

## An Employer's Guide to Reporting Cases of COVID-19 in the Workplace

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### Are Employers Required to Report COVID-19 Cases to OSHA?

The coronavirus (COVID-19) pandemic has employers questioning whether they need to report cases of coronavirus illness. To answer the question, an employer must first determine whether they are subject to Occupational Health and Safety Administration (OSHA) recording and reporting requirements.

There are several different types of exempt employers, including companies that provide accounting services, doctor's offices, full service restaurants, and retail clothing stores. The types of exempt employers can be found in the OSHA regulations, which can be found [here at the OSHA website](#).

Additionally, certain employers with less than 10 employees may also be notified by OSHA, or another government agency, that they must comply with OSHA's recording requirements.

### Reporting and Recording COVID-19 Cases to OSHA

Employers subject to OSHA's recording requirements must record a COVID-19 related illness if a worker is infected as a result of performing their work-related duties. Employers are required to record such incidents when:

1. The case is a confirmed case of coronavirus COVID-19.
2. The case is work-related (generally a condition is work-related if an event or exposure in the work environment either caused or contributed to the condition or significantly aggravated a pre-existing condition).
3. The case involves one or more of the general recording criteria set forth by OSHA which include: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, and a significant injury or illness diagnosed by a physician or other licensed health care professional.

Additionally, even employers that are exempt from OSHA recording requirements must report to OSHA any work-related incident that results in a fatality, the in-patient hospitalization of one or more employees, an employee amputation, or an employee loss of an eye. OSHA's guidance regarding COVID-19 does not specifically discuss this requirement, but it arguably may apply to certain COVID-19 cases.

If you are an employer with a question about OSHA reporting requirements, or any other aspect of employment law during the coronavirus (COVID-19) pandemic, please contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law Team](#).

#### Attorney

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