

An Employee has Tested Positive for COVID-19, Now What?



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Currently, the number of COVID-19 cases in Arkansas continues to rise due to the Delta variant. With the rising number of COVID-19 cases, now is the perfect time for employers to refresh themselves on guidelines and policies for when an employee tests positive for COVID-19. In addition, as explained below, employers should consider reviewing and revising their policies to stay up-to-date on guidance for both fully vaccinated and non-vaccinated employees.

Who should an employer notify when an employee tests positive for COVID-19?

When an employee tests positive for COVID-19, an employer should first identify and notify those who were in “close contact” with the employee. As [defined](#) by the Centers for Disease Control and Prevention (“CDC”), “close contact” means: “Someone who was within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period . . . starting from 2 days before they have any symptoms (or, for asymptomatic patients, 2 days before the positive specimen collection date), until they meet criteria for discontinuing home isolation.” When notifying other co-workers who were in “close contact” with the employee, the employer should not disclose the name of the employee who tested positive to maintain employee privacy (and thus avoid violating the Americans with Disabilities Act).

However, in addition to informing all employees in “close contact,” an employer likely also needs to inform employees who worked in the same location or area who may have been exposed in other ways (ex. shared bathrooms, elevators, meetings, workspaces, break rooms, etc.). This is so because the Occupational Safety and Health Act includes a general duty clause that requires employers to maintain a safe work environment. Thus, a general notice to employees allows them to conduct a risk assessment of potential exposure and to take any precautions. This general notice should be provided without revealing any confidential medical information, such as the name of the employee.

The EEOC’s guidance on notifying employees may be found [here](#).

Which employees need to quarantine after being exposed?

The CDC has outlined quarantine and testing recommendations for both vaccinated and non-vaccinated individuals in **non-healthcare settings**. An exposed fully vaccinated employee with no COVID-19 symptoms does not have to quarantine. However, the CDC [explains](#) that a fully vaccinated employee with no COVID-19 symptoms “should be tested 3-5 days following a known exposure to someone with suspected or confirmed COVID-19.” After being exposed, the fully vaccinated employee should also wear a mask in public indoor settings for 14 days or until receiving a negative test result. Even upon receiving a negative test, a fully vaccinated employee should continue to monitor for COVID-19 symptoms during the 14 days following exposure. A fully vaccinated employee who experiences COVID-19 symptoms should quarantine and be clinically evaluated for COVID-19.

In contrast, an unvaccinated employee should quarantine if he or she has been in “close contact” with someone who has COVID-19. According to the [CDC](#) and [Arkansas Department of Health](#), the safest quarantine period is 14 days from the date of exposure. However, quarantine can also end after 10 days without testing if no symptoms occur or after 7 days if the employee experiences no symptoms and receives a negative COVID-19 test result. An employee should wait 5 days after exposure before being tested.

Given the changing guidance and uncertainty of the Delta variant, it is important for employers to stay up-to-date on guidelines for both vaccinated and non-vaccinated employees. In addition, it may be helpful to seek the counsel of an employment attorney to ensure that any employment policy regarding COVID-19 is up-to-date and in compliance with current guidelines and regulations.

Employment Attorneys [Nate Read](#) and [Cara Butler](#) advise employers on personnel management matters, employment counseling and employment and labor laws. For more information, contact Attorney Nate Read at nread@mwlaw.com or Attorney Cara Butler at cbutler@mwlaw.com.