

## **Connecticut Child Care Providers: How to Minimize Liability Related to COVID-19**

The best thing you can do is keep your program as safe as possible for children and staff, and follow recommended health and safety guidance as described in more detail below.

1. Among others, you should follow the health and safety guidelines issued by the [State of Connecticut](#), the [CT Office of Early Childhood \(OEC\)](#), the [Center for Disease Control \(CDC\)](#), and the [Equal Opportunity Employment Commission \(EEOC\)](#). **Guidance changes frequently, so part of your obligation will be to stay abreast of developments.**

If you follow the guidelines, children are less likely to contract the disease while in your care, and you are less likely to violate employment laws. It also means that you likely tried your best to act responsibly and reasonably to do what is within your power to prevent the spread of disease.

2. The OEC has provided [posters](#) for your facility with information about screening requirements and to remind everyone who visits your program about their responsibility to stay safe.
3. Train your employees about safety precautions frequently (e.g., at weekly staff meetings) and discipline those employees who fail to comply. Have families attend (perhaps by videoconference) a training session about the safety precautions they are responsible for and the steps you will take if the family members and/or their children create a health risk to others.

The CDC has extensive handouts and posters that you can use for training purposes.

4. Make sure families know that they must keep children home if they are sick, or if the children have been exposed to others who are sick, and should immediately contact you if they have any symptoms. The children should not return to child care until after they have satisfied the applicable isolation or [quarantine guidelines issued by the CDC](#).

Provide parents with hard copies of the current CDC isolation and quarantine guidelines and provide the parents updated versions if those guidelines change.

In an effort to avoid liability, some programs are also considering COVID-specific waivers of liability. Having parents sign a waiver will not necessarily protect you, although it probably cannot hurt to have parents acknowledge the virus' unknown and unavoidable risks—either by signing a waiver, an acknowledgment, a participation agreement, a family handbook, or some other document. See this helpful [article regarding waivers](#).





Even if parents have signed such a document, there is always the possibility that the parents might bring a legal claim, and that risk cannot be completely eliminated. On the other hand, given how communicable COVID-19 is, it might be difficult for the parents to demonstrate that their children contracted the virus at your child care center, depending on the circumstances and especially if your center complies with all applicable health and safety guidelines.

Note, in order for parents to “win” in this kind of lawsuit, the parents will not only have to show that their children contracted COVID-19 at your center, but also will likely need to show that the children contracted the virus *because of negligence on your part* (i.e., that your program failed to do what it should have done to keep the program safe). That is where following the guidance above comes in. Moreover, doing everything possible to avoid multiple children becoming ill at the same time will help reduce the risk that your center will be singled out as an “epicenter” for the spread of the virus, which might make it easier for parents to “win” the lawsuit.

Also important: contact your liability insurance broker and carrier to see if you have insurance that would cover a claim that a child under your care and/or a family member of the child (or some other person) became ill because of exposure to COVID-19 while at your center. In addition to covering damages, some insurance policies pay for a lawyer to defend you and your organization if you are sued (defense costs). Other insurance policies do not. Ask your insurance broker and carrier if your insurance policy covers defense costs for these kinds of COVID-19-related claims.

If you have questions about liability issues specific to the COVID-19 pandemic, consult legal counsel. If your child care center is a 501(c)(3) organization, you may qualify for free legal assistance through [Pro Bono Partnership](#).

*Portions of the above information were adapted with thanks from the Child Care Law Center in California.*



Volunteer Lawyers Strengthening Nonprofits & Our Communities

Pro Bono Partnership  
[www.probonopartner.org](http://www.probonopartner.org)