

# 6 Contact-Tracing Steps Employers Should Consider

By Lisa Nagele-Piazza, J.D., SHRM-SCP

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**T**he U.S. Centers for Disease Control and Prevention (CDC) advises most employers to send employees home when they've had a risk of COVID-19 exposure under the agency's "close contact" definition. Here are the key contact-tracing steps attorneys say employers should take when following CDC guidelines.

## 1. Update policies and procedures.

Employees who have had a close contact that puts them at a higher risk of exposure to the coronavirus should maintain social distancing and self-monitor for 14 days from the exposure, according to CDC guidance. The CDC previously defined a "close contact" as someone who spent at least 15 consecutive minutes within six feet of an infected person—but the focus is now on cumulative contacts.

"Employers should review their COVID-19 policies and procedures to ensure their contact-tracing efforts are aligned with the new guidance," said Catherine Burgett, an attorney with Frost Brown Todd in Columbus, Ohio. "They should also educate employees about the new definition of close contact so that employees can more effectively monitor their own contacts within and outside the organization to minimize the risk of spread."

Policies should apply to all employees regardless of their title, and all employees should be trained on the new definition of "close contact," noted Janell Stanton, an attorney with Wagner, Falconer and Judd in Minneapolis and a member of the SHRM LegalNetwork ([www.shrm.org/ResourcesAndTools/business-solutions/Pages/LegalNetwork.aspx?utm\\_source=shrm\\_article&utm\\_medium=shrm.org&utm\\_campaign=growth~legalnetwork~pressrelease](http://www.shrm.org/ResourcesAndTools/business-solutions/Pages/LegalNetwork.aspx?utm_source=shrm_article&utm_medium=shrm.org&utm_campaign=growth~legalnetwork~pressrelease)), which provides affordable legal help to small businesses.

## 2. Conduct a 6-15-48 analysis.

Under the CDC's new contact-tracing rules (<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/contact-tracing.html>), the employer should identify employees who worked within six feet of an infected co-worker, for a cumulative total of 15 minutes during any 24-hour period in the 48 hours prior to when the sick individual showed symptoms. Or, if someone is asymptomatic, the evaluation should include the 48 hours before the COVID-19 test was administered.

Travis Vance, an attorney with Fisher Phillips in Charlotte, N.C., calls this the "6-15-48" analysis, which he says is a crucial part of an employer's COVID-19 response program. The most critical part of the 6-15-48 evaluation is determining the duration of exposure to an infected co-worker, he said, especially since the CDC updated its guidelines to define direct exposure as 15 cumulative minutes over a 24-hour period.

## 3. Interview infected workers (over the phone).

When an employee tests positive for the virus, the employer should ask detailed questions about each co-worker the employee interacted with, how long those encounters lasted and how many encounters occurred.

Generally, employers are required to keep an employee's diagnosis confidential. "Given the new cumulative 15-minute rule from the CDC, however, employers should ask the infected employee to agree to waive his or her confidentiality, when possible, after consulting with counsel," Vance recommended.

"If the employee waives confidentiality, the employer can have candid, more-detailed conversations with employees the infected worker identifies as potential close contacts," he said.

If a confidential waiver is not obtained, he noted, the employer can still rely on an interview with the infected worker but may also want to review other information, such as video surveillance, time clock records and other resources that show the location of an employee at any given time.

#### **4. Structure work to limit and trace contacts.**

"A few minutes here and there may be close contact," said Jonathan A. Segal, an attorney with Duane Morris in Philadelphia. So employers will need to rethink their onsite operations and redouble their education and monitoring with regard to social distancing.

Stanton said, "If your employees are able to telework, continuing to foster remote work is going to always be your best and easiest way to keep your employees safe from contracting COVID-19 in the workplace."

If employees must work onsite, employers should encourage them to hold all meetings electronically, even if employees are in adjacent offices, she said. "E-mails, phone calls and videoconferencing should be prioritized over in-person meetings."

Some employees, however, must have prolonged exposures to other employees to do their jobs. In those cases, Stanton said, employees should keep a log of all exposures to other employees throughout the day. In some instances, if the exposure is constant throughout the day, it will likely be sufficient for that employee to note at the end of the workday that he or she spent more than 15 minutes of cumulative time with these specific employees at a distance of less than six feet.

#### **5. Maintain other preventive measures.**

In addition to monitoring close contacts, employers should follow other CDC guidance on preventing the spread of the coronavirus.

"Companies should continue to place a high level of importance on other infection control measures like wearing masks, distancing as much as possible and encouraging sick employees to stay away from the workplace," Stanton noted.

Vance said employers should regularly clean and disinfect the workplace, install air filters throughout facilities and increase the number of HVAC system air exchanges.

"Consider staggered start times to shifts and lunch breaks and making other schedule changes that will decrease the number of employees in the facility at any given time," he added.

#### **6. Train all employees.**

"Drafting a clear, concise and easy-to-understand pandemic response plan, disseminating it to all your employees, and then hoping for the best is likely not enough," Stanton said. How effective is your company's mask mandate if you have employees constantly flouting the rules? You require employees to wipe down office equipment like printers and scanners after use, but what if employees were in a hurry

and did not do what was requested or forgot?

"Those well-thought-out policies quickly go out the window if employees don't buy in," Stanton said.

Training is critical to implementing a pandemic response plan. "As we know, many employees don't take the time to read company policies very closely, so this training, I think, is especially critical with all things COVID-19-related," she said. "COVID-19 transmission in the workplace is costly for employers on many fronts, so don't just send out a written policy and hope for compliance."

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