**Template Letter to Use with the
Occupational Safety and Health Administration (OSHA)**

***\*\*Please tailor as needed\*\****

***Directions:*** *This is a form letter that can be edited and used in response to OSHA inquires due to complaints received regarding PPE. This guidance is applicable to all long term care providers including assisted living, skilled nursing facilities, and providers serving residents with ID/DD. This guidance is current as of April 8, 2020.*

1. ***Fill in and complete the red, bolded areas on the first page and use letterhead, if available, then***
2. ***Add in the sections below, starting on the second page.***

[Date]

*VIA ELECTRONIC mail [facsimile]*

[Address]

Re: **[Complaint Number]**

Dear **[Area Director]:**

This responds to your letter forwarding on a complaint that you received regarding alleged hazards at [Location]. The allegations in the complaint are:

**[Copy allegations here]**

**[Company name]** has conducted an investigation into the allegations in the complaint and provides this response. While **[Company name]** appreciates the concerns expressed in the complaint with respect to COVID-19, **[Company name]** disagrees with the allegations.

As an initial matter, **[Company name]** would like to discuss generally the proactive measures being taken to protect employees from COVID-19. For several weeks, **[Company name]** has closely followed Centers for Disease Control and Prevention (“CDC”) and local public health department guidance regarding how to respond to the COVID-19 outbreak, particularly given the worldwide shortage of personal protective equipment and testing. The guidance has been quickly implemented and communicated to all employees. For example, **[Company name]** has notified all staff regarding COVID-19 and our response to the outbreak. These communications provide updates on the facility’s approach to issues of personal protective equipment (“PPE”), employee screening, transportation guidelines, and restrictions on visitors and need for screening prior to starting work as well as self-isolation should they develop symptoms. We advise them on what has been completed, what is in progress, and what we are aware that may be coming soon.

With respect to the specific allegation(s) in the complaint, we provide the following responses:

[INSERT & MODIFY TEMPLATE RESPONSE – see following pages for options]

**[Company name]** has closely monitored the COVID-19 outbreak in the United States and has taken every possible precaution to protect its employees and limit their potential exposure to the virus.

Should you have any further questions regarding this letter or our approach to COVID-19, please do not hesitate to contact me.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Signatory name and title]

**RESPONSE OPTIONS TO PICK BASED ON COMPLAINT**

***[Choose from potential responses to respond to specific issues addressed in OSHA letter your organization received]:***

***Employee concerns about reuse and rationing of N95 respirators***.

The complaint alleges that the facility is inappropriately reusing and rationing PPE and, specifically N95 respirators. As the COVID-19 outbreak has spread, issues of availability of certain PPE have arisen. The CDC has provided guidance to healthcare employers regarding the reuse and rationing of PPE, which **[Company name]** has closely followed. We have special protocols for PPE usage for staff caring for individuals who have tested positive for COVID-19. Pursuant to CDC guidelines, we do allow for limited reuse and extended use of surgical masks and N95 respirators. Staff have been provided with clear guidance and training on the safe reuse of N95 masks. Finally, we note that on April 3, 2020, federal OSHA issued a memorandum allowing the reuse and rationing of N95 respirators in accordance with CDC guidelines: <https://www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus>.

***Testing of residents with symptoms of COVID-19*.**

The complaint alleges that the facility does not test residents with symptoms of COVID-19. The CDC and our local public health department have provided guidance to healthcare employers regarding testing of residents that present with symptoms of COVID-19. **[Company name]** has strictly followed that guidance, which considers numerous risk factors and the availability of testing kits. Regardless of testing, however, **[Company name]** has implemented policies and procedures – including appropriate use of PPE – to protect employees who have to treat residents exhibiting any symptoms of illness.

***Exposing employees to residents with COVID-19*.**

The complaint alleges that the facility is exposing employees to residents who are confirmed positive with COVID-19 without appropriate protection. The facility has implemented detailed procedures for how to handle employees who may have been exposed to a resident with COVID-19, who are experiencing symptoms, or have otherwise tested positive themselves. These procedures are based upon CDC recommendations.

***No universal N95 respirator/mask policy*.**

The complaint alleges that **[Company name]