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Subject: Screening
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Attachments: [DHRD COVID-19 Guidance Version 2 031720 FINAL.PDF](#)
[2020 03 16 Coronavirus Visitor Screening Tool Instructions.pdf](#)
[2020 03 16 Coronavirus Visitor Screening Tool.pdf](#)
[2020 03 19 Coronavirus Employee Screening Tool.pdf](#)

Mick:

Visitor/Vendor/Volunteer and Employee screening is a go! Received approval from the Employment Law Division Head, through DEP-A and DEP-C.

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DEPARTMENT OF PUBLIC SAFETY
CORONAVIRUS DISEASE 2019 (COVID-19)
VISITOR/VENDOR/VOLUNTEER SCREENING TOOL
INSTRUCTIONS FOR STAFF

1. If the visitor/vendor/volunteer traveled outside the State of Hawaii within the last 14 days or had close contact with someone who had or is suspected to have coronavirus, immediately **DENY** entrance to the facility. Request that the visitor/vendor/volunteer return after the 14-day period.
2. If the visitor/vendor/volunteer reported symptoms of fever, cough, or shortness of breath, immediately **DENY** entrance to the facility. Encourage the visitor/vendor/volunteer to see their healthcare provider. Request the visitor/vendor/volunteer return after their symptoms have completely resolved.
3. If the visitor/vendor/volunteer does not permit staff to take the temperature, immediately **DENY** entrance to the facility.
4. If the visitor/vendor/volunteer has a temperature of 100.4°F or above, immediately **DENY** entrance to the facility. Encourage the visitor/vendor/volunteer to see their healthcare provider. Request the visitor/vendor/volunteer return after their symptoms have completely resolved.
5. If all of the above are negative, **CLEAR** the visitor/vendor/volunteer for entrance to the facility. Complete staff name, title, and facility. Provide Visitor Badge.

DEPARTMENT OF PUBLIC SAFETY
CORONAVIRUS DISEASE 2019 (COVID-19)
VISITOR/VENDOR/VOLUNTEER SCREENING TOOL

SECTION A (TO BE COMPLETED BY VISITOR/VENDOR/VOLUNTEER)

Please complete the following:	
Date of Requested Entrance	
Name	
1. Please answer the following questions:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	In the last 14 days, have you traveled outside Hawaii?
<input type="checkbox"/> Yes <input type="checkbox"/> No	In the last 14 days, were you within 6 feet of someone who had or is suspected to have coronavirus?
2. Do you have any of the following?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Fever
<input type="checkbox"/> Yes <input type="checkbox"/> No	Cough
<input type="checkbox"/> Yes <input type="checkbox"/> No	Shortness of Breath
3. Temperature	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Can staff take your temperature?

SECTION B (TO BE COMPLETED BY STAFF)

4. Take Temperature	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the temperature of the visitor/vendor/volunteer 100.4°F or above?
5. Clearance	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the visitor/vendor/volunteer clear for purpose of this screening to enter the facility?

Staff Name: _____

Staff Title: _____

Facility: _____

DEPARTMENT OF PUBLIC SAFETY

CORONAVIRUS DISEASE 2019 (COVID-19)

EMPLOYEE SCREENING TOOL

SECTION A (TO BE COMPLETED BY EMPLOYEE)

Please complete the following:	
Date	
Employee Name	
1. Please answer the following questions:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	In the last 14 days, have you traveled outside Hawaii?
<input type="checkbox"/> Yes <input type="checkbox"/> No	In the last 14 days, were you within 6 feet of someone who had or is suspected to have coronavirus, while not wearing recommended Personal Protective Equipment (PPE)?
If the employee traveled outside the State of Hawaii within the last 14 days or had close contact with someone who had or is suspected to have coronavirus while not wearing recommended personal protective equipment, immediately contact the Watch Commander and/or the immediate supervisor for civilian staff.	
2. Do you have any of the following?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Fever
<input type="checkbox"/> Yes <input type="checkbox"/> No	Cough
<input type="checkbox"/> Yes <input type="checkbox"/> No	Shortness of Breath
If the employee answered YES, immediately contact the Watch Commander and/or the immediate supervisor for civilian staff.	
3. Temperature	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Can the screener take your temperature?
If the employee does not permit staff to take the temperature, immediately contact the Watch Commander and/or the immediate supervisor for civilian staff.	

SECTION B (TO BE COMPLETED BY SCREENER)

4. Take Temperature	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the temperature of the employee 100.4°F or above?
If the employee has a temperature of 100.4°F or above, immediately contact the Watch Commander and/or the immediate supervisor for civilian staff.	
5. Clearance	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the employee clear for purpose of this screening to enter the facility?
If all of the above are negative, CLEAR the employee for entrance to the facility. Complete screener name, title, and facility.	

