

# COVID-19 Screening: Directions to Person Doing Screening

- Under current circumstances, employers may ask all employees physically entering the workplace (or who call in sick to work and would otherwise physically be entering the workplace) the following questions.
  - Employers **cannot** ask these questions of employees who are teleworking. And, if employers only want to ask one or a few employees physically entering the workplace these questions, we recommend members call Employers Council to discuss whether this is legally acceptable.
- As with all medical information, employee answers to these questions are subject to ADA confidentiality requirements and, if recorded, should be maintained in a separate confidential medical file.

## **Questions for Employee (you can ask employees, or you can have them complete the Employee Screening Form on Page 4):**

1. Within the past 14 days, have you been diagnosed with COVID-19 or been tested for COVID-19?
2. Do you currently have, or within the past 14 days have you had, any of the following symptoms associated with COVID 19? Fever, Chills, Cough, Shortness of breath or difficulty breathing, Fatigue, Muscle or body aches, Headache, New loss of taste or smell, Sore throat, Congestion or runny nose, Nausea or vomiting, Diarrhea<sup>1</sup>
3. Within the past 14 days, have you had contact with anyone who you know has been diagnosed with COVID-19, who has been tested for COVID-19, or who has had symptoms associated with COVID-19?
4. Within the past 14 days, have you or anyone you have had contact with traveled outside the United States or traveled using commercial travel (air, ship, rail, etc.)?
5. Within the past 14 days, have you or anyone you have had contact with traveled outside of Utah? Please list locations that traveled through/to: \_\_\_\_\_

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## **Actions if Affirmative Response:**

- Maintain confidentiality
- Instruct employee who answers affirmatively to any of these question to go home immediately
- If employee answered yes to Question 2, also tell him/her that, according to the Utah State Government:
  - People should call their doctor or use their doctor's online telehealth service to determine if testing is needed and to be referred to a testing location.<sup>3</sup>
- Give the employee the “Next Steps” notice on page 3. Tell employee that he/she should contact you within 24 hours to discuss next steps. Next steps could include:
  - For Question 2, what was the employee’s test result?<sup>4</sup> If positive, how long should he/she stay out of the workplace? If negative, how long should the employee stay out of the workplace?
  - For Questions 1, 3-5, how long should he/she stay out of the workplace?
  - Will the employee’s time away from work be paid or unpaid?
    - Employees may be entitled to paid leave under the new federal laws (FFCRA), paid leave under your current policies, or unpaid leave under the law or your current policies – depending on the facts of the specific circumstance. Their status as an exempt employee or nonexempt employee under the FLSA will also be relevant to whether they will be paid. We recommend members call Employers Council to discuss next steps in these situations.
  - Was the employee recently at work? If so, in what areas did he/she work and with whom did he/she have contact?
    - Determine next steps as far as notifying co-workers/having co-workers not report to the workplace and cleaning workplace. Employer should instruct fellow employees about how to proceed based on the CDC Public Health Recommendations for Community-Related Exposure, which can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>. CDC guidance on cleaning the workplace can be found here <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>.

<sup>1</sup> Symptoms will need to be updated as CDC guidance changes, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>. Current as of May 26, 2020.

<sup>2</sup> If these locations are current Covid-19 “hotspots,” you can choose to follow the guidance in “Actions if Affirmative Response”.

<sup>3</sup> Current as of May 26, 2020, [https://coronavirus-download.utah.gov/Health/Testing\\_04042020.pdf](https://coronavirus-download.utah.gov/Health/Testing_04042020.pdf). Will need to be updated.

<sup>4</sup> Realize that it can take 3 days or longer to get test results. (5/26/20: <https://coronavirus.utah.gov/testing-locations/>). Employees should not return to work during this time. Employers will need to consider whether the employee’s time away from work will be paid or unpaid. Employees may be entitled to paid leave under the new federal laws (FFCRA), paid leave under your current policies, or unpaid leave under the law or your current policies – depending on the facts of the specific circumstance. Their status as an exempt employee or nonexempt employee under the FLSA will also be relevant to whether they will be paid. We recommend members call Employers Council to discuss next steps in these situations.



### **Actions if Employee Voluntarily Shares Medical Issue that May Implicate ADA or FMLA:**

- Maintain confidentiality
- Arrange time to talk to employee and engage in interactive process
- Provide FMLA notice/certification forms or ADA medical inquiry form as needed

### **Actions if Employee Refuses to Answer Questions:**

- Bar the employee from coming into the workplace
  - Before excluding the employee or taking disciplinary action, we recommend that employers ask the reasons the employee is refusing. Employers may be able to provide information or reassurance that they are taking these steps to ensure the safety of everyone in the workplace. Sometimes, employees are reluctant to provide medical information because they fear that employers may widely spread such information throughout the workplace. The ADA prohibits such broad disclosures.
  - In addition, if the employee asserts religious, moral, or political beliefs, or mentions that he or she is acting for or in connection with other employees, this is a time to call Employers Council for advice. Politely ask the employee to wait in a safe room and call us.
- Consider whether to treat such refusals under your regular discipline policy and issue appropriate discipline. Again, if the employee asserts religious, moral, or political beliefs, or mentions that he or she is acting for or in connection with other employees, this is a time to call Employers Council for advice before disciplining.
- If the employee is a nonexempt employee, you do not have to, but may if you want to, pay the employee for the hours that he/she ends up not working that day. (Even if you decide to pay a nonexempt employee for hours he/she doesn't work after you send them home, you do not need to count that time as "hours worked" for purposes of calculating overtime.) If the employee is an exempt employee, contact Employers Council to discuss whether the employee should be paid for working the day.



# Sample Next Steps Notice

[USE company letterhead]

[INSERT date]

Dear Employee:

You answered yes to one or more of our screening questions. In an effort to prevent the spread of COVID-19, we are asking that you clock out immediately and go home. [OPTIONAL for nonexempt employees: You will be paid for your shift today.]

If you answered that you currently have symptoms, please call your doctor or use their online telehealth service to determine if testing is needed and to be referred to a testing location.

Please contact your supervisor within the next 24 hours for next step instructions. We appreciate your cooperation in our effort to keep everyone safe and healthy.

Sincerely,

[INSERT company name]



# Daily Employee Screening Form

In an effort to keep our employees safe and healthy and prevent the spread of COVID-19, please answer the following questions.

**Please be accurate and truthful;** that is essential to furthering our safety and prevention goals.

1. Within the past 14 days, have you been diagnosed with COVID-19 or been tested for COVID-19?  
 YES             NO
  
2. Do you currently have, or within the past 14 days have you had, any of the following symptoms associated with COVID 19? Fever, Chills, Cough, Shortness of breath or difficulty breathing, Fatigue, Muscle or body aches, Headache, New loss of taste or smell, Sore throat, Congestion or runny nose, Nausea or vomiting, Diarrhea<sup>5</sup>  
 YES             NO
  
3. Within the past 14 days, have you had contact with anyone who you know has been diagnosed with COVID-19, who has been tested for COVID-19, or who has had symptoms associated with COVID-19?  
 YES             NO
  
4. Within the past 14 days, have you or anyone you have had contact with traveled outside the United States or traveled using commercial travel (air, ship, rail, etc.)?  
 YES             NO
  
5. Within the past 14 days, have you or anyone you have had contact with traveled outside of Utah?  
 YES             NO

Please list locations that traveled through/to:

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<sup>5</sup> Symptoms will need to be updated as CDC guidance changes, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>. Current as of May 26, 2020.

