



## Develop a Pandemic Plan

1. Designate a company coordinator or planning team.
2. Review any existing crisis / emergency plans.
3. Review staffing plans / back-ups for key operations, employees, suppliers.
  - a. Anticipate effects of school closures or daycare closings / caring for sick dependents.
4. Establish policies and guidelines which address:
  - a. How absences will be handled -
    - i. Review attendance policies for any changes to encourage sick workers to stay home.
  - b. Utilize social distancing methods to increase the amount of physical distance among people in the workplace.
    - i. Reduce hand-shaking.
    - ii. Cancel non-essential business travel.
    - iii. Allow flexible work hours so fewer employees will be in the workplace at the same time.
    - iv. Limit face-to-face meetings.
    - v. Promote telecommuting.
    - vi. Provide liberal leave policies.

c. Employment law considerations:

i. Family and Medical Leave Act (FMLA)

1. Does the company need to comply with FMLA?

a. REMINDER – FMLA applies to companies who employ 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. Any employee whose name appears on the employer's payroll will be considered employed each working day of the calendar week, and must be counted whether or not any compensation is received for the week. Eligible employees must meet all of the following conditions:

i. Must work in a worksite where 50 or more employees are employed by the company within 75 miles of that office or worksite.

ii. Need to have worked for the company for at least 12 months.

iii. Must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence.

2. Is the flu a “serious health condition” under FMLA?

a. A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

b. The continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition.

ii. Americans with Disabilities Act Amendments Act (ADAAA)

1. Flu generally would not be covered since it is a short-term condition.

iii. Health Insurance Portability and Accountability Act (HIPAA)

1. Confidentiality obligations:

a. Employees exposed to a communicable disease may need to know about the exposure, but not the identity of the ill person.

iv. Occupational Safety and Health Administration (OSHA)

1. Employers required to provide a safe workplace -

- a. May need to place employees with a communicable disease on a mandatory medical leave.

v. Fair Labor Standards Act (FLSA)

1. Exempt employees must be paid their full week's salary when they perform any work in a week; and the employer may credit PTO or other leave accrual programs for absences.
2. Even if the exempt employee has no paid time off available, he/she must be paid fully if he/she worked any portion of the work week.
3. For nonexempt employees, time away can be unpaid, subject to paid leave policies.

vi. National Labor Relations Act (NLRA)

1. If someone refuses to work with an employee with a contagious disease and it is reasonable, employees may be protected from any discipline for protesting unsafe work conditions (even those in a non-union environment).

5. Consider providing:

- a. Supplies such as tissues, soap, and alcohol-based hand cleaners.
- b. Flu vaccination opportunities at the worksite or reimbursements for flu vaccinations.

6. Monitor the Centers for Disease Control's (CDC's) website for updates and continuing guidance at <http://www.cdc.gov/>.

## Communicate Plan and Policies to Employees

1. Basic employee education -

- a. Advise workers continually to check for any signs of illness before reporting to work each day.
  - i. Flu-like symptoms include fever or chills and cough or sore throat; additional symptoms may include runny nose, body aches, headache, tiredness, diarrhea, or vomiting).

2. Encourage employees to go home if they have any of the above flu-like symptoms.

3. When to allow employees to return -

- a. At least 24 hours after they no longer have a fever of 100 degrees or higher (this should be determined without using ibuprofen or acetaminophen).