Screener Name: _____

Screener Title: _____



STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

SUPERVISORS AND MANAGERS 2019 NOVEL CORONAVIRUS (COVID-19) QUESTIONS AND ANSWERS VERSION #2

For Employees of the Executive Branch only, excluding Department of Education,
Hawaii Health Systems Corporation, and University of Hawaii

March 17, 2020

The information provided below is specifically intended to briefly address personnel/human resources matters associated with COVID-19 and shall not constitute a contract of employment. The applicable collective bargaining agreement (CBA) or executive order (EO) shall take precedence over any conflicting information in the questions and answers below.

Further, if the Governor proclaims a state of emergency due to COVID-19, the responses provided below may be rendered invalid if the Governor asserts statutorily authorized powers and action that supersede CBAs, rules, policies and procedures referred to within this document.

OVERVIEW

The following general guidance is being provided in anticipation of questions that supervisors and managers may have regarding COVID-19, including preventative measures that should be taken to limit the spread of the illness within the workplace. Each department must determine the feasibility of applying this guidance based on operational needs, and department-specific protocols, rules, and regulations, etc.

Prior to taking any action, seek guidance from your Departmental Human Resources Officer (HRO).

The COVID-19 situation is rapidly evolving. DHRD plans to continue updating this guidance or provide additional guidance as the situation dictates. Contact your HRO for the most current information.

LABOR RELATIONS DIVISION

LEAVES OF ABSENCE

1. **What should I do if an employee refuses to report to work because he/she fears being exposed to COVID-19 at work?**

RESPONSE: Seek to calm the employee by providing information based on the latest guidance and recommendations from Department of Health (DOH) <https://health.hawaii.gov/docd/advisories/novel-coronavirus-2019/> and Centers for Disease Control (CDC) www.cdc.gov/coronavirus/2019-ncov/index.html. Leave requests may be granted based on operations and according to applicable CBA provisions or EO.

2. Can I send an employee home if the employee exhibits symptoms (e.g., fever, cough, difficulty breathing) of illness while at work?

RESPONSE:

Below are possible situations you may encounter and actions to consider in order to maintain a safe and healthy workplace.

- a. *Direct the Employee to go home and to seek advice from the employee's healthcare provider. Place the employee on leave in accordance with applicable CBA provisions or EO. Employees who have symptoms of acute respiratory illness are recommended to stay home and not come to work until they are free of fever (100.4 degrees F [37.8 38 degrees C] or greater using an oral thermometer), signs of a fever and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g. cough suppressants).*
- b. *If the employee is belligerent and refuses directives to leave the workplace, follow departmental safety/emergency procedures. You may also consider placing the employee on Department-Directed Leave (DDL) for up to three (3) days to assess the situation. Once a determination is made that the employee is sick, the employee should immediately be placed on leave in accordance with applicable CBA provisions or EO. An employee's failure to adhere to a supervisor's directives may be considered insubordination. Appropriate follow-up action should be taken to address the situation and appropriate disciplinary action taken if warranted.*

3. What should I do if an employee reports that a member of his/her household has potentially been exposed to COVID-19 (e.g., cluster of cases at employee's child's school), but no one has tested positive for COVID-19?

RESPONSE: Currently, the DOH is advising that if an employee is a close household contact of a person who had possible exposure to a confirmed COVID-19 case, the employee, as long as they are asymptomatic, may attend work.

The employee may be placed on DDL for up to three (3) days if additional time is needed to assess the situation.

4. What should I do if an employee reports that a member of his/her household or a close contact is currently sick with COVID-19, but would like to remain at work since he/she does not have any symptoms and feels fine?

RESPONSE: Currently, the DOH is advising that generally, the employee should be in quarantine. However, if the employee is able to maintain separate rooms and keep separate from the household member, it may be possible for the employee to attend work. This needs to be assessed on a case-by-case basis. The employee may be placed on DDL for up to three (3) days if additional time is needed to assess the situation.

5. What should I do if an employee informs me that he/she has been placed on DOH/CDC mandated quarantine or self-monitoring with DOH supervision?

RESPONSE: If the employee reports to work, direct the employee to leave the workplace. If the employee has not reported to work, direct the employee to remain at home. Review Telework guidelines below to see if working remotely is a viable option. If Telework is not feasible, DDL may be used to further assess the situation. Administrative leave of up to 14 calendar days may be available to those employees who are asymptomatic but must miss work because they have traveled to a country identified by CDC as a level 3 country (e.g., China, Iran, Italy, South Korea, Europe (Schengen Area), United Kingdom, Ireland) and/or the employee is under DOH monitoring, provided that employee presents appropriate documentation (e.g., boarding pass, travel receipts). If an employee has symptoms of illness and misses work, they should use sick leave.

6. What should I do if an employee calls in and reports that he/she has contracted COVID-19?

RESPONSE: Direct the employee to remain at home, place the employee on leave in accordance with applicable CBA provisions or EO.

