

OSHA Relieves Most Employers from Recording COVID-19 Infections as Workplace Injuries

We have fielded the following question many times. “One of our employees has tested positive for COVID-19. Must we report this as a work-place injury?”

OSHA issued temporary guidance in the form of its [“Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\)”](#) last Friday. The answer for most employers is “no.” Most employers do not have to engage in the time-consuming analysis of whether their worker’s infection occurred at work or at home.

The OSHA memorandum issued on April 10th takes effect immediately. It is time-limited to the current public health crisis.

The memorandum says that OSHA will **not enforce** 29 CFR Section 1904, until further notice, and that employers do not have to decide whether their infected employees acquired their infection at work.

There are exceptions to the memorandum. Employers in the following industries must still engage in the three-part analysis set forth at 29 CFR Part 1904 with respect to the recording of occupational illnesses. These employers are:

- Employers of workers in the healthcare industry,
- Emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and
- Correctional institutions.

Only employers in the preceding categories need to determine whether their employee's COVID infection is work-related. No other employers have to engage in this analysis at this time.

Employer Takeaway

The OSHA memorandum is a breath of fresh air. Employers should not be tasked with trying to investigate the past when we are dealing with an infectious disease about which so little is still known. Instead, employers should be single-mindedly focused on the future: how to keep their employees safe and how to keep their businesses viable.

One of the best resources for keeping your employees' safe remains the [CDC](#).

Individual trade groups are also providing excellent guidance. There is plenty to keep most employers busy. Fortunately, recreating the germination of a COVID-19 infection to comply with federal record keeping requirements is not a task that most employers have to worry about.

Ross I. Molho
Clingen Callow & McLean, LLC
2300 Cabot Drive, Suite 500
Lisle, Illinois 60532
www.ccmlawyer.com
(630) 871-2614

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