

# RISK CONTROL CONSULTING

## OSHA's Recordkeeping and Reporting Requirements—COVID-19

As organizations adapt to the COVID-19 impact, questions have arisen regarding when to report a workplace COVID-19 case and also requirements for recordkeeping. OSHA recently published COVID-19 requirements for workplaces for reporting and recording COVID-19 cases. This fact sheet provides a summary of OSHA's requirements to assist your organization.

### OSHA defines a recordable injury or illness as any work-related:

- Fatality
- Injury that results in days away from work, restricted work, or transfer to another job
- Injury or illness requiring medical treatment beyond first aid
- Loss of consciousness
- Injury or illness diagnosed by a physician or other licensed health care professional

### GUIDANCE FOR RECORDING CASES OF CORONAVIRUS DISEASE 2020

**Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness. Employers are responsible for recording cases of COVID-19 if all of the following are true:**

1. The case is a confirmed case of COVID-19, as defined by the Centers for Disease Control and Prevention;
2. The case is work-related as defined by [29 CFR § 1904.5](#); AND
3. The case involves one or more of the general recording criteria set forth in [29 CFR § 1904.7](#).

Given the nature of the disease and community spread, it is difficult to determine whether a COVID-19 illness is work-related. In light of these considerations, OSHA is exercising its enforcement discretion in order to provide certainty to employers and workers.

**Until further notice, OSHA will *enforce* the recordkeeping requirements for employee COVID-19 illnesses for all employers according to the guidelines below:**

The reasonableness of the employer's investigation into work-relatedness

Employers, especially small employers, should not be expected to undertake extensive medical inquiries, given employee privacy concerns and most employers' lack of expertise in this area. It is sufficient in most circumstances for the employer, when it learns of an employee's COVID-19 illness:

- (1) to ask the employee how he believes he contracted the COVID-19 illness;
- (2) while respecting employee privacy, discuss with the employee his work and out-of-work activities that may have led to the COVID-19 illness; and

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The evidence available to the employer

- (3) review the employee's work environment for potential SARS-CoV-2 exposure. (The review in (3) should be informed by any other instances of workers in that environment contracting COVID-19 illness.)

The evidence that a COVID-19 illness was work-related should be considered based on the information reasonably available to the employer at the time it made its work-relatedness determination. If the employer later learns more information related to an employee's COVID-19 illness, then that information should be taken into account.

Consider all reasonably available evidence, in the manner described above. This cannot be reduced to a ready formula, but certain types of evidence may weigh in favor of or against work-relatedness. For instance:

The evidence that a COVID-19 illness was contracted at work.

- COVID-19 illnesses are likely work-related when several cases develop among workers who work closely together and there is no alternative explanation.
- An employee's COVID-19 illness is likely work-related if it is contracted shortly after lengthy, close exposure to a particular customer or coworker who has a confirmed case of COVID-19 and there is no alternative explanation.
- An employee's COVID-19 illness is likely work-related if his job duties include having frequent, close exposure to the general public in a locality with ongoing community transmission and there is no alternative explanation.
- An employee's COVID-19 illness is likely not work-related if she is the only worker to contract COVID-19 in her vicinity and her job duties do not include having frequent contact with the general public, regardless of the rate of community spread.
- An employee's COVID-19 illness is likely not work-related if he, outside the workplace, closely and frequently associates with someone (e.g., a family member, significant other, or close friend) who (1) has COVID-19, (2) is not a coworker, and (3) exposes the employee during the period in which the individual is likely infectious.

If, after the reasonable and good faith inquiry described above, the employer cannot determine whether it is more likely than not that exposure in the workplace played a causal role with respect to a particular case of COVID-19, the employer does not need to record that COVID-19 illness.

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## REPORTING COVID-19 CASES

In addition to recordkeeping requirements, employers must also report to OSHA any serious illness, serious injury, or death of an employee that occurred at work or in connection with work. The requirements include reporting:

- **All work-related fatalities** – reported to OSHA within 8 hours of finding out about it
- **All work-related inpatient hospitalizations of one or more employees** – reported to OSHA within 24 hours of learning about it
- **All work-related amputations** – reported to OSHA within 24 hours of learning about it
- **All work-related losses of an eye** – reported to OSHA within 24 hours of learning about it

This includes a COVID-19 illness if it meets the definition of serious illness. OSHA may be notified by telephone (1-800-321-6742), [in-person](#), or [online](#). *There are 22 state plans monitored by OSHA which must be at least as effective as OSHA in protecting employees. To access state plans, [click here](#).* Additional details on definitions and requirements for reporting may be found [here](#).

## FAQs

1. Is time an employee spends in quarantine considered “days away from work” for recording purposes?

No. Unless the employee also has a work-related illness that would otherwise require days away from work, time spent in quarantine is not “days away from work” for recording purposes.

2. How should COVID-19 be coded on the OSHA Form 300?

COVID-19 is a respiratory illness and should be coded as such on Form 300.

3. Does a COVID-19 case have to be confirmed to be recordable?

A case should be confirmed through testing to be recordable. However, due to testing shortages and a variety of other reasons, not all persons determined to have COVID-19 have been tested. Other situations would deem the case recordable if it meets any one of the other general recording criteria, such as resulting in days away from work.

## References

- *Revised (Federal OSHA) Enforcement Guidance for Recoding Cases of Coronavirus Disease 2019*
  - [https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19#\\_ftn4](https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19#_ftn4)
- *California - Recording and Reporting Requirements for COVID-19 Cases*
  - <https://www.dir.ca.gov/dosh/coronavirus/Reporting-Requirements-COVID-19.html>

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*This Alliant Risk Control Consulting fact sheet is not intended to be exhaustive. The discussion and best practices suggested herein should not be regarded as legal advice. Readers should pursue legal counsel or contact their insurance providers to gain more exhaustive advice.*

For additional information contact:

Alliant Risk Control Solution Center Toll Free Help Line: 888 737 4752.