



## Checklist

# Covid-19 & Workplace Violence

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# Covid-19 & Workplace Violence

**Editor's Note:** The recent uptick of Covid-related retaliation claims shows that friction between employees and resulting frustrations due to Covid-19 are by no means hypothetical. For example, in recently filed retaliation cases, employees allege that when they have raised Covid-related complaints or concerns in the workplace, they have been told that their concerns are disruptive, blowing things out of proportion, or are manifesting unfounded "Covid anxiety."

The allegations in such lawsuits reveal that when employees do not feel that their concerns about Covid are being heard, they may take matters into their own hands by, for example, photographing and confronting other employees to demonstrate perceived violations of required health and safety measures, or by sending emails to coworkers about the safety of the workplace. Employers must prepare for such disagreements, as they can lead to threatening, harassing, or intimidating behaviors towards one another, or even physical violence.

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## Preventing Workplace Violence

There are proactive steps employers can take to avoid or limit incidents of workplace violence.

- The process of safeguarding the workplace begins with revisiting—and for those employers without one, drafting—a strong workplace violence prevention policy that includes:
  - a straightforward definition of workplace violence and a strict prohibition on this conduct in the workplace
  - clear examples of prohibited conduct
  - well-defined procedures for reporting incidents of threats, violence, or other acts that violate the policy
  - language making clear that employees will not be retaliated against for raising concerns pursuant to the policy in good faith
- To enforce the policy properly, each employer should designate an individual or a team responsible for addressing employee concerns raised to ensure each complaint is handled properly.
- Employers must have a solid process for:
  - investigating complaints and documenting the investigation process
  - determining appropriate remedial actions
  - preserving employee confidentiality to the greatest extent possible under the circumstances
- Drafting or revising a workplace violence prevention policy also presents an opportunity for employers to revisit their anti-retaliation policies more generally and related investigation procedures for employee complaints.

**Comment:** Anti-retaliation provisions are an equally important consideration, particularly because some municipalities, including the City of Philadelphia, have enacted legislation to protect workers from adverse employment actions as a result of good faith disclosures of Covid-19-related complaints.

- Once written, employers must effectively communicate the contents of a workplace violence prevention and anti-retaliation policies to their employees.

**Comment:** Employers may distribute these policies through email, post them on an intranet, or post them in conspicuous places (along with mandated requirements such as mask wearing, standing six feet apart, etc.)—leaving employees with no doubt as to what the rules and procedures are so that employees do not feel they have to take it upon themselves to educate co-workers. Employers want to avoid a situation where an employee feels that they cannot or will not be heard or that if they do raise a concern, their complaints will not be properly investigated.

- Dissemination of these policies can be part of a larger “return to work” training which many states and cities are requiring, even if remotely. During return to work training or other communications, employers should:
  - communicate an emergency safety plan for worst-case scenarios of actual physical violence or imminent threats of it
  - strive to strike the right tone with employees by candidly acknowledging the enormous strain that Covid-19 has placed on people financially and emotionally
  - reassure employees by outlining all of the steps they have taken to address employee health and well-being (e.g., daily sanitization efforts, enforcement of hygiene standards, or hiring of additional security to enforce mask-wearing rules for employees that interact with the public)
  - remind employees of any resources available to them to help manage their wellness, including employee assistance programs
  - emphasize that they want to listen to employee concerns and have therefore established proper channels for enforcing safety rules or for raising related concerns
- In addition to formal training, employers should arrange for periodic check-ins with employees to informally see how employees are doing and ask if there is anything they want to discuss.
  - Every employee is encountering new stressors living with the uncertainties of this pandemic, so empathy should be the driving force behind discussions with employees.
  - Employers should acknowledge that these are difficult times and that people are confronting enormous strains.
  - If employees open up about overstress or concerns for safety in the workplace, they should be directed to appropriate resources, such as an employee assistance program or human resources.
- Employers should also conduct specific training for managers and supervisors that:
  - reinforces the need to run all complaints or concerns of potential workplace violence through the pre-designated channels, even those concerns that they might believe are unfounded
  - reminds managers that with the high-pressure environment and stresses of Covid-19, it is important that people feel heard. Dismissing an employee's concern out of hand can lead to further tension and a potentially explosive situation
  - discusses violent behavior warning signs
  - acknowledges that while these are difficult times for everyone, the mental health impacts of Covid-19 might impact some employees more severely than others
  - stresses that it is a manager's job to report behaviors and concerns through pre-designated channels, not to diagnose or treat employees
  - reminds managers that all investigations must carefully follow pre-determined protocols

- Employers may also consider providing mental health and other resources directly to employees to help alleviate or deal with stress. Many employers are putting on programs for employees regarding mental health, sending reminders of self-care, encouraging vacations, or providing exercise or mindfulness programs. Attending to the mental health of employees during these unprecedented times may help prevent stress from bubbling into clashes and possible violence in the workplace.

**Comment:** The recommendations discussed above aim to prevent and address Covid-19 related tensions and hostilities between employees that could result in threatening or violent conduct in the workplace. Clearly written policies and procedures that address workplace violence prevention and retaliation concerns and proper employee training, together with empathetic and ongoing communications from management, will serve to diffuse interpersonal frictions and foster an environment of open communication and understanding where employees are comfortable, supported, and safe.