



FAQ's Regarding COVID-19

Q1. I am in the healthcare industry and/or I am an employee of another business in NC where I am in direct contact with individuals that have been confirmed as COVID-19 positive. My employer is not providing me or my co-workers with appropriate PPE (respirators, gloves, etc...). Can I file a complaint with NCDOL/OSHNC?

A1. Yes, you can file a complaint with OSHNC. Employers are required to provide their employees a workplace free from recognized serious safety/health hazards. Exposure to individuals that are COVID-19 positive is a recognized serious health hazard. Employees in direct contact with such individuals must be provided appropriate training, fit testing if they will be required to wear a respirator and all appropriate PPE (respirators, gloves, etc...) Contact the OSH Complaint Desk by phone at 919-779-8560 or 1-800-NC-LABOR (1-800-625-2267) (in-state only).or on line at: <https://www.labor.nc.gov/safety-and-health/occupational-safety-and-health/notice-alleged-safety-or-health-hazard>

Q2. Where can I find information and guidance associated with COVID-19?

A2. There are multiple sources for COVID-19 guidance documents. For Occupational Safety and Health guidance, information can be found on the following websites:

NCDOL/OSHNC (enforcement guidance, hazard alerts, industry guides and other government agency resources) : <https://www.labor.nc.gov/coronavirus-disease-2019-covid-19#learn-more>

N.C. State Government Guidance: https://www.cdc.gov/niosh/emres/2019_ncov.html

U.S. Government guidance: <https://www.coronavirus.gov/>

Centers for Disease Control (CDC) guidance:
https://www.cdc.gov/niosh/emres/2019_ncov.html

Q3. If one of my co-workers at the jobsite site tests COVID-19 positive, does my employer need to tell me?

A3. If a vendor or co-worker at a jobsite tests positive and they were in direct contact with other individuals at a jobsite, within the past 14 days, the employer should notify all affected employees while maintaining confidentiality. The employer should also sanitize the jobsite and



contact the local health department. Potentially exposed employees should contact their medical provider for quarantine guidance or if they are exhibiting symptoms.

Executive Order (EO) #131 also requires certain businesses to send home sick employees. Sections 2.A.2 and 3.B.1. of this EO places mandatory requirements that sick employees at Long Term Care (LTC) facilities with skilled nursing staff and Retail Establishments must ensure sick employees are sent home and they stay home until no longer infectious. Other types of LTC facilities are also encouraged to do likewise. EO #131 can be found at the following website: <https://files.nc.gov/governor/documents/files/EO131-Retail-Long-Term-Care-Unemployment-Insurance.pdf> . The provisions in EO #131 can be enforced by local and state law enforcement.

In addition, the CDC and other government agencies are encouraging all employers send employees home, if they are sick and/or exhibiting signs of COVID-19. Although there is not a specific OSHA standard that covers COVID-19 exposures, if an employee tests positive for COVID-19 then they have a known serious health hazard. Therefore, if an employer is aware that an employee at their worksite is COVID-19 positive then they have a general duty to separate them from other employees, preferably by having them stay home. If an employer does not do so, they could be cited under the OSH general duty clause, for failure to provide a safe and healthful workplace free from recognized hazards.

Q4. If an employee of a business tests COVID-19 positive, are they required to notify customers?

A4. Businesses, such as grocery stores, are not required to notify the public or close for extra cleaning if one of their employees tests positive.

The business should also inform that employee's coworkers about possible exposure but maintain confidentiality. Businesses should also contact their local health departments and the CDC for further protocols, including sanitization guidance.

Q5. Are employers required to allow their employees to use face masks for protection against COVID-19?

A5. No. However, employers are encouraged to allow their employees to voluntarily use face masks, per CDC recommendations. Voluntary use of face masks does not require an employer to comply with the requirements of OSHA respiratory protection standards (1910.134). Employers can also allow employees to voluntarily use N95 respirators, in accordance with 1910.134(c)(2), if they provide information in Appendix D of the OSHA 1910.134 respiratory standard.



Q6. My employer and/or a business is not following the 6' distance recommendation for social distancing, the maximum # of individuals for a gathering and/or other guidance addressed in state and local emergency orders such as NC Executive Order #121. Does NCDOL enforce these requirements?

A6. No. Executive Orders and other local orders are enforced by state and local law enforcement. The following FAQ's per EO #121 can be found at:

https://files.nc.gov/governor/documents/files/200327_FAQ-SAH-Order_FINAL.pdf

Q7. My employer and/or a business is not complying with CDC guidelines (i.e. social distancing, face masks, etc...). Does NCDOL or OSHNC enforce these requirements?

A7. No. CDC guidelines are not enforceable by NCDOL or OSHNC. However, if an employee is being exposed to a safety or health hazard in the workplace that is likely to cause death or serious physical harm, the employer is required to address it. If the employer does not adequately address serious hazards, an employee or their representative can file a complaint with NCDOL/OSHA (see Q/A #1 for information regarding the filing of a complaint with OSHNC).

Q8. My employer is keeping their business open, but I don't think we are an "essential" business, as described in EO #121. Can I file an OSHNC complaint and request NCDOL/OSHNC shut the business down?

A8. No. Executive Orders and local orders are enforced by state and local law enforcement. The N.C. Department of Revenue has been tasked with determinations regarding "essential" businesses. More information can be found at the following Department of Revenue website:

<https://www.ncdor.gov/home/ncdor-actions-covid-19/covid-19-essential-businesses>

Q9. My employer shut down business due to the COVID-19 pandemic and EO #121 and I am now out of work and not receiving a paycheck. Who do I contact about unemployment benefits?

A9. For all unemployment benefits, please visit the NC Department of Commerce website at:

<https://des.nc.gov/apply-unemployment>



Q10. Who do I contact for workers compensation related questions associated with COVID-19?

A10. If it was determined that an employee's COVID-19 infection was related to work exposures, the employer/employee should contact the NC Industrial Commission with any worker compensation related questions. The following is their website address:

<http://www.ic.nc.gov/>

Q11. What practices should employers/employees in different types of business be following to reduce potential exposures to COVID-19?

A11. OSHNC and OSHA have both created a number of COVID-19 related guidance documents and hazard alerts, for employee/employees engaged in businesses such as : healthcare, emergency response, postmortem care, laboratories, airline operations, retail (including grocery stores), solid waste, travel, correctional facilities and migrant farm work

NCDOL guidance can be found here: <https://www.labor.nc.gov/coronavirus-disease-2019-covid-19#learn-more>

OSHA guidance can be found here: <https://www.osha.gov/SLTC/covid-19/controlprevention.html#healthcare>

As additional informational materials are created, they will be placed on existing websites.

Q12. I am afraid to go to work because of possible exposure to COVID-19. My employer is not providing face masks, gloves and/or enforcing social distancing. I expressed my safety concerns and my employer told me that if I did not come to work tomorrow, I will be fired. Is this legal and do I have any protections?

A12. NC is an "at will" state, which means an employer can terminate an employee for any reason and/or no reason at all, unless they are in violation of an employee's rights under existing state or federal discrimination laws. Therefore, whether an employer could fire an employee in the scenario described in the questions would likely depend on whether an employee was being exposed to a serious safety or health hazard or would likely be exposed to a serious safety or health hazard.

If there is a serious workplace hazard, the employer is required to provide each employee with a safe and healthful workplace, free from recognized serious hazards. If the employer is not doing so and an employee brings that to the employer's attention and is subsequently fired or other retaliatory action is taken, the employee could file a retaliation complaint with NCDOL's



Retaliatory Employment Discrimination Bureau (REDB) of the NC Department of Labor (NCDOL) under NC's Retaliatory Employment Discrimination Act (REDA).

An employee must file the complaint in writing with the REDB of NCDOL. Employees can call 1-800-625-2267 (1-800-NC LABOR) to discuss their concerns and request an REDB complaint form. When an employee receives the complaint form, they should follow the enclosed instructions and return the form to the REDB office. All filed complaints are investigated.

If the employee has further questions, they can contact REDB by email at ask.edb@labor.nc.gov or call 1-800-NCLABOR. Additional information about retaliatory employment discrimination under REDA and how to file a complaint can be found on NCDOL's website at: <https://www.labor.nc.gov/workplace-rights/retaliatory-employment-discrimination>

Q13. I am an employer/employee in the Healthcare Industry. Does OSHNC have any guidance available regarding selection, use and fit testing associated with N95 respirators regarding exposures/potential exposures to COVID-19?

A13. Yes, see OSHNC guidance documents on NCDOL's COVID-19 website at:

<https://www.labor.nc.gov/documents/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit-testing-n95>

<https://www.labor.nc.gov/documents/enforcement-guidance-respiratory-protection-and-n95-shortage-due-covid-19-pandemic>

<https://www.labor.nc.gov/documents/enforcement-guidance-use-respiratory-protection-equipment-certified-under-standards-other>

<https://www.labor.nc.gov/documents/ncdol-interim-guidance-covid-19-use-filtering-facepiece-respirators-after-their-expiration>

Q14. I am an employer/employee in a business other than Healthcare that uses N95 respirators. Does OSHNC have any guidance available regarding selection, use and fit testing associated with N95 respirators regarding exposures/potential exposures to COVID-19?

A14. Yes, see OSHNC guidance documents on NCDOL's COVID-19 website at:

<https://www.labor.nc.gov/documents/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95-filtering>



<https://www.labor.nc.gov/documents/ncdol-interim-guidance-covid-19-use-filtering-facepiece-respirators-after-their-expiration>

<https://www.labor.nc.gov/documents/enforcement-guidance-use-respiratory-protection-equipment-certified-under-standards-other>

Q15. Are employers supposed to record workplace illnesses associated with COVID-19 on their OSHA 300 logs in accordance with 29 CFR Part 1904?

A15. On April 10, 2020 the Occupational Safety and Health Administration (OSHA) issued an enforcement memorandum that provides interim guidance to their Compliance Safety and Health Officers (CSHOs) for enforcing the requirements of 29 CFR Part 1904 with respect to the recording of occupational illnesses, specifically cases of Coronavirus Disease 2019 (COVID-19). OSHNC adopted this memo on April 13, 2020.

NC Employers of workers in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions must continue to make work-relatedness determinations pursuant to 29 CFR § 1904. Until further notice, however, OSHA will not enforce 29 CFR § 1904 to require other employers to make the same work-relatedness determinations, except where:

- (1) There is objective evidence that a COVID-19 case may be work-related. This could include, for example, a number of cases developing among workers who work closely together without an alternative explanation; and
- (2) The evidence was reasonably available to the employer. For purposes of this memorandum, examples of reasonably available evidence include information given to the employer by employees, as well as information that an employer learns regarding its employees' health and safety in the ordinary course of managing its business and employees.

The associated NC and Federal memo's can be viewed on the COVID-19 section of the NCDOL website here: <https://www.labor.nc.gov/documents/osh-recordkeeping-memorandum-enforcement-guidance-recording-cases-coronavirus-disease-2019>