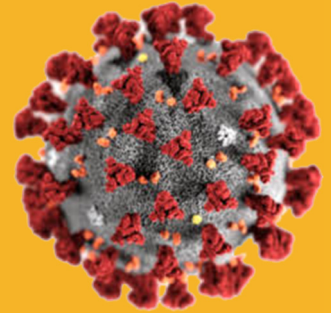




# **TEAMSTERS**

## **SAFETY & HEALTH**

### **Coronavirus**



## **Exposed and Infected Workers Rights And Employer Responsibilities**

### **Coronavirus**

### **(COVID-19, SARS-CoV-2)**

(Updated April 22, 2020)

**This is a rapidly evolving situation. This fact sheet will be updated online as needed. See links at the end of this fact sheet for the most up-to-date information.**

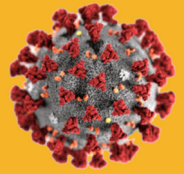
COVID-19 is spreading rapidly within the United States. The outbreak has been declared a national emergency in the United States and a global pandemic by the World Health Organization. This has changed the employment landscape across the country. As COVID-19 continues to spread, employers and employees should know about laws and recommendations that govern COVID-19 in the workplace.

The IBT Safety and Health Department is continuously monitoring the COVID-19 pandemic and is committed to providing Teamsters locals and affiliates with the information they need to protect our members and the communities they serve.

Unions have a key role in standing up for the right of workers to a safe and healthy workplace. Local union representatives can use a variety of means to accomplish this, including making information requests, demanding occupational hazard assessments be performed, and demanding to bargain on occupational health preparedness plans, infection control protocols, training for workers, and the supply and sufficiency of personal protective equipment.

#### **EMPLOYER RESPONSIBILITIES IF EMPLOYEES TEST POSITIVE FOR SARS-CoV-2 OR ARE EXPOSED TO A COWORKER WHO TESTS POSITIVE FOR SARS-CoV-2<sup>i</sup>**

The Occupational Safety and Health Administration (OSHA) mandates that an employer provide a workplace free of recognized hazards that are likely to cause death or serious physical harm to its employees.<sup>ii</sup> The World Health Organization (WHO) declared COVID-19 as a recognized global pandemic on March 11, 2020.

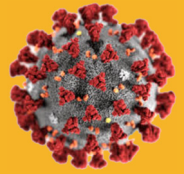


Therefore, because COVID-19 and the virus that causes the disease, SARS-CoV-2, are recognized hazards employers are compelled by the standard to provide a workplace free of recognized hazards likely to cause death or serious physical harm, including biological hazards such as SARS-CoV-2. If employees, while at the worksite, notify their employer that they **have contracted, have been exposed to** or **have symptoms of** COVID-19, the employer should immediately isolate those employees from others and then send them home to self-quarantine for at least 14 days. If employees notify the employer from home that they have contracted COVID-19, the employer should direct them to remain home, self-quarantine for at least 14 days, and seek medical attention if necessary.

According to OSHA and CDC guidelines, the **employer** must **notify fellow employees** who were in close contact with, or had repeated or prolonged exposure to the sick person; of their possible exposure to COVID-19 in the workplace. The employer must do so while maintaining the confidentiality of the COVID-19-infected individuals as required by the American with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.

*As part of that, employers should try to determine which, if any, employees were exposed to COVID-19. There are a few ways for employers to perform this “contact tracing.” First, employers might be able to coordinate with state or local health authorities for guidance and direction. This is a good first step, but in this fast-changing situation may not be possible. Additionally, employers can, and should, investigate the employee’s schedule and work location to determine with whom the employee interacted. Employers may also consider instituting a policy informing employees that if they are confirmed to have COVID-19, they will be requested to provide a list of other employees with whom they had close contact during the last 14 days. The content and need for such policies will vary given the nature of the workplace and its location. Once employees are identified, employers should communicate to these employees that they have potentially been exposed to COVID-19, while maintaining the affected employee’s confidentiality. Employers should be particularly careful not to disclose the affected employee’s name. Employees exposed to a co-worker with confirmed COVID-19 should refer to [“CDC guidance for how to conduct a risk assessment of their potential exposure”<sup>iii</sup>](#).*

