

Guidelines for employers

Reasonable accommodations for persons with disabilities in the context of a health emergency by COVID-19.

April 2020

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1. Context

People with disabilities face similar risks that the rest of the population in the COVID-19 pandemic. However, in some cases the risk may increase because of specific situations or pre-existing health conditions.

Among the specific situations that may occur, we can find the interruption of the services and supports for the person, either by institutions, or family members and caregivers who are no longer able to provide this assistance.

2. COVID-19

According to the World Health Organization (WHO), Coronaviruses are a family of viruses that range from the common cold to more serious diseases, such as the Middle East Respiratory Syndrome (MERS-CoV) and the Severe Acute Respiratory Syndrome (SARS-CoV). The most recent coronavirus, discovered in mid-December 2019 in China, named SARS-CoV-2, is the cause of COVID-19 disease.

The WHO states that “the most common symptoms of COVID-19 are fever, tiredness, and dry cough. Some patients may have aches and pains, nasal congestion, runny nose, sore throat, or diarrhea. These symptoms are usually mild and begin gradually. Some people become infected but do not develop any symptoms and do not feel unwell. Most people (about 80%) recover from the disease without needing special treatment. Around 1 out of every 6 people who gets COVID-19 becomes seriously ill and develops difficulty breathing. Older people, and those with underlying medical problems like high blood pressure, heart problems or diabetes, are more likely to develop serious illness.”¹

¹ World Health Organization (2020). Q&A on coronaviruses (COVID-19). Retrieved from:
<https://www.who.int/news-room/q-a-detail/q-a-coronaviruses>
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3. Protection for people with disabilities from COVID-19

People with disabilities represent 15% of the world's population, that is, more than a billion people are estimated to live with some form of disability². Out of them:

- Between 110 million and 190 million adults have significant difficulties in functioning.
- Roughly 1 out of 20 children under 15 years-of-age live with a moderate or severe disability condition.
- The number of people with disabilities will continue growing as populations age, and chronic health conditions increase globally.

Currently, the State of Chile is committed to guaranteeing the right of health of persons with disabilities, which demonstrates the existence of legal and practical reasons to protect their health from the coronavirus.

The WHO states that health is a fundamental human right, and that the States have the obligation to ensure access to timely, acceptable, and affordable medical attention. As well, the States are obliged to provide the underlying determinants of health, such as safety, potable water, sanitation, food, shelter, health-related information and education, and gender equality.

Article 17 of the Convention on the Rights of Persons with Disabilities, "*Protecting the integrity of the person*", states that every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others. Furthermore, article 11 of this document states that States Parties shall take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risks, such as the one produced by COVID-19.

² World Health Organization & World Bank (2011). World Report on Disability. Retrieved from: https://apps.who.int/iris/bitstream/handle/10665/70670/WHO_NMH_VIP_11.01_eng.pdf;jsessionid=A33433B62E602ABA978F83D7DE8E0C90?sequence=1
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4. Recommendations for employers of persons with disabilities

4.1. General recommendations

- a. Develop an official protocol for the company.
- b. It is of vital importance to explain to the employee what the protocols will be, and how they will be continuing to perform their job. On certain occasions, it is recommended to discuss personally with the direct supervisor the procedure to be followed, since this will favor the understanding, and will lower the anxiety levels that this contingency may create.
- c. It is important to create instances of information, motivation, and support in order to collect constant feedback about the physical health and emotional state of employees. This will ease concentration and proper job performance.
- d. Please do not hesitate to contact us if you experience any inconvenience or unusual behavior or may require additional emotional support. Fundación Descubreme's team of specialists are telecommuting, so support may be given via telephone or e-mail. In this way, we will be able to guarantee the stability of the inclusion processes (contacto@descubreme.cl).

4.2. Prevention

- a. The current recommendation given by the World Health Organization and the Chilean government is social distancing, so we ask you to provide supports for employees to stay at home and telecommute for at least 12 weeks. Also, quarantine must be complied in the case of those employees that live in municipalities under these measures.
- b. If it is possible for employees to telecommute, they should be allowed to do so. However, some employees will not be able to telecommute. In that case, we suggest to manage some work accommodations, such as increasing hygiene measures by providing the necessary items, making adjustments to respect social distancing and reducing or changing work schedules. All these accommodations might make it possible to deal safely with the coronavirus emergency.

- c. Some employees may need more support from technical specialists to manage telecommuting, mainly to ensure access to the internet and to answer questions about computer use from home.

At this point, it is important to remember that the concept of *reasonable accommodations* is incorporated in all areas of Law No. 20.422. This norm establishes rules on equal opportunities and social inclusion of people with disabilities, and reasonable accommodations are understood, broadly speaking, as measures of adaptation (physical, social, or attitudinal) that do not impose a disproportionate or undue burden for those who have to implement them. They will ease accessibility and effective participation of people with disabilities.

