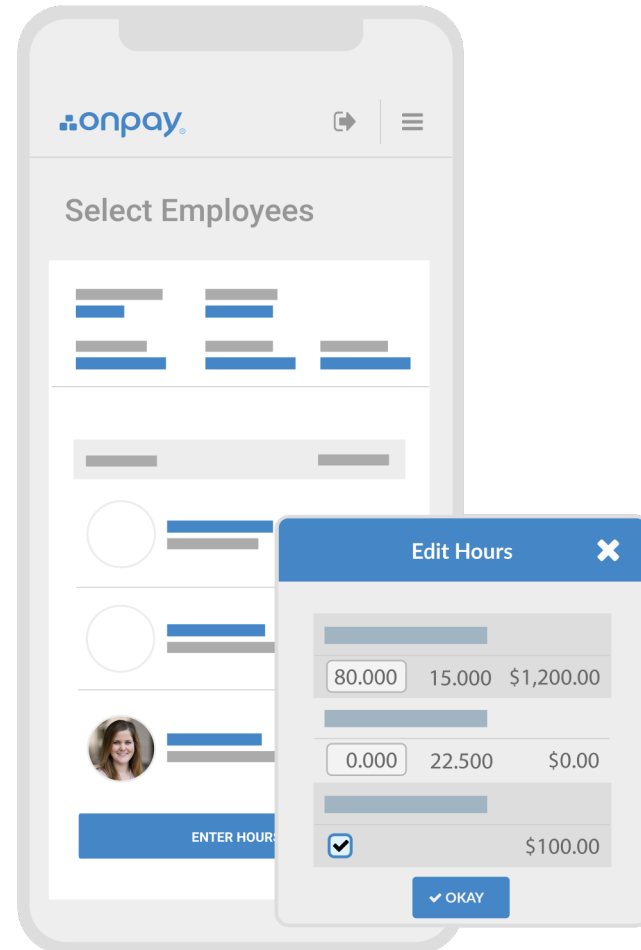
Find our latest resources and guidance at:  
[onpay.com/covid-19](https://onpay.com/covid-19)



Helping Small Businesses Run

# About OnPay

The new standard in payroll for small businesses and accountants



- ✓ Payroll that checks all the boxes – and saves time and money
- ✓ All taxes filed and paid automatically
- ✓ Integrated HR and benefits
- ✓ One low, transparent price
- ✓ Award-winning customer support
- ✓ Top ratings from CPA Practice Advisor and our clients on Capterra

Learn more at [onpay.com](https://onpay.com)