**Employees** who were in close contact with, or had repeated or prolonged exposure to, the sick person may need to be quarantined as well. The local health authority will help with this determination. “Factors to consider when defining close contact include proximity, the duration of exposure (e.g., longer exposure time likely increases exposure risk), whether the individual has symptoms (e.g., coughing likely increases exposure risk) and whether the individual was wearing a facemask (which can efficiently block respiratory secretions from contaminating others and the environment). Currently, the data is insufficient to precisely define the duration of time that constitutes a prolonged exposure. Recommendations vary on the length of time of exposure from 10 minutes or more to 30 minutes or more in non-hospital settings.<sup>iv</sup>”



While the employer can require employees to submit a medical release to work before allowing them to return, the Centers for Disease Control and Prevention (CDC) suggests that employers relax such requirements for employees with acute respiratory illness because of the difficulty in obtaining such medical certifications during this public health crisis, and to reduce the strain already being placed on the healthcare system by COVID-19.

The CDC has issued ‘Interim Guidance Criteria for Return to Work for Healthcare Personnel with confirmed or suspected COVID-19.’<sup>v</sup> Two options offered include a test-based strategy or a non-test based strategy (i.e., time-since-illness-onset and time-since-recovery strategy).

1. **Test-based strategy.** Exclude from work until:

- Resolution of fever without the use of fever-reducing medications **and**,
- Improvement in respiratory symptoms (e.g., cough, shortness of breath), **and**,
- Negative results of an FDA Emergency Use Authorized molecular assay for COVID-19 from at least two consecutive nasopharyngeal swab specimens collected  $\geq 24$  hours apart (total of two negative specimens) [\[1\]](#). See [Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens for 2019 Novel Coronavirus \(2019-nCoV\)](#).

2. **Non-test-based strategy.** Exclude from work until:

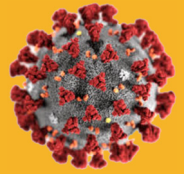
- At least 3 days (72 hours) have passed *since recovery* defined as resolution of fever without the use of fever-reducing medications **and** improvement in respiratory symptoms (e.g., cough, shortness of breath); **and**,
- At least 7 days have passed *since symptoms first appeared*.

CDC’s ‘*Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)*,<sup>vi</sup>’ intends to help prevent workplace exposures to COVID-19, in non-healthcare settings. (CDC has provided separate guidance for [healthcare settings](#)).

## PREPARING WORKPLACES FOR A COVID-19 OUTBREAK

Businesses and employers can prevent and [slow the spread of COVID-19](#). Employers should plan to respond in a flexible way to varying levels of disease transmission in the community and be prepared to refine their business response plans as needed. According to the Occupational Safety and Health Administration (OSHA), most American workers will likely experience low (caution) or medium exposure risk levels at their job or place of employment (see [OSHA guidance for employers](#) for more information about job risk classifications).

Businesses are strongly encouraged to coordinate with [state](#) and [local](#) health officials so timely and accurate information can guide appropriate responses. Local conditions will influence the decisions that public health officials make regarding community-level strategies. CDC has [guidance for mitigation strategies](#) according to the level of community transmission or impact of COVID-19.



All employers need to consider how best to decrease the spread of COVID-19 and lower the impact in their workplace. This may include activities in one or more of the following areas:

- a. reduce transmission among employees using OSHA's hierarchy of controls method,
- b. maintain healthy business operations, and,
- c. maintain a healthy work environment.

