

CORONAVIRUS – FREQUENTLY ASKED QUESTIONS ON WORKPLACE RIGHTS

The Sacramento Workers' Rights Clinic can provide you with a free confidential consultation regarding your legal rights related to work. There are strict timelines to file a complaint against your employer if you think they violated the law. Please call 916-905-5857 or 866-864-8208 to book an appointment. We assist workers regardless of immigration status. Services are available based on financial eligibility.

1. Due to coronavirus (aka COVID-19), my employer has cut my hours, forced me to take unpaid leave, or terminated my employment. What can I do?

You may file a claim for Unemployment Insurance ("UI") benefits with the California Employment Development Department ("EDD"). To get benefits you only need to meet certain minimum requirements, including having sufficient past earnings and an immigration status that allows you to work. If EDD approves your claim, you can get between \$40 and \$450 each week, depending on your past earnings. If you are unemployed as a result of coronavirus, the EDD has waived the usual one-week waiting period during which you otherwise would not receive UI benefits.

If you are temporarily out of work and plan to return to the same employer, you do not need to meet the usual requirement of looking for work while you are collecting UI benefits. However, if you are not connected to a certain employer with a job to return to, you are required to look for work while collecting UI benefits.

For more information about Unemployment Insurance benefits, including eligibility requirements and how to file a claim, please visit <https://www.edd.ca.gov/Unemployment/> or call 800-300-5616 (English), or 800-326-8937 (Spanish).

2. Because of coronavirus, my employer made assumptions about me or treated me differently than coworkers because I am Asian or from another country. What can I do?

An employer who treats you worse than other workers because of your race, national origin, or ethnic background is violating the law. This includes employer actions that single you out because of negative stereotypes.

3. I have a disability; is my employer required to provide me with reasonable accommodations?

If you have a disability such as a compromised immune system, your employer may be required to provide you with a reasonable accommodation such as telecommuting. While having common cold or seasonal flu symptoms would probably not be a disability, complications from coronavirus, such as pneumonia, might be and you and your employer should explore changes that allow you to continue your job or take time off from work.

4. Can my employer ask me if I was exposed to coronavirus or require me to stay home during the incubation period?

Yes, the Centers for Disease Control (CDC) has recommended that travelers to certain countries stay home for 14 days. The list of countries may change; refer to the CDC website for further information.

5. Can my employer ask me if I have a health condition (like a compromised immune system) that would be affected by coronavirus?

No. Your answer to that question is likely to disclose a disability. Therefore, the employer's question is against the law.

6. If I have coronavirus, what can my employer tell others about my condition?

Your employer is required to keep all medical information about you private and confidential.

7. Can my employer take my temperature before work?

Usually, it is not legal for an employer to measure your body temperature. Sometimes the CDC or your local health authority may recommend that employers take your temperature.

8. What if I become sick at work with symptoms relating to coronavirus? Can my employer send me home?

Yes. The CDC recommends that employees who become sick with coronavirus symptoms (i.e. fever, cough, shortness of breath) should be separated from other employees and sent home immediately.

9. I have coronavirus and am not currently able to work because of my illness. What can I do to receive income while I'm not working?

You are entitled to use Paid Sick Days if you are missing work because of illness. Your employer should provide you with pay for the

CORONAVIRUS – FREQUENTLY ASKED QUESTIONS ON WORKPLACE RIGHTS

accrued sick days you have. For more information see the Labor Commissioner's FAQs. Employers may limit the number of sick days an employee may use to as little as 3 days of pay in some places. (Some places like Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco and Santa Monica require that employers provide more than 3 sick days.)

If you need to miss work for more than a week, you may also be eligible for State Disability Insurance (SDI) to replace some of the income you lose while you are not working. You can apply for SDI from the Employment Development Department (EDD) online at www.EDD.ca.gov. A healthcare provider or local health official will need to certify your application.

SDI benefits are usually 60% or 70% of your normal pay, depending on your income. If you are disabled as a result of coronavirus, the EDD has waived the usual one-week waiting period during which you otherwise would not receive UI benefits. You can use Paid Sick Days or other paid time off during the first week unpaid week of your SDI claim if you have paid time off available.

Finally, If you are unable to do your usual job because you contracted coronavirus during the regular course of your work, you may be eligible for workers' compensation benefits, including temporary disability payments and medical treatment. To start the process, you will need to file the claim form (DWC-1) with your employer. The form is available from your employer or at <https://www.dir.ca.gov/dwc/forms.html>.

10. Can I lose my job if I miss work because I'm sick with coronavirus?

Your employer cannot retaliate against you because you have used Paid Sick Days or filed a workers' compensation claim.