As reasonable accommodations may not impose a disproportionate burden for those who must implement them, the lack of these adaptations may constitute an action of arbitrary discrimination regulated by Law No. 20.609. This law establishes measures against discrimination, if the act violates the exercise of fundamental rights established in the Chilean Constitution, or international treaties. There is a specific judicial procedure that may end in an economic sanction ranging from 5 to 50 UTM, which can be repeated if the arbitrary discriminatory act occurs again. In addition, the law may establish additional measures to ensure the full restoration of the violated right. Finally, if the action is upheld and declared to be arbitrary discrimination, the ruling could serve as a precedent for an action for damages.

- d. To check what reasonable accommodations you can implement, please review section 4.4 in page 8 of this document.
- e. If your company does not have an influenza vaccination plan, we suggest that you may grant permission for the employee to attend a health center for vaccination.

4.3. In case of suspicion of spread

- a. It is important to create an environment of trust and support, where employees feel comfortable to express questions and situations that may be affecting them.
- b. If the employee lives with someone who has symptoms of COVID-19, all the persons living in the same household must enter quarantine for a period of 14 days. This period begins when the sick person shows symptoms for the first time.

- c. Staying at home means not going to work, school, or public spaces, and not using public transportation. In these cases, it is pertinent to evaluate the possibility of telecommuting while the person awaits his or her test results to confirm the disease, as long as he or she is in the condition to do so.
- d. Provide official information on how to proceed in the suspicion of spread through the government channels (<https://www.gob.cl/coronavirus/>) and the Ministry of Health contact number (600 360 7777).
- e. There is a possibility that the employee informs his or her supervisor about their disability or health condition for the first time. This may happen because it was recently diagnosed, or because it has not affected his or her job performance so far.

4.4. Reasonable accommodations for telecommuting

In order for the employees to perform well working from home, they need some assistive technologies that must be provided by the company. They may also need to install video conference applications, such as Microsoft Teams or Skype, so that they are able to join meetings remotely. In certain cases, it is recommended that you provide them with mobile phones with such applications already installed.

- a. Due to the contingency and advancement of COVID-19, Microsoft is making its Microsoft Teams platform available free of charge to organizations and schools around the world. This is done in an effort to support public health, safety and to ease telecommuting.

Microsoft Teams is the center of teamwork in the Microsoft 365 suite, where teams can chat, make calls, follow up on their assigned tasks, and collaborate in a safe environment. To get the premium version, please click on this link <https://support.microsoft.com/es-es/office/bienvenido-a-microsoft-teams-gratis-6d79a648-6913-4696-9237-ed13de64ae3c?ui=es-es&rs=es-es&ad=es>.

- b. Licensing issues may arise when installing assistive technologies, which are often made for specific computers, not users. Some suppliers are being flexible about this, so go ahead and contact them. However, you may need to purchase additional licenses for the computers or mobile phones you provide to your employees so that they can work from home.

It may also be the case that employees using assistive (or non-assistive) technologies may not be able to access some of their systems remotely, for example, for security reasons. In that case, we recommend that the tasks performed by the employee in person are temporarily adjusted or changed.

- c. You may be able to substitute another job for the tasks that cannot be performed remotely.
- d. In order to maintain these systems, it is possible that some employees may have to enter the company's facilities.
- e. Consider providing with taxis to these employees to ensure additional prevention to avoid the spread of the disease.
- f. If employees use adapted chairs, then it may be possible to transport these chairs to their homes temporarily, but this will depend on their particular circumstances.
- g. Employees who are not used to telecommute will need support and advice on movements, exercise, and staying healthy and comfortable.

It should be noted that some employees may not have the necessary conditions to perform their jobs effectively from home. Some examples of these conditions may be shared housing or taking care of others. These situations may impact on their performance, so it is recommended that each case is assessed, and the relevant accommodations provided.

- h. Provide tips on how to telecommute efficiently, including self-care measures.
- i. Some employees may also have issues with isolation, especially if they live alone. Some examples of this are having difficulty motivating themselves and maintaining work schedules. In order to be aware of these changes, the supervisor must engage in constant feedback on the physical and emotional wellbeing of the employee.
- j. Organizing meetings with others through video conferencing at the beginning of the day might be a good way to address isolation.

4.5. Recommendations for accessible and understandable communications for all

- a. Persons with disabilities should receive information on how to avoid the spread of the virus, public restraint plans and services offered in a variety of accessible formats.
- b. Media communication should include subtitles, local sign language, high contrast and large print.
- c. Digital media should include accessible formats for blind and visually impaired people, and all those who face barriers in accessing printed information.
- d. All communications should be in Easy Reading format.
- e. In the case that public communications are not yet accessible, a temporary option may be providing alternative telephone lines for blind people and e-mail addresses for the deaf and hard of hearing people, as well as persons with cognitive disabilities.
- f. Sign language interpreters who work in emergency and health situations should receive the same health and safety protection as other health care workers involved in the treatment of the pandemic.
- g. Appropriate alternatives for optimal access to information are needed, such as interpreters wearing a transparent mask, so that facial expressions and lip movements are still visible.
- h. These alternatives are particularly important as remote interpretation is not accessible for everyone, such as people who are deafblind. Solutions should be explored alongside these persons and the organizations that represent them.
- i. Assistive technologies should be used to communicate with people with hearing impairments, especially when face masks make lip reading impossible for them.