

# New CDC Guidance Makes Contact Tracing More Difficult for Employers

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

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**E**mployers will have to revise their COVID-19-related safety policies and practices to meet new guidelines from the U.S. Centers for Disease Control and Prevention (CDC) on what it means to have been in "close contact" with an infected person.

Under prior guidance, the CDC defined a close contact as someone who spent at least 15 consecutive minutes within six feet of an infected person, thus putting the individual at higher risk of contracting the virus.

The CDC updated its guidance (<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/contact-tracing.html>) to define a close contact as:

Someone who was within six feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period starting from two days before illness onset (or, for asymptomatic patients, two days prior to test specimen collection) until the time the patient is isolated.

"We are now looking at cumulative rather than consecutive," said Jonathan A. Segal, an attorney with Duane Morris in Philadelphia. So a person who was exposed three times in a 24-hour period—for five minutes during each encounter—would meet the definition.

"This broader definition most likely will have a big impact on schools, hospitals and workplaces where individuals have several separate interactions with others—totaling 15 minutes or more—over the course of a day," said Catherine Burgett, an attorney with Frost Brown Todd in Columbus, Ohio.

What should employers do in light of the new guidelines? "Revise your current policies and forms based on the new definition of close contact and ... wear a mask," Burgett said.

## Taking Action

"An important consequence of this revision is the impact it will have on employers' ability to maintain staffing because it establishes a much lower threshold trigger for required quarantine," said Kara Maciel, an attorney with Conn Maciel Carey in Washington, D.C.

Employers should have infected employees identify others who worked within six feet of them, for 15 minutes or more, within the 48 hours prior to the sick individual showing symptoms. Travis Vance, an attorney with Fisher Phillips in Charlotte, N.C., calls this the "6-15-48 analysis."

"This new guidance will make contact tracing using the CDC's 6-15-48 analysis even more difficult," he noted. When determining whether an employee has been exposed to an infected worker for 15 minutes or more, employers will now need to look at brief interactions between employees and infected workers that may occur several times a day, instead of one or two prolonged exposures.

The CDC advises most employers to send home any employees who have had a risk of exposure under this analysis. Those employees should maintain social distancing and self-monitor for 14 days from the exposure.

"All industries will be impacted, but the most significant impact will be to those businesses that are not considered to be critical infrastructure workplaces," Vance said. Those businesses will find that more employees will be required to be quarantined under this new rule, and thus will have fewer employees available to work in their facilities.

If a business is considered essential, however, CDC guidelines say exposed employees can continue to work ([www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/new-cdc-guidance-says-essential-employees-can-continue-working-after-coronavirus-exposure.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/new-cdc-guidance-says-essential-employees-can-continue-working-after-coronavirus-exposure.aspx)) onsite while self-monitoring and wearing a face mask. "Employers that are considered critical infrastructure will be less impacted, because even their directly exposed employees can still work, as long as they are asymptomatic and the company takes the steps required by the CDC," Vance explained.

### Revising Policies

As a result of the new definition of close contact, employers should review their COVID-19-related infection-control plans with this new definition in mind and, at a minimum, update their contact-tracing questionnaires, Maciel said.

Vance suggested that, instead of simply asking infected workers who they were near for a prolonged period of time, employers may want to view surveillance video, documents that show when an employee clocked in and out, and other items that will help determine workers' interactions.

Employers may also want to consider obtaining a waiver from the infected worker in order to share his or her diagnosis, he said. "This will allow the employer to interview employees about their interactions with the worker to determine who was exposed to the infected individual."

Maciel noted that a few states had already deviated from the CDC's prior guidance even before the new rules were put in place. For example, she said, Colorado has been operating for months under the interpretation that the 15-minute trigger is a cumulative period, and New Mexico also has established an extremely short duration trigger for a close contact.

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