## **REDUCE TRANSMISSION AMONG EMPLOYEES**

### **Actively encourage sick employees to stay home:**

- Employees who have [symptoms](#) (i.e., fever, cough, or shortness of breath) should notify their supervisor and stay at home.
- Sick employees should follow the [CDC-recommended steps](#). Employees should not return to work until the criteria to [discontinue home isolation](#) are met, in consultation with healthcare providers and state and local health departments.
- Employees who are well but who have a sick family member at home with COVID-19 should notify their supervisor and follow [CDC recommended precautions](#).

### **Identify where and how workers might be exposed to COVID-19 at work:**

- See [OSHA COVID-19](#) webpage for more information on how to protect workers from potential exposures and [guidance for employers](#), including steps to take for jobs according to exposure risk.
- Be aware that some employees may be at [higher risk for serious illness](#), such as [older adults](#) and those with chronic medical conditions. Consider minimizing face-to-face contact between these employees or assign work tasks that allow them to maintain a distance of six (6) feet from other workers, customers, and visitors, or to telework if possible.

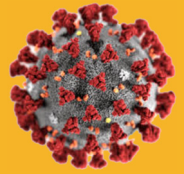
### **Separate sick employees:**

- Employees who appear to have [symptoms](#) (i.e., fever, cough, or shortness of breath) upon arrival at work or who become sick during the day should immediately be separated from other employees, customers, and visitors and sent home.
- If an employee is confirmed to have COVID-19 infection, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). The fellow employees should then self-monitor for [symptoms](#) (i.e., fever, cough, or shortness of breath).

### **Educate employees about how they can reduce the spread of COVID-19:**

- Employees can [take steps to protect themselves](#) at work and home. Older people and people with serious chronic medical conditions are at [higher risk for complications](#).
- Follow the policies and procedures of your employer-related to illness, cleaning and disinfecting, and work meetings and travel.
- Stay home if you are sick, except to get medical care. Learn [what to do if you are sick](#).
- Inform your supervisor if you have a sick family member at home with COVID-19. Learn what to do [if someone in your house is sick](#).





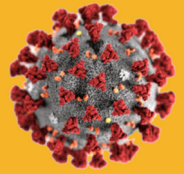
- Wash your hands often with soap and water for at least 20 seconds. Use hand sanitizer with at least 60% alcohol if soap and water are not available.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Cover your mouth and nose with a tissue when you cough or sneeze or use the inside of your elbow. Throw used tissues in the trash and immediately wash hands with soap and water for at least 20 seconds. If soap and water are not available, use a hand sanitizer containing at least 60% alcohol. Learn more about [coughing and sneezing](#) etiquette on the CDC website.
- Clean AND disinfect frequently touched objects and surfaces such as workstations, keyboards, telephones, handrails, and doorknobs. Dirty surfaces can be cleaned with soap and water before disinfection. To disinfect, use [products that meet EPA's criteria for use against SARS-CoV-2](#), the virus that causes COVID-19, and are appropriate for the surface.
- Avoid using other employees' phones, desks, offices, or other work tools and equipment, when possible. If necessary, clean and disinfect them before and after use.
- Practice social distancing by avoiding [large gatherings](#) and maintaining distance (approximately 6 feet or 2 meters) from others when possible.

## **DURING A PANDEMIC CAN AN EMPLOYER TAKE ITS EMPLOYEES TEMPERATURE?**

Taking an individual's temperature is considered a medical examination under the Americans with Disabilities Act (ADA). Under the ADA, if the threat of a pandemic becomes widespread in the community as assessed by state or local health authorities or the CDC, then employers may measure employees' body temperature. "Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions as of March 2020, employers may measure employees' body temperature. As with all medical information, the fact that an employee had a fever or other symptoms would be subject to ADA confidentiality requirements."viii