In addition, you may be entitled to job-protected time off from work for up to 12 weeks. You likely qualify for this leave if all of the following statements apply to you:

- i. You work for an employer with at least 50 employees within 75 miles of your worksite;
- ii. you have worked there for at least a year, and
- iii. you worked at least 1250 hours in the year before you take time off.

If you do not meet the eligibility requirements but work for an employer with at least 5 employees, your employer may be required to grant you a leave of absence as a reasonable accommodation for a disability.

11. A close family member of mine has coronavirus, and I will stay home from work to take care of them. What can I do to receive income while I'm not working?

You can use Paid Sick Days to care for a sick family member, if you have them accrued. In addition, you may be eligible to receive Paid Family Leave (usually 60% or 70% of your pay for up to 6 weeks) if you are missing work to care for a seriously ill parent, parent-in-law, child, spouse, domestic partner, sibling, grandparent or grandchild. You can apply for Paid Family Leave from the Employment Development Department at www.EDD.ca.gov. You will need a healthcare provider or local healthcare official to certify your family member's health condition.

12. Can I lose my job if I'm staying home to care for a seriously ill family member with coronavirus?

If you work for an employer with at least 50 employees within 75 miles of your worksite, you have worked there for at least a year and you worked at least 1250 hours in the year before you take time off, then your employer must provide you with up to 12 weeks of job protected time off to care for a parent, spouse, domestic partner, minor child, or adult dependent child with a serious health condition.

13. Can my employer not pay me if I am sent home early from work, or told not to come in for a scheduled shift?

It depends. If an employer sends you home because business is slow after you have reported for work, then yes, the employer is required to pay you half of your scheduled hours for that shift. (If you were scheduled less than four hours, you are owed two hours of pay. If you were scheduled more than eight hours, you are owed four hours of pay.) You are also entitled to Reporting Time Pay if you are required to call in soon before a scheduled shift, and are told not to come in for that shift because business is slow.

If an employer sends you home or instructs you not to come in to work because the employer has been encouraged or ordered to close the business or limit operations by government authorities, or otherwise is reasonably concerned about the safety of employees, then no, the employer is not required to pay you Reporting Time Pay for your scheduled shift.

More information is available at https://www.dir.ca.gov/dlse/FAQ_ReportingTimePay.htm.

CORONAVIRUS – FREQUENTLY ASKED QUESTIONS ON WORKPLACE RIGHTS

14. My employer is forcing me to stay at home because a family member returned from one of the affected countries. What can I do?

Your employer cannot treat you differently because of your association with a person who it believes has coronavirus. Employers should not make assumptions about your family members.

15. My child's day care or school is closed because of the coronavirus. Can I take time off to care for my child? What can I do to receive income?

If your employer has 25 or more employees working at the same location in California, you can take off up to 40 hours each year to address an emergency at your child's day care or school. A closure because of the coronavirus qualifies as such an emergency. However, you must still notify your employer ahead of time that you intend to take this time off.

For pay, you may be eligible for Unemployment Insurance if you have exhausted all other care options but have to miss work to stay home with your child because of a school closure. Apply for Unemployment Insurance at www.EDD.ca.gov. For more information, see the EDD's information on coronavirus.

WHAT TO DO IF YOUR RIGHTS IN THE WORKPLACE HAVE BEEN VIOLATED.

The Sacramento Workers' Rights Clinic can provide you with a free confidential consultation regarding your legal rights related to work. There are strict timelines to file a complaint against your employer if you think they violated the law. Please call 916-905-5857 or 866-864-8208 to book an appointment. We assist workers regardless of immigration status. Services are available based on financial eligibility.

Because there is always the risk of employer retaliation, you should consider the risks before making a decision to file a claim, including whether you or your co-workers have ever received threats from your employer; whether your employer knows that you are undocumented; and whether your employer has ever reported or threatened to report to immigration authorities any of your co-workers who enforced their rights.

RESOURCE LINKS

Employment Development Department FAQ on COVID-19	https://www.edd.ca.gov/about_edd/coronavirus-2019.htm
California Labor Commissioner on FAQ on COVID-19	https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm
California Endowment Coronavirus Fact Sheets	https://www.calendow.org/news/novel-coronavirus-19-get-the-facts/
Centers for Disease Control and Prevention on COVID-10	https://www.cdc.gov/coronavirus/2019-ncov/index.html
Legal Aid at Work Health Care During my Job Fact Sheet	https://legalaidatwork.org/factsheet/health-insurance-employment
Legal Aid at Work Health Insurance After Employment: COBRA	https://legalaidatwork.org/factsheet/health-insurance-after-employment-cobra

DISCLAIMER

Because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid at Work cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.