APPLICATION OF DDL / ADMINISTRATIVE LEAVE / SICK LEAVE

7. How do I apply DDL and administrative leave?

RESPONSE: Please follow the following guidelines:

- *If employee is placed on DDL and is later determined to be sick, change DDL to sick leave.*
- *If employee is placed on DDL and later qualifies for administrative leave, change DDL to administrative leave.*
- *If employee becomes sick while he/she is on administrative leave, place employee on sick leave effective from the date the employee becomes ill. Administrative leave received prior to employee's placement on sick leave will not change.*
- *If employee is placed on DDL and does not qualify for sick leave or administrative leave, and needs to be placed on vacation, CTO or authorized LWOP, no change to DDL.*

8. When did Governor authorize use of administrative leave for COVID-19?

RESPONSE: Administrative leave may be applied no earlier than March 4, 2020.

TRAVEL GUIDANCE

9. Is there any guidance regarding business travel?

RESPONSE: All State travel (international and domestic including inter-island) will be suspended until further notice unless approved by your Director. See guidance issued by Department of Accounting and General Services (DAGS) for further details. <https://ags.hawaii.gov/comptrollers-memoranda/>. You may contact Theoni Wong of DAGS Pre-Audit Branch (586-0650) or Shannon Ota of the State Procurement Office (586-0563) with any questions.

RETURNING TO WORK AFTER CONTRACTING OR HAVING BEEN EXPOSED TO COVID-19

10. What do I do if an employee was out on sick leave for more than 5 working days and returns with a medical certificate that covers only a portion of that time?

RESPONSE: The employee is required to provide a physician's certificate that covers the period the employee was on sick leave in accordance with applicable CBA provisions or EO. However, CDC advises that employers not require a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or return to work, as healthcare provider offices and medical facilities may be extremely busy and not able to provide such documentation in a timely way. Seek guidance from your HRO prior to taking any action.

11. Can I require the employee to provide a doctor's note stating that the employee is able to resume the duties of his/her position?

RESPONSE: CDC advises that employers not require a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or return to work, as healthcare provider offices and medical facilities may be extremely busy and not able to provide such documentation in a timely way. However, to limit the spread of illness in the workplace, it is important for you to ensure the employee can safely return to work. To the extent possible, and to the satisfaction of the department head, require employees to provide physician's confirmation substantiating that the employee is able to resume the duties of his/her position. Seek guidance from your HRO prior to taking any action.

12. If employee is placed on administrative leave for up to 14 calendar days and is not sick, can I require the employee to provide a medical certificate to substantiate that the employee is able to return to work?

RESPONSE: Yes, employee may be required to provide a medical certificate to substantiate that the employee is physically and/or mentally able to resume the duties of the employee's position. Employee may also be required to check in with his/her supervisor regarding his/her leave status while on administrative leave and be required to communicate with his/her supervisor to plan for his/her return to work.

ADDRESSING STAFF SHORTAGE ISSUES

13. Can I rescind approved employee vacation and compensatory time off (CTO) requests prior to the date(s) of approved absence?

RESPONSE: It may be possible to rescind approved vacation and CTO requests. The decision to rescind approved leaves should be based on operational requirements and be properly documented. Refer to applicable CBA provisions or EO.

14. Can I direct an employee to report to work while he/she is on approved vacation leave and/or CTO?

RESPONSE: It may be possible to recall an employee to duty while on granted vacation leave and/or CTO when, in the opinion of the department head, the employee's services are required. Refer to applicable CBA provisions or EO for further guidance on recalling an employee from vacation leave and/or CTO.

15. I supervise employees who are currently on Alternative Work Week (AWW) schedules. May I revert them to a regular, Monday through Friday schedule due to a COVID-19 outbreak?

RESPONSE: Yes. AWW guidelines for bargaining units 2, 3, 4, 9, 13 and 14 states that the employer may suspend employee participation in AWW in the event of a natural disaster, abnormal workload increase, or an emergency. Refer to applicable provisions and MOUs governing AWW for further information.

EQUAL EMPLOYMENT OPPORTUNITY OFFICE

1. Is COVID-19 a "disability" under the Americans with Disabilities Act?

RESPONSE: Most likely no. For most individuals, COVID-19 will not be considered a disability as its impact will be temporary and not substantially limiting. Under the ADA, temporary conditions that are minor don't qualify as disabilities. For example, colds and the flu generally won't qualify as disabilities, assuming they don't have serious, long-term consequences. For a limited number of people, however, COVID-19 and/or other underlying conditions may be disabilities. As with any medical condition, a determination as to whether an employee's medical impairment constitutes a disability should be made on a case by case basis.

2. If COVID-19 is not a "disability," why do I need to know about the Americans with Disabilities Act as part of my COVID-19 Departmental response?

RESPONSE: The ADA, which protects applicants and employees from disability discrimination, is relevant to pandemic preparation in at least three major ways. **First**, the ADA regulates Departments' disability-related inquiries and medical examinations (i.e. requests to take temperatures) for all applicants and employees, including those who do not have ADA disabilities. **Second**, the ADA prohibits Departments from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a "direct threat" (i.e. a significant risk of substantial harm even with

reasonable accommodation). **Third**, the ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during a pandemic.

