



MEMORANDUM

Date: March 5, 2020
To: Employers operating in Nevada
From: Nevada Equal Rights Commission
RE: Discrimination and coronavirus

Employers operating in Nevada should use the following guidance as a resource to avoid violations.

Leave:

Please be mindful that employees wishing to take leave for any reason, including sickness due to the coronavirus, should have leave available. Effective January 1 of this year, [SB 312](#) was enacted and now requires employers to provide employees [a portion] of leave for every hour worked. Essentially, employers with 50 or more employees must provide paid leave to their employees in proportion to the number of hours worked. The bill makes no exception for part-time employees.

Be mindful:

- Keeping employees from paid shifts may trigger a complaint with the Labor Commissioner
- Profiling or disparate treatment or impact to employees from China or with Asian ancestry (“regarded as”) or national origin/affiliation may trigger a complaint under Title VII or NRS (NERC)

Attorney Connye Harper, the Nevada Equal Rights Commission’s (NERC) Chair would like employers to note “[i]t is important for employers to remember that they could be found liable for adverse employment actions, such as discrimination or harassment, by either supervisors or coworkers for xenophobia. Fear of coronavirus infection is **not** a defense to such conduct. If filed, all charges of alleged discrimination or harassment will be investigated by the Nevada Equal Rights Commission.”

For EEOC guidance regarding the ADA and coronavirus, click here:

https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

In contrast:

- An employer may ask an employee if they are sick but may not force a screening
- An employer may enforce CDC and state guidance to keep the office healthy (i.e. wash hands)
- An employer may send an employee with coronavirus home

Therefore:

A best practice is to prepare for employee absences and allow for remote work and/or revisit your company’s leave policy to ensure compliance with NRS 608 and NRS 613.

For more information on COVID-19: <http://dpbh.nv.gov/coronavirus/>.