

SAFETY PRECAUTIONS IN THE WORKPLACE

**WORKER PROTECTIONS AGAINST
RETALIATION**



OSHA PROTECTIONS

**OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION**

OSHA GUIDELINES THAT MAY PROVIDE SAFETY STANDARDS FOR COVID-19

- ❖ **OSHA Personal Protective Equipment Standard:** Employer must provide gloves, eye and face protection, and respiratory protection.
 - OSHA temporary guidance for respirator fit-testing requirements for healthcare workers.
- ❖ **Bloodborne Pathogens Standards:** Occupational exposure to human blood and other infectious materials; exposures to respiratory secretions.
- ❖ **General Duty Clause:** Employers must furnish each worker a place of employment free from recognized hazards which are causing or likely to cause death or serious harm.

RISKS OF EXPOSURE TO COVID-19 TO EMPLOYEES

- COVID-19 pathogens travel between people who are close in contact
 - Within six feet
- Droplets, respiratory secretions, land on people or objects
 - Can transmit virus by touching surfaces and then touching face
- Individuals may be more contagious when symptomatic, but may also spread without having any symptoms.

EMPLOYER OBLIGATIONS IN PREVENTING SPREAD OF COVID-19

- ✓ Assess hazards to workers
- ✓ Consider whether or not workers may encounter someone infected with COVID-19 in course of duties
- ✓ Determine if workers might be exposed to environments, worksites, or materials contaminated with the virus
- ✓ Identify sick individuals who have signs, symptoms, or a history of travel to infected areas that indicate potential infection with the virus
- ✓ Select, implement and ensure workers use controls to prevent exposure:
 - Provide PPE and respiratory protection
 - Physical barriers to control the spread
 - Social distancing measures
 - Enforcing hygiene, availability of cleaning supplies

EMPLOYEES ARE PROTECTED FROM RETALIATION UNDER OSHA:

- Section 11(c): prohibits employers from retaliating against workers for raising concerns about safety and health conditions.
 - Good faith belief that workplace was so dangerous that it put employee in imminent danger of serious harm.
 - Imminent danger means you reasonably expect immediate death or serious physical harm.
 - **30 day deadline to file** from date learned of or experienced retaliation.
- Whistleblower protection program
 - Additional retaliation protection depending on certain agencies, lines of work
- **Note that OSHA may not enforce violations where employer shows a good faith effort to comply with safe workplace guidelines.**



NLRA PROTECTIONS

NATIONAL LABOR RELATIONS ACT

EMPLOYEES PROTECTED FROM RETALIATION FOR REPORTING WORKPLACE SAFETY CONCERNS

- Employees protected from engaging in the following activities:
 - Raising concerns among other employees about lack of equipment or safety;
 - Two or more employees complaining about safety concerns;
 - Reporting safety concerns about himself and others to manager or supervisor.
- Covers union and non-union employees.
- **Six month deadline** to file from learning of or experiencing retaliation.



PUBLIC POLICY CLAIMS

**CATCH-ALL WHISTLEBLOWER
PROTECTIONS**

RETALIATION FROM EMPLOYEES BASED ON PUBLIC POLICY

- Prohibits retaliation against workers who complain about employer engaging in illegal activity, threat to public health and safety, or other recognized violation of public policy.
- May cover retaliation against workers who complain about employer going against government orders or public health authorities.
 - Violating "stay at home" order for non-essential businesses
 - Violating social distancing guidelines
- Varies state by state: Depends on Executive orders of state or local government
- Public employees may also be protected by state whistleblowing statute.

OSHA:

<https://www.osha.gov/Publications/OSHA3990.pdf>

<https://www.osha.gov/SLTC/covid-19/standards.html>

NLRB:

<https://www.nlr.gov/about-nlr/rights-we-protect/your-rights/employee-rights>

**HELPFUL
RESOURCES**