

TOPIC

What are the legal obligations in providing a safe and healthy workplace in case the nature of the business requires employees to report for work (ie: stock brokers)?

As the number of reported cases of the Novel Coronavirus (2019- nCoV) continues to rise, business entities exempted from the Enhanced Community Quarantine (ECQ)¹ are faced with the task of operating their businesses – and protecting employees – amid the pandemic.

Certainly, the spread of the 2019- nCoV has raised significant issues for employers throughout the world. For one, employers face uncertainty around what its legal obligations to employees are in the workplace context.

This article aims to provide insight of an employer’s obligation associated with the 2019- nCoV. The main area of an employer’s legal obligation includes ensuring so far as reasonably practicable the workplace health and safety of employees. In this case, this obligation pertains to those provided under the **Occupational Safety and Health Standards Law or RA No. 11058** and **Department of Labor and Employment’s (DOLE) Advisory No. 04 Series of 2020**.

Under the **Republic Act No. 11058²** or the **Occupational Safety and Health Standards (OSHS) Law**, employers and business entities must comply with occupational safety and health standards in the workplace and observe laws and regulations related to work safety.

This covers areas including informing workers on all types of hazards in the workplace and having the right to refuse unsafe work, as well as providing facilities and personal protective equipment for the workers, among others. Accordingly, employees of a business entity shall be entitled to safeguards for work safety according to such law.

¹ Under Malacañang directive imposing **ECQ**, only a select private establishments are allowed to remain open. These are those : (a) which provide basic utilities and critical services (e.g., water, electricity, internet, telecommunication, gas, garbage collection, funeral services); (b) involved in the production, processing and distribution of basic necessities (e.g., food, pharmacies / drugstores, banks); (c) capital markets (Philippine Stock Exchange will observe shortened trading hours); and more recently (d) employees of the Philippine Postal Corporation at a capacity necessary to maintain the prompt delivery of services to its clients.]

² RA 11058. “An Act Strengthening Compliance to the Occupational Safety and Health Standards and Providing for Penalties for Violations Thereof’.

Thus, under the **OSHS Law**, it is the employer's duty to provide a safe and healthy workplace through the following:

- 1) Furnish the workers a place of employment free from hazardous conditions that are causing or are likely to cause death, illness or physical harm to the workers;
- 2) Give complete job safety instructions or orientation to all the workers especially to those entering the job for the first time, including those relating to familiarization with their work environment;
- 3) Inform the workers of the hazards associated with their work health risks involved to which they are exposed to, preventive measures to eliminate or minimize the risks, and steps to be taken in cases of emergency;
- 4) Use only approved devices and equipment for the workplace;
- 5) Comply with Occupational Safety and Health (**OSH**) standards including training medical examination and where necessary, provision of protective and safety devices such as personal protective equipment (**PPE**) and machine guards;
- 6) Allow workers and their safety and health representatives to participate actively in the process of organizing, planning, implementing and evaluating the safety and health program to improve safety and health in the workplace; and
- 7) Provide, where necessary, for measures to deal with emergencies and accidents including first-aid arrangements. The IRR also require employers to comply with all reportorial requirements of the **OSH** standards; and register establishment to **DOLE** as provided under the **OSH** standards.

The employer also need to ensure the rights of their employees to be informed of work safety conditions and protocols and to provide feedback:

- 1) Right to know the different types of hazards in the workplace;
- 2) Right to be provided with training, education and orientation;
- 3) Right to refuse unsafe work without threat or reprisal from the employer in cases of imminent danger. Affected workers may be temporarily assigned to other work areas; and
- 4) Right to report accidents and dangerous occurrences to **DOLE-Regional Offices** and other government agencies in the most convenient way. Workers shall be free from retaliation for reporting any accident.

On January 30, 2020, Senator Joel Villanueva urged the **DOLE** to issue a labor advisory reminding private companies of their obligations to comply with the country's labor laws, particularly the above mentioned **OSHS Law**. On January 31, 2020, the **DOLE** issued its **Labor Advisory No. 04 Series of 2020** or the "*Guidelines on 2019 Novela(sic) Coronarvirus (2019-ncov) Prevention and Control at the Workplace.*" **DOLE Advisory No. 4, series of 2020**,

issued pursuant to the **OSHS Law**, aims to assist private sector workplaces in their preparedness and response to the 2019- nCoV.

Among the provisions in said **DOLE Advisory No. 4**, is a directive to the employers to have in place guidelines or workplace programs to deal with the 2019- nCoV. to minimize the potential for contracting the 2019- nCoV in the workplace context. Accordingly, an employer is directed to observe these workplace precautionary measures:

- 1) Provide information about the 2019- nCoV including its transmission, disease outcome, and treatment options to their workers;
- 2) Clean work areas with disinfectant and make sure that water, soap and sanitizer are available in washrooms/toilets;
- 3) Avoid or reduce direct exposure of workers to animals, environments and objects possibly carrying the 2019- nCoV;
- 4) Ensure that food in canteens are properly prepared, handles and cooked;
- 5) Emphasize to all workers the everyday actions to stay healthy and keep a clean workplace, such as:
 - Cover nose and mouth when coughing and sneezing;
 - Wash hands frequently with soap and water or cleansing of hands with alcohol-based hand sanitizers;
 - Spit at proper places;
 - Avoid close contact with sick people;
 - Increase the body's resistance by having adequate rest and at least eight (8) hours of sleep;
 - Drink plenty of fluids; and
 - Eat nutritious food
- 6) Monitor the health of workers particularly those with fever and other flu symptoms and those who have traveled to other countries affected with the 2019- nCoV.

Further, the following guidelines should be observed and implemented by the employer for the care of workers who are sick or with fever:

- 1) Provide the worker with a face mask to prevent risk of spreading the infection;
- 2) Isolate the worker immediately in a separate well-ventilated room in the workplace, away from the other workers;
- 3) Refer the worker to the company healthcare provider, nearest health center or hospital for laboratory confirmation of the 2019- nCoV;
- 4) Report the worker to the Department of Health at telephone numbers 8-711-1001 and 8-711-1002.
- 5) Ensure implementation of recommendations provided by the DOH on the management and transport of suspected case of business entities/employers;
- 6) Observe respiratory precautions when taking care of patients with flu or flu-like illness; and

- 7) Decontaminate the work area with appropriate disinfectants (e.g. chlorine bleaching solution and 1:100 phenol based disinfectant).

In the end, a good rule of thumb for our employers in determining its obligations towards its employees, is that the health and safety of our workers must be of paramount concern. After all, not only is this principle the very essence of the **OSHS Law, its IRR and DOLE Advisory No. 4**, but more so, this is the very basic dictate of our humanity.

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