## **WHAT ARE MY RIGHTS TO INFORMATION?<sup>ix</sup>**

- In situations where management is cooperative, union representatives can make arrangements to get real-time reports on worker injuries and exposures. This allows for the employer and the union to provide support to workers who are injured or exposed. Support may include navigating worker's compensation systems, accessing negotiated benefits, and addressing the psychological stress related to the situation.
- Unions and all workers have a right to access the OSHA 300 log (or state OSHA equivalent) of injuries under OSHA standard 29 CFR 1904. The log provides the name of the worker, the date and department where the injury or exposure occurred, the nature of the event, and associated lost time. If the worker asks the employer to treat the exposure or infection as a privacy concern case, the employer is required to enter privacy concerns instead of the worker's name on the log. Unions and workers also have a right to access "information about the case" without any personal identifiers for the more detailed OSHA 301 Injury & Illness Incident Report. A written request for the OSHA logs and reports for a specified period must be provided without cost by the next business day.
- Unions and workers have a right to access medical and exposure records under OSHA 29 CFR 1910.1020. Medical records access requires written approval of the affected worker(s).



Access to exposure records does not require written approvals. Access to relevant records must be provided without cost within 15 working days.

- If the employer fails to produce OSHA records as described above, the union and workers have a right to file an OSHA (or state-plan equivalent) complaint. The IBT Safety and Health Department can assist the Local Union in this request.

## WHAT STEPS CAN MY LOCAL UNION TAKE?

- Union leaders can be proactive by communicating through factsheets, newsletters, and social media about the importance of notifying union leadership when there has been exposure or when a worker tests positive for SARS CoV-19.
- Impact bargaining. Unions have a right to collective bargaining over changes in the terms and conditions of employment. A demand for bargaining should be in writing and should be developed by authorized union representatives in consultation with union lawyers. The demand can include changes in policy on hazard control remedies, PPE and respiratory protection, and sick leave benefits.

## MORE INFORMATION AND RESOURCES

Stay informed, talk to your employer, supervisor, and union representative. See these sources for more information on worker exposures to COVID-19:

- ❖ IBT Safety and Health Department COVID-19 Resource Page: [www.teamstersafety.org](http://www.teamstersafety.org)
- ❖ CDC COVID19: [www.cdc.gov/coronavirus/2019-ncov/](http://www.cdc.gov/coronavirus/2019-ncov/)
- ❖ OSHA COVID19: [www.osha.gov/SLTC/covid-19/controlprevention.html](http://www.osha.gov/SLTC/covid-19/controlprevention.html)
- ❖ NIOSH Workplace Safety and Health Topic: [www.cdc.gov/niosh/emres/2019\\_ncov.html](http://www.cdc.gov/niosh/emres/2019_ncov.html)
- ❖ CDC Interim Guidance for Businesses and Employers [www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html](http://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html)
- ❖ CDC Resources for Businesses and Employers
- ❖ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>
- ❖ OSHA Guidance on Preparing Workplaces for COVID-19  
<https://www.osha.gov/Publications/OSHA3990.pdf>
- ❖ OSHA's COVID-19 website <https://www.osha.gov/SLTC/covid-19/standards.html>
- ❖ Whistleblower Protection for Public Transportation Agency  
<https://www.osha.gov/Publications/OSHA-factsheet-whistleblower-trans-agencies.pdf>

For more information, contact the IBT Safety and Health Department at (202) 624-6960 or visit our website: <https://teamstersafety.org/testing/covid-19/>

<sup>i</sup> <https://www.daypitney.com/insights/publications/2020/03/18-covid19-answers-to-employer-questions/>

<sup>ii</sup> <https://www.osha.gov/laws-regs/oshact/section5-duties>

<sup>iii</sup> <https://www.hansonbridgett.com/Publications/articles/2020-03-labor-covid19-exposure-reports>

<sup>iv</sup> <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

<sup>v</sup> <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/hcp-return-work.html>

<sup>vi</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

<sup>viii</sup> [https://www.eeoc.gov/facts/pandemic\\_flu.html](https://www.eeoc.gov/facts/pandemic_flu.html)

<sup>ix</sup> Special Thanks to AFL-CIO (Test Positive Fact Sheet)