

PRIVACY

Organizations must maintain a safe operating environment for staff, clients, and guests while upholding the privacy of the same people they are working to protect from COVID-19 virus spread. Rules and regulations will differ depending on your type of workplace, and it is critical to know which apply to your organization.

Learn about Your Privacy Obligations

- The Office of the Privacy Commissioner of Canada (OPC) has issued [guidance](#) with respect to privacy-related issues. They have reiterated that privacy laws continue to apply, but that they are not a barrier to appropriate information sharing.
- See also the OPC guidance with respect to [video conferencing](#).
- The Information and Privacy Commissioner of Alberta has also issued helpful [bulletins](#).



Operating safely while maintaining the privacy of your employees and clients

- As a general rule, organizations should only collect what information is necessary and not disclose information without consent unless legally required. Fair information principles, such as accountability and transparency, still apply.
- There are a number of Canadian laws which protect health information. Generally, Canadian statutes permit exceptions to the usual consent requirements in emergency situations, but notice may still be required. Know which laws apply to your organization.
- If there is a risk to other employees, organizations should disclose the actual risk as needed, but limit information shared to what is required. Sick persons should not be identified by name.
- Employees handling personal information while working at home must continue to be mindful of their obligation to safeguard the information and securely dispose of any paper materials.
- Organizations that wish to communicate by e-mail to customers or clients about COVID-19 related matters must still comply with Canada's anti-spam law if the content of the message contains any commercial messaging.



DISCLAIMER: Adapted from Lexis Practice Advisor Canada with the permission of LexisNexis Canada Inc. All rights reserved. Not intended to be legal advice, and accuracy, completeness or currency is not guaranteed. Please note that the current situation is very dynamic and information changes frequently. All information provided in this document is intended to be general in nature. You should not rely on this document in connection with the making of any decision. Document is current as of September 1, 2020.

Legal Considerations Series:

Legal Considerations for Nonprofits of Changes to Work and Workplace Related to COVID-19



PRIVACY

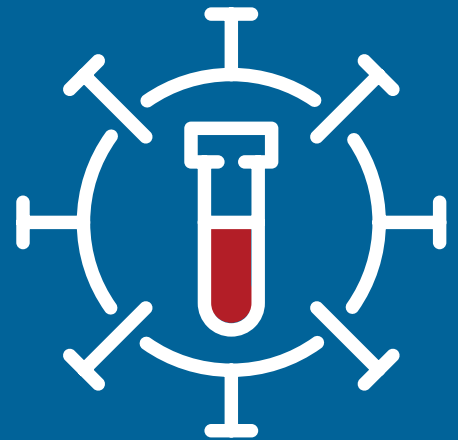
Health Checks

Your organization should be careful to not be too invasive (e.g., asking employees if they have the virus for no justifiable reason).

It may be acceptable to take an employee's temperature before returning to work, but there would need to be a legitimate reason for doing so, and proper protocols should be followed (i.e., have a third party conduct the testing if possible, ensure the person administering the test is wearing proper protective equipment, and conduct the test privately).

If it is determined that taking employee temperatures is acceptable, employees who refuse to consent may have to be sent home. The rules may differ depending on the type of workplace, and it will be important to develop a plan that addresses key issues, including how employees with a fever are to be dealt with and how test results will be kept private.

Organizations may also want to develop a policy that addresses disclosure by the employee, as well as protocols for self-isolation and ongoing communication with the employer. Organizations should also take note of human rights legislation, particularly with respect to testing employees with disabilities. Efforts should be made to exclude the collection of information that may identify a disability.



Legal Considerations Series:

Legal Considerations for Nonprofits of Changes to Work and Workplace Related to COVID-19