



## Guidance for Staffing Agencies and Temporary Workers During Phase 4 of the Restore Illinois Plan

August 4, 2020

### Staffing Agencies

#### Are staffing agencies required to provide information regarding COVID-19 workplace safety?

Yes. The [Day and Temporary Labor Services Act](#) (“the Act”), 820 ILCS 175, requires staffing agencies to provide each temporary worker with a notice that contains, among other things, information on the nature of the work to be performed and the types of equipment, protective clothing, and training that are required for the task.<sup>1</sup> This notice should reflect any required equipment or training to protect against COVID-19 and, consistent with the Act, should be provided at the time of a new assignment or at any time that the terms of an existing assignment change.

In addition, [Executive Order 2020-43](#) requires staffing agencies to prominently post guidance from the Illinois Department of Public Health (IDPH) and the Office of the Illinois Attorney General regarding workplace safety during the COVID-19 emergency.

#### Do temporary workers need to receive COVID-19 safety training?

Yes. The Occupational Safety and Health Administration (OSHA) has issued [guidance](#) for all employers that calls for training for all employees with reasonably anticipated occupational exposure to COVID-19 about the sources of exposure to the virus, the hazards associated with that exposure, and appropriate workplace protocols in place to prevent or reduce the likelihood of exposure. Training must be offered during scheduled work times and at no cost to the employee. Staffing agencies should provide temporary workers with training and coordinate with work site employers to ensure that temporary workers receive any site-specific workplace safety training.

#### Are staffing agencies required to provide personal protective equipment, such as face coverings?

Executive Order 2020-43 generally requires employers to provide face coverings to all workers who are not able to maintain a minimum six-foot social distance at all times.

#### What safety measures should staffing agencies take when providing transportation to temporary workers or when contracting with a third-party to provide transportation to temporary workers?

The CDC [recommends](#) that, when using transportation, people have the ability to remain 6 feet apart. Section 20 of the Day and Temporary Labor Services Act prohibits staffing agencies from using a motor vehicle for the transportation of temporary workers that the agency knows or should know is unsafe. This section further provides that staffing agencies are generally responsible for the conduct of any person or entity who transports temporary workers to the work site.<sup>2</sup> To ensure compliance with public health guidelines, and help reduce the spread of COVID-19, staffing agencies that provide transportation for temporary workers, either directly or through a third-party provider, should limit the number of people on each row of seats to ensure social distancing is maintained to the greatest extent possible, provide and require the use of face coverings, and thoroughly clean and disinfect vehicles prior to each use.

#### What COVID-19 screening procedures should staffing agencies implement?

Staffing agencies should screen and monitor temporary workers for symptoms of COVID-19. Screening may be performed at the agency, prior to transportation to the work site or at an outdoor location, outside the work site, prior to entry for a scheduled shift or job. Staffing agencies should adhere to a few screening principles:

- Perform pre- and post-shift monitoring.
- Do not rely on fever checks only. A significant number of the confirmed COVID-19 cases in Illinois did not report a fever.



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- Ask workers about symptoms but do not rely only on self-reporting. COVID-19 symptoms may include the following: fever (100.4° or above), cough, fatigue, shortness of breath, sore throat, new loss of sense of taste or smell, and gastrointestinal or stomach issues.
- Ask workers if family members have tested positive for COVID-19 or are otherwise experiencing symptoms of COVID-19.
- Ask workers to complete [IDPH's recommended self-monitoring tool](#).

### What should a staffing agency do if a worker reports symptoms of COVID-19 or tests positive for COVID-19?

The staffing agency should notify their local health department within 24 hours of being informed of a known or suspected case of COVID-19, or any prevalence of COVID-19 symptoms. The staffing agency should also notify any workers who have been or may have been exposed, without identifying any individual specifically in order to protect his or her privacy. It is critical that staffing agencies and work site employers share information about positive tests or symptoms and ensure that all workers who have potentially been exposed are notified, regardless of their employer of record. Employers should never require workers to report to work or continue working while experiencing COVID-19 symptoms. Staffing agencies may be interviewed as part a disease or outbreak investigation by the Illinois Department of Public and are obligated under the law to cooperate with any inquiries related to the spread of COVID-19.

**STAFFING AGENCIES SHOULD BE AWARE THAT THE ILLINOIS DEPARTMENT OF LABOR MAY DENY, SUSPEND, OR REVOKE A STAFFING AGENCIES' REGISTRATION IF WARRANTED BY PUBLIC HEALTH AND SAFETY CONCERNS OR OTHER VIOLATIONS OF THE DAY AND TEMPORARY LABOR SERVICES ACT. See 820 ILCS 175/50.**

### Temporary Workers

#### Who can I contact to report an unsafe workplace?

The federal Occupational Safety and Health Act of 1970 requires employers to provide a safe workplace. In Illinois, workers may also raise safety and health concerns related to the spread or likely spread of COVID-19 in their workplace by contacting the Attorney General's Workplace Rights Bureau by emailing [workplacerights@atg.state.il.us](mailto:workplacerights@atg.state.il.us) or calling (844) 740-5076. Workers may also contact their [local OSHA office](#).

Additionally, workers may also report an unsafe workplace to their local health department. While local health departments do not enforce workplace protections, they have the authority to conduct investigations and take appropriate steps if a COVID-19 outbreak is identified.

#### Are temporary workers protected from retaliation for raising concerns at the workplace?

Yes. Temporary staffing agencies and worksite employers are prohibited from retaliating against a temporary worker for raising concerns about COVID-19 or overall safety and health concerns internally or to a government agency. Staffing agencies and worksite employers are further prohibited from retaliating against a temporary worker for disclosing information that they have reasonable cause to believe is a violation of a state or federal law, rule, or regulation. Section 7 of the National Labor Relations Act (NLRA) protects all employees' ability to engage in "protected concerted activity for mutual aid or protection" in both union and non-union settings. Such protected concerted activity generally includes employees talking to one another about working conditions or workplace safety, or engaging in actions, such as petitions or walkouts, to try to improve safety conditions.



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### What should I do if I am experiencing symptoms of COVID-19 or test positive for COVID-19?

A temporary worker who tests positive for COVID-19 should make their work site employer and staffing agency aware of the positive test result. Temporary workers should not come to work, nor should their staffing agency or work site employer require them to come to work, if they have had a positive test or are experiencing COVID-19 symptoms.

### **Additional Resources**

For information regarding eligibility for employment insurance benefits, paid sick leave, anti-discrimination protections, and other required workplace safety measures, see the [Illinois Department of Employment Security](#).

### **Retaliation**

<https://www.osha.gov/Publications/OSHA3781.pdf>

### **Industry specific guidance:**

<https://dceocovid19resources.com/restore-illinois/restore-illinois-phase-4/>

<https://www.dph.illinois.gov/covid19/community-guidance/migrant-labor-camp-guidance>

<http://www.dph.illinois.gov/sites/default/files/COVID-19%20Migrant%20Farmworkers.pdf>

### **Paid Leave:**

[https://illinoisattorneygeneral.gov/rights/WRB\\_Paid\\_Sick\\_Leave\\_FAQ.pdf](https://illinoisattorneygeneral.gov/rights/WRB_Paid_Sick_Leave_FAQ.pdf)

<https://www.cookcountyil.gov/service/earned-sick-leave-ordinance-0>

<http://dph.illinois.gov/covid19/community-guidance/guidance-food-and-meat-processing-facilities>

### **Non-discrimination:**

<https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act>

[https://www2.illinois.gov/dhr/Documents/IDHR\\_FAQ\\_for\\_Businesses\\_Concerning\\_Use\\_of\\_Face-Coverings\\_During\\_COVID-19\\_Ver\\_2020511b%20copy.pdf](https://www2.illinois.gov/dhr/Documents/IDHR_FAQ_for_Businesses_Concerning_Use_of_Face-Coverings_During_COVID-19_Ver_2020511b%20copy.pdf)

<sup>1</sup>For purposes of this Guidance, the term “temporary worker” has the same meaning as “day or temporary laborer” as defined in 820 ILCS 175/5. The term “staffing agency” has the same meaning as “day and temporary labor service agency” as defined in 820 ILCS 175/5.

<sup>2</sup>The Act provides: “[a] day and temporary labor service agency is responsible for the conduct and performance of any person who transports a day or temporary laborer from the agency to a work site, unless the transporter is: (1) a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act; (2) a common carrier; (3) the day or temporary laborer providing his or her own transportation; or (4) selected exclusively by and at the sole choice of the day or temporary laborer for transportation in a vehicle not owned or operated by the day and temporary labor service agency.