3. If COVID-19 isn't a "disability" under the Americans with Disabilities Act, does a Department have to provide a reasonable accommodation, such as telework?

RESPONSE: No, but Departments are encouraged to consider telework as part of their pandemic response. Departments are not required to provide an accommodation for a medical condition that is not a disability. Although COVID-19 likely will not be a disability for most individuals, the Department may use its operational discretion in granting workplace changes (such as telework) for individuals affected by COVID-19. Such discretion should be used in accordance with legitimate business needs, in a non-discriminatory manner, and in alignment with applicable policies. Departments should **not** categorize these changes as "accommodations" to avoid the individual being perceived as having a disability under the ADA.

If an individual has an underlying medical impairment that is a disability, such as COPD or severe asthma, the Department must engage in the reasonable accommodation interactive process to determine if accommodations are needed under the DHRD Reasonable Accommodations Policy. Telework may be an appropriate accommodation, even if only on a temporary basis.

4. What should I do if an employee refuses to report to work or perform a job function because he/she/they fears being exposed to COVID-19 at work?

RESPONSE: Employees generally are not entitled to use sick leave and are not eligible for FMLA leave or reasonable accommodation leave to stay at home to avoid getting sick, though as discussed in Question 5 below, an exception exists where a preexisting disability is likely to be worsened by exposure to a contagious disease, such as COVID-19. If an employee is refusing to report to work or perform a job function due to an underlying medical condition, please refer to Question 5.

Departments should consult with DHRD Labor Relations (587-0911) regarding employees who refuse to report to work or perform a job function for reasons other than an underlying medical condition. If the employee has a specific safety concern, talk with the employee about the concern and seek appropriate guidance from DHRD Safety if needed.

5. What should I do if an employee tells me they have an underlying medical condition (e.g. autoimmune disorder, COPD, etc.) making them more vulnerable to COVID-19 and asks to work from home because they are afraid of exposure?

RESPONSE: Begin the interactive process. When the workplace may worsen or aggravate an underlying disability, the Department will need to identify what accommodations may need to be made to enable the employee to do his/her/their job. Telework, among other accommodations, may be appropriate. As Departments know, this is a rapidly changing situation, and they are encouraged to err on the side of providing an accommodation over not providing an accommodation.

Departments should enact temporary accommodations at the onset of the interactive process to avoid any delays and/or potential harm to the employee. In evaluating telework, the Department should consider the employee's role and the unit's operational needs. Departments should consult any applicable collective bargaining agreements, union telework agreements and/or guidelines, as well as the State Department of Labor to determine whether alternative work locations (including the home) are appropriate.

For certain positions, physical presence may be an essential function of the job. Other positions may be conducive to performing essential job functions at a variety of work locations, including from home. Generally, Departments should not be removing an essential job function (including the requirement of physical presence at the worksite); however, due to the extraordinary circumstances presented by the COVID-19 pandemic, if Departments elect to remove essential job functions for any employee, they

should clearly document the reason why (COVID-19 pandemic) and outline that the removal is only temporary in nature and the employee will be expected to resume all job functions at the instruction of the Department.

Before ruling teleworking out entirely as an option, consider that it may be possible to implement telework on a temporary and/or partial basis, which may meet the employee's needs and enable them to perform their essential functions. If teleworking is feasible, but only on a limited basis, the Department should inform the employee in writing that the accommodation will be temporary due to the extraordinary situation caused by COVID-19, and the employee will be expected to return to their usual worksite.

6. How do I determine whether physical presence in the workplace is an essential function of an employee's position?

RESPONSE: Generally, the essential functions of a position are the core job duties the employee is responsible for performing. An essential function may be the reason the job exists, there may be few or no other employees who can perform the function, and/or the function may be highly specialized, and the employee was hired because of his/her/their high level of expertise or skills.

Positions that require face-to-face interaction with others in the workplace on a regular basis are unlikely to qualify for telework. For example, an employee who is responsible for assisting walk-in visitors on a daily basis will not be eligible to telework.

Employees whose essential functions cannot be done from a remote location also would not be eligible to telework. Positions involving physical labor, such as groundskeepers, janitors, and equipment operators, generally cannot perform their core functions off-site. Other types of positions may require access to files or other materials that logistically cannot be removed from the worksite or accessed remotely due to IT security concerns or regulatory restrictions.

7. If an employee who discloses an underlying medical condition requests an N-95 face mask to protect against COVID-19, and it is offered as a reasonable accommodation to employees for other medical conditions, given the shortage, what should we do?

RESPONSE: If available, the Department may provide a face mask to the inquiring employee, particularly if the employee has an underlying medical condition making them more susceptible to COVID-19. However, if there are no masks available, inform the employee of their unavailability and continue to engage in the interactive process to determine alternative effective reasonable accommodations.

8. I'm trying to determine how a COVID-19 community outbreak in Hawaii will impact our Departmental operations. Are there ADA-compliant ways for Departments to identify which employees are more likely to be unavailable for work in the event of a pandemic?

RESPONSE: Yes. Employers may make inquiries that are not disability related. An inquiry is not disability-related if it is designed to identify potential non-medical reasons for absence during a pandemic (e.g., curtailed public transportation) on an equal footing with medical reasons (e.g., chronic illnesses that increase the risk of complications). The inquiry should be structured so that the employee gives one answer of "yes" or "no" to the whole question without specifying the factor(s) that apply to him. The answer need not be given anonymously.

Below is a sample ADA-compliant survey that can be given to employees to anticipate absenteeism, which would need to be modified to reflect COVID-19 as the underlying virus.

ADA-COMPLIANT PRE-PANDEMIC EMPLOYEE SURVEY

Directions: Answer "yes" to the whole question *without specifying the factor that applies to you*. Simply check "yes" or "no" at the **bottom of the page**.

In the event of a pandemic, would you be unable to come to work because of any one of the following reasons:

- If schools or day-care centers were closed, you would need to care for a child;
- If other services were unavailable, you would need to care for other dependents;
- If public transport were sporadic or unavailable, you would be unable to travel to work; and/or;
- If you or a member of your household fall into one of the categories identified by the CDC as being at high risk for serious complications from the pandemic influenza virus, you would be advised by public health authorities not to come to work (e.g., pregnant women; persons with compromised immune systems due to cancer, HIV, history of organ transplant or other medical conditions; persons less than 65 years of age with underlying chronic conditions; or persons over 65).

Answer: YES _____, NO _____

9. If an employee exhibits symptom of acute respiratory illness, such as a cough, fever, or difficulty breathing, can I ask questions about their symptoms?

RESPONSE: Yes, Departments may ask about an employee's symptoms, but may not ask whether the employee has a specific illness, such as COVID-19.

10. If there is an employee who is exhibiting symptoms of COVID-19 (e.g. fever, cough and difficulty breathing) while at work, can I send the employee home?

RESPONSE: Yes, but use caution and common sense. Supervisors should be cautious in making an assessment in whether the employee is symptomatic for COVID-19. At this point in time there currently is a low risk of COVID-19 exposure for most employees. It is important for supervisors to remain calm in situations in the workplace potentially related to COVID-19 in order to prevent panic among the workforce. Departments must ensure assessments of risk and symptoms are not based on an employee's race or country of origin; however, Departments may consider whether the employee has traveled to a geographic area where there has been a confirmed COVID-19 outbreak.

If an employee presents themselves at work with symptoms of a contagious disease, such as COVID-19 or influenza, the supervisor may direct the employee to go home and to seek advice from the employee's healthcare provider. The EEOC has said that sending an employee home who displays symptoms of contagious illness would not run afoul of the ADA's restrictions on disability-related actions because: (i) if the illness ultimately turns out to be relatively mild or "run of the mill" (such as seasonal influenza), then it would not have constituted a covered disability in the first place; and (ii) if the illness does turn out to be severe (such that it may constitute a disability under the law), then the actions would be warranted under a direct threat analysis. In either case, an employer can send an employee home who is displaying symptoms of contagious illness.

The Department should contact DHRD Labor Relations (587-0911) with questions regarding the type of leave on which the employee should be placed. Proactively, Departments should clearly tell employees that if they have symptoms of a contagious illness they must not report to work while they are sick.

11. What questions can a Department ask to distinguish between a "suspected" case of COVID-19 and a typical illness?

RESPONSE: You may ask limited questions, but remember you are not a medical provider. Departments should consult the websites of the CDC and Hawaii DOH for the most up to date information regarding symptoms of COVID-19. There is no clear formula to help Departments makes this determination, but Departments should rely on logic and common sense, and not speculation or biases, to make this assessment.

Departments may inquire as to whether the employee has traveled to a restricted area that is under a Level 2, 3, or 4 Travel Advisory according to the U.S. State Department or a geographic area with a community outbreak of COVID-19. Departments may also ask whether that employee was exposed to someone who traveled to one of those areas or who has been diagnosed with COVID-19.

Departments **may not ask** whether a family member of the employee has been diagnosed with COVID-19. See Question 18 below.

Departments **may not ask** whether the employee has been diagnosed with COVID-19.

Departments must maintain all information about employee illness as a confidential medical record in compliance with the ADA.

12. What should I do if an employee calls in and reports he/she/they has contracted COVID-19?

RESPONSE: Direct the employee to remain at home, place the employee on leave in accordance with applicable CBA provisions and guidance from DHRD Labor Relations. You should report the information to the HRO immediately. Departments are prohibited from further disclosing employee medical information in violation of the confidentiality provisions under the Americans with Disabilities Act (ADA) and DHRD's Reasonable Accommodations Policy. Disclosure of an employee's medical information in violation of DHRD's Reasonable Accommodation Policy must be promptly investigated.

13. If an employee has been exposed to and/or diagnosed with COVID-19, what notification should go out to the worksite and/or general public?

RESPONSE: Should this occur, the DOH will work with the Department regarding communication to the worksite and general public, if applicable. Departments are prohibited from further disclosing employee medical information in violation of the confidentiality provisions under the Americans with Disabilities Act (ADA) and DHRD's Reasonable Accommodations Policy.

14. What should I do if an employee or applicant comes to the workplace wearing a mask and/or respirator? May I ask if she/he/they has COVID-19?

RESPONSE: **No.** You should **not** inquire as to whether an individual has a specific medical condition. Departments are reminded ADA places certain restrictions on the kinds of inquiries that can be made into an employee's medical status, including whether the employee has a specified disease.

Individuals may wear masks and/or respirators for a variety of medical and/or non-medical reasons, including seasonal allergies, environmental allergies, or other respiratory concerns. The Department **should not** make any medical related inquiries **unless** the employee is displaying symptoms related to a contagious respiratory illness and/or has disclosed he/she/they has been in contact with an individual diagnosed with the COVID-19. If the employee is displaying symptoms related to a respiratory illness, the Department should proceed as indicated in response to Questions 9 and 10 above.

If the wearing of the mask is causing a disruption in the workplace and/or interfering with the employee's ability to perform their essential job functions, you should consult with your HRO, who may ask the employee whether the mask is needed due to a medical condition.

15. Can I take an employee's temperature at work to determine whether they might be infected?

RESPONSE: **At this time, Departments should not be taking an employee's temperature.** Departments are advised to consult with DHRD EEO before any employee is requested to have their temperature taken at work. The ADA places restrictions on the inquiries that an employer can make into an employee's medical status, and the EEOC considers taking an employee's temperature to be a "medical examination" under the ADA.

Taking an employee's temperature may be inconsistent with the ADA if is not job-related and consistent with business necessity. The inquiry and evaluation into whether taking a temperature is job-related and consistent with business necessity is fact-specific and will vary among situations. As there currently is no community outbreak of COVID-19 in Hawaii it is unlikely the virus will be considered a "direct threat" that would otherwise permit this medical inquiry.

As a practical matter, an employee may be infected with the COVID-19 coronavirus without exhibiting recognized symptoms such as a fever, so temperature checks may not be the most effective method for protecting your workforce.

- 16. The U.S. Centers for Disease Control and Prevention (CDC) identified individuals sixty (60) years and older as having a higher risk for a serious infection of COVID-19. May a Department take an employee's age into consideration when making decisions relating to COVID-19, such as determining requests for leave, reasonable accommodations and/or telework?**

*RESPONSE: If a Department is considering implementing certain procedures, it should do so for all "high risk" categories identified by the CDC and **not** only age-related categories. Under Hawaii State law, all ages are protected classes, and accordingly age should never be the sole factor in making an employment related decision (i.e. permitting only employees over the age of 60 to take leave or telework due to COVID-19 concerns, granting leave for employees over the age of 60, but denying leave for those under the age of 60). Employment decisions should be made on legitimate business reasons, in a non-discriminatory manner, and in accordance with applicable collective bargaining agreements.*

*If an employee expresses concern that he/she/they are at a higher risk for a serious infection of COVID-19 due to their age, the Department should talk with the employee about these concerns. Employees can [take everyday precautions](#) as identified by the CDC and should be encouraged to utilize technology to promote social distancing (i.e. Skype or teleconference for meetings). As of March 13, 2020, the CDC is only advising high risk individuals to stay home as much as possible **if** there has been a COVID-19 outbreak in their community. Currently, the Hawaii Department of Health has not identified any community outbreak of COVID-19 in the community.*

- 17. Should Departments be providing accommodations to pregnant women due to concerns of COVID-19 in the workplace?**

RESPONSE: The CDC currently does [not have information](#) from published scientific reports about susceptibility of pregnant women to COVID-19, however, the CDC has categorized pregnant women as "higher risk." Departments should continue to provide accommodations, including leave and/or telework, to pregnant women in accordance with the Pregnancy Discrimination Act, and should consult the CDC website for up to date information (<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/pregnancy-faq.html>).

- 18. May a Department ask about an employee's family member's health? For example, an employee has requested leave to care for a family member. May a Department ask if the family member is ill with COVID-19?**

*RESPONSE: **No.** Asking questions about the medical condition of an employee's family member will violate the Genetic Information Non-Discrimination Act (GINA). Unlike the ADA, GINA has no job-related/business necessity exception for questions about an employee's family members. For example, if a supervisor finds out an employee's spouse went to a conference attended by someone who later tested positive, the supervisor may not ask the employee whether their spouse has contracted COVID-19.*

- 19. Due to the CDC guidance, which recommends it is sensible to avoid shaking hands to reduce the risk of spreading infections, how do I discourage someone from shaking my hand or hugging me the workplace, including giving an "Aloha" hug in greeting?**

RESPONSE: If shaking hands or hugging during the COVID-19 pandemic (or at any time) makes you uncomfortable, you should talk with your supervisor about ways in which the Department can stop the behavior. Although you are not required to do so, you may also tell the person directly. For example, if someone offers his/her/their hand or starts to initiate a hug, consider putting your hands up and responding, "Sorry, CDC says 3 feet!" or "Hey, we're supposed to be practicing social distancing!" Consider using a wave or "shaka" in greeting to minimize contact.

20. What are the Department's obligations to prevent harassment of those suspected of being infected?

RESPONSE: Departments must take steps to prevent discrimination and harassment against individuals who are disabled or perceived as disabled because they are exhibiting symptoms suggestive of having contracted COVID-19. In order to accomplish this, Departments should ensure the confidentiality of all employees' medical information and leave details to prevent harassment. Departments should consider reminding employees of anti-harassment and discrimination policies. Departments should also work to quash rumors related to employees' health or travel. Departments must be vigilant about promptly responding to and investigating any complaints of harassment or bullying in the workplace.

EMPLOYEE RELATIONS DIVISION (ERD) – TRAINING

ON-DEMAND TRAINING

1. What resources are available to assist supervisors with ensuring employee productivity during telework?

RESPONSE: All supervisors of the Executive Branch have access to the DHRD On-Demand Learning Library. In response to current extraordinary conditions, we have made the following trainings available without having to go through the usual registration process. (see attached) These courses are listed by topic, title, brief description and link. To access the training, hold down the CONTROL button on the keyboard and click on the link associated with the desired title. The presentation will then launch. Topics not requiring registration are:

- *Microsoft Office 365 including Skype*
- *Microsoft Teams*
- *Sharepoint*
- *Working Remotely/Supervising a remote workforce*

All other courses listed in the on-demand learning library are also available for employee development. Using Internet Explorer as the preferred browser is highly recommended. These courses require registration as normal. Should an employee have difficulty registering or forgets their Adobe Connect password, they are directed to call our office at (808) 587-1050. Please leave a voice message with name and phone number to return the call; messages will be retrieved on a consistent basis.

ERD – EMPLOYEE ASSISTANCE OFFICE

"Telework" means a flexible work arrangement that allows employees the opportunity to perform their duties at a remote work site during an agreed upon portion of the work week.

TELEWORK

1. Now that there seems to be community spread of the COVID-19 virus, may I allow my employees to telework since allowing them to do so would encourage "social distancing?"

RESPONSE: Governor Ige, with the recommendation of the Department of Health, is encouraging all Departments and agencies to implement telework for employees where you have determined such temporary remote work is appropriate and viable to support employees in caring for their health and reducing the risk of exposure to the COVID-19 virus. As such, employees whose job duties and responsibilities are conducive for remote work should be placed on telework in an expeditious manner. Seek guidance from your Departmental Human Resources Officer to determine the timeframe in which your department will be implementing telework.

- 2. If we are supposed to implement telework in an expedited timeframe, do we continue to follow the Telework Program Guidelines?**

RESPONSE: Yes, the State's Telework Program MOU and Guidelines outlines eligibility, procedures, and expectations regarding employees working remotely. However, due to these extraordinary circumstances, such as this current health situation, we are making a few exceptions to the Guidelines; in addition, we have created a special acknowledgement form for this specific COVID-19 situation to replace the formal Telework Agreement (see attached COVID-19 Interim Telework Exceptions and Acknowledgement Form).

Employees allowed to telework during this current health emergency shall not expect to continue working remotely indefinitely.

EMPLOYEE'S WELLBEING – REACH PROGRAM

- 1. What assistance will be available to my employees should the fear of being exposed to COVID-19 at work starts to affect their job performance?**

RESPONSE: Employees in the Executive Branch under the jurisdiction of the DHRD, whose department does not offer an equivalent employee assistance program may contact WorkLife Hawaii, the State's employee assistance service provider for the REACH Program, at (808) 543-8445 or toll-free from the Neighbor Islands at 1-800-994-3571. The REACH Program provides up to three free, confidential, short-term counseling services to employees who may be experiencing personal problems that are affecting their job performance.

- 2. Should a COVID-19 pandemic strike Hawaii, what assistance will be available to help me cope with its impact emotionally?**

RESPONSE: Employees in the State's Executive branch under the jurisdiction of the Department of Human Resources Development whose department does not offer an equivalent employee assistance program may contact WorkLife Hawaii, the State's employee assistance service provider for the REACH Program. The REACH Program provides up to three free, confidential, short-term counseling services to employees who may be experiencing personal problems that are affecting job performance. Employees who wish to use REACH services may call WorkLife Hawaii at 543-8445 or 1-800-994-3571 from the Neighbor Islands.

INSURANCE BENEFITS

- 1. Will my employee's EUTF health insurance continue in the event of a COVID-19 outbreak?**

RESPONSE: Employees who are eligible for and receiving health insurance coverage through the EUTF will continue to receive health coverage and continue to receive the employer contribution toward such benefits, provided the employees continue to pay their share of the insurance premiums. Department Human Resources Offices should notify the EUTF of any employee who will be placed on authorized leave without pay and direct those employees to make arrangements for payment directly with the EUTF. For more information, please contact the EUTF at (808) 586-7390.

2. **Does any of the EUTF health insurance plans offer its members a telehealth option where they can seek medical advice through their mobile device or computer rather than physically going into the doctor's office?**

RESPONSE: Yes, both HMSA and Kaiser Permanente have the option for its members to connect with a doctor or a licensed care provider from their mobile device or computer. There is no cost to use these services.

HMSA members can register and download the HMSA Online Care app on their mobile device or by going to hmsaonlinecare.com from their computer. This service is available 24/7 for all EUTF HMSA medical plans. For more information or assistance, visit hmsa.com/well-being/online-care.

Kaiser Permanente members can download the mobile app to view parts of their medical record through their smartphones or tablets, send secure emails to their doctor's office, refill most prescriptions, schedule phone appointments, and receive medical advice by phone 24/7. To learn more, visit kp.org/mobile.

As a reminder, employees who have a medical emergency should call 911 or go to the nearest hospital or emergency department. They should not attempt to access emergency care through these telehealth services.

ERD – PERSONNEL TRANSACTIONS OFFICE

Family Leave

The **Family Medical Leave Act (FMLA)** provides job-protected leave to eligible employees who are incapacitated from working due to their own serious health condition or when they need to care for a family member with a serious health condition. Under FMLA, eligible employees may take up to twelve (12) weeks of **unpaid** job-protected leave during the calendar year for specified family and medical reasons which may include the COVID-19 where complications may arise that create a serious health condition as defined under FMLA.

The **Hawaii Family Leave Law (HFLL)** allows eligible employees to take up to four (4) weeks of **unpaid** job-protected leave during the calendar year to care for the employee's child, spouse or reciprocal beneficiary, sibling, or parent with a serious health condition.

Note: Leave entitlement under HFLL is counted towards the employee's leave entitlement under FMLA. Therefore, if the employee applies for both FMLA and HFLL, the employee is entitled to a combined total of twelve (12) weeks.

1. **If an employee has a family member sick with the COVID-19 and the employee requests to take family leave to care for the sick family member, is approval of the leave request required?**

RESPONSE: Yes, employees may request to use family leave to care for a family member with a serious health condition which meets the requirements under the FMLA and/or the HFLL.

2. **May an employee substitute any part of the unpaid family leave with accrued sick leave to care for a family member for the family member that is sick with the COVID-19?**

RESPONSE: Yes, under the HFLL and applicable collective bargaining agreements, in addition to vacation leave, an employee may use up to a total of four (4) weeks accrued sick leave to care for a family member with a serious health condition as defined by the HFLL, provided the employee maintains a 15 day sick leave balance, as required under the approved State self-insured Temporary Disability Insurance Plan.

If the employee has exhausted or is about to exhaust all paid leave benefits, the employee may be eligible to apply for shared leave under the department's Leave Sharing Program.

Leave Sharing

1. **If an employee is absent from work with the COVID-19 or stays home to care for a qualifying member who is ill with COVID-19 and exhausts all available paid leave, would the employee be eligible to participate in the department's Leave Sharing Program?**

RESPONSE: Employees with COVID-19 or have a need to care for a qualifying family member with COVID-19 will be allowed to request to participate in the department's Leave Sharing Program. Check with your Departmental Human Resources Officer for guidelines.

EMPLOYEE CLAIMS DIVISION

Compensability

1. **If an employee insists that they have a medical condition related to COVID-19, physical or psychological, would the employee be eligible for workers' compensation benefits?**

RESPONSE: Employees with medical conditions related to or aggravated by COVID-19 may be compensable work injuries if there is a connection to the conditions of work. If an employee insists that they have medical conditions related to or aggravated by COVID-19, and that it is work related, the Department should proceed with the normal procedures of filing a worker's compensation claim. The Department should file a Supervisor's Accident Report (SAR), witness statements, WC-1 and WC-14 to ECD within 48 hours from the time the employee reports the incident. Along with those forms, it is recommended that the Department also provide ECD with information about the work conditions and actual exposure of the employee to those work conditions that may have led to exposure to COVID-19, or otherwise contributed to the reported medical condition. ECD will review the documentation, determine compensability, and perform investigations as needed.

EMPLOYEE STAFFING DIVISION

Employee Staffing Division encourages departments to comply with applicable guidance from the Department of Health, Centers for Disease Control and Prevention, World Health Organization and U.S. Department of Labor/Occupational Safety & Health Administration when conducting interviews with applicants.

ADDITIONAL INFORMATION AND RESOURCES

Department of Health (DOH)

<https://health.hawaii.gov/docd/advisories/novel-coronavirus-2019/>

Centers for Disease Control and Prevention (CDC)

www.cdc.gov/coronavirus/2019-ncov/index.html

World Health Organization (WHO)

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

U.S. Department of Labor/Occupational Safety & Health Administration (OSHA)

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