



COVID Law Updates 02/02/2022



Thank you for attending our COVID Law Updates Breakfast Briefing! Below you will find answers to the questions posted on the General Chat of our Zoom Webinar.

Disclaimer: The answers provided below are for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.

Question	Answer
[Regarding] weekly Testing requirements. Since both Vaccinated and unvaccinated can be a potential carrier and has nothing to do with being vaccinated. In fairness, how can we require one group to be tested and another group not be tested?	The rationale behind GovGuam's requirement of either vaccination or weekly testing for Covered Establishments appears to be based on DPHSS's view that vaccinated employees are less likely to contract and spread the virus than unvaccinated employees. DPHSS does not seem to share your view that being a potential carrier of the virus has nothing to do with being vaccinated. The goal of the GovGuam mandatory vaccination policy applicable to Covered Establishments is to require all employees to be vaccinated. The weekly testing option is a secondary alternative to be used only in the event the employee refuses to be vaccinated. If a private business agrees with DPHSS's view that vaccination of employees in the workplace creates a safer workplace, the private business may choose to have a mandatory vaccination policy - either with or without giving employees the option of submitting to weekly covid tests.
In regards to isolation and quarantine, do private establishments have the option to either follow Guam DPHSS guidance or CDC guidance if they differ?	Yes, private establishments may follow DPHSS guidance or CDC guidance or, if the private establishment disagrees with both DPHSS and CDC, they may follow the guidance of another medical resource or exercise their own judgment as to how best to ensure the safety of their workplace. Keep in mind that the protocols private establishments decide to follow in protecting employees from COVID should have some basis in medical science.
Where does Worker's compensation come into play if employees were identified as a positive emp or identified through contact tracing at the worksite by another emp or student or consumer?	If an employee believes he contracted COVID at the worksite, he may be entitled to workers comp benefits if the employee becomes ill and requires medical treatment. This could be a work-related illness covered by workers comp. If an employer becomes aware of the illness, the employer should provide the employee the workers comp claim forms.



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Just to clarify social gathering is allowable to 25 indoors and 100 outdoor - regardless of vaccination status - is this correct?	No, that's not quite correct. The rule is 25 indoors and 100 outdoors, but if any person in the gathering is from a different household than any other person in the gathering, everyone at the gathering must be vaccinated with at least the first shot.
For the medical exemption for a private sector - does DPHSS needs to approve the Medical exemption?	No, DPHSS does not need to approve medical exemptions. DPHSS does provide approvals of medical exemptions which Covered Establishment could accept as a substitute for proof of vaccination if the Covered Establishment chooses to do so, and this would be in compliance with the mandatory vaccination requirement imposed on Covered Establishments. But the Covered Establishment does not have to accept a DPHSS approved medical exemption. The Covered Establishment could evaluated the medical exemption request independently and deny the exemption or the Covered Establishment could determine that accommodating the exemption and allowing the employee or customer into the establishment unvaccinated is too dangerous to other employees and customers (e.g., "undue hardship") and refuse to accommodate the exemption on that basis.
Home COVID Test Kits, Can an employer not accept test results that is not validated by a Health Care Provider as a way for an employee to return back to the workplace from Quarantine?	Yes, an employer can refuse to accept test results from home COVID test kits and could require rests results validated by a health care provider or facility prior to allowing return to the workplace form quarantine. This is up to the employer to decide. There is no law or regulation requiring employers to accept any particular type of test.
What will you advise employers if they have emps that have to be out because their minor child's school is closed and have to be attending virtual classes? The emp is not able to report to work but are not able to telework while with their minor child being at home?	I would advise employers in this situation to be as flexible as possible with the employee and try to find ways the employee can still work at home. Perhaps there are tasks the employee can do at home (reviewing or organizing files) even while caring for the minor child. The employer could also consider adjusting the employees shift to have the employee work evening or night hours to make up for the time not working during the child's virtual classes. The employer should also allow the employee to use an accrued paid leave. If there is no paid leave available, the employer could, but is not required to, allow unpaid leave in this situation.



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As an attorney for an agency. In the Government Personnel Rules & Regs apply for disciplinary actions for emps being insubordinate or failing to perform their duties and tasks as assigned. If you have an emp that goes publicly on social media tainting an authority's directive and makes derogatory remarks in regards to these Covid related matters and demands to be allowed to the worksite. What will your recommendation or guidance to all (employees and employers)?	I would suggest that you proceed carefully in deciding whether to discipline an employee for expressing objections on social media to a government agency's actions. The depending on the nature of the employee's public statements, the employee may be immune from any liability or adverse action under Guam's Anti-SLAPP statute, the Guam Citizen Participation in Government Act ("CPGA") 7 G.C.A. § 17101 et seq. The CPGA provides that "Acts in furtherance of the Constitutional rights to petition, including seeking relief, influencing actions, informing, communicating and otherwise participating in the processes of government, shall be immune from liability, regardless of intent or purpose, except where not aimed at procuring any government or electoral action, result, or outcome." 7 GCA § 17104.
Could I get the recording of this presentation? Should I need to go back and listen on my own time. Appreciate it.	Yes! The link to our recorded session follows: https://drive.google.com/drive/folders/12MMXTyq0hK9exzu1LppoIFKHFA1IUtYL?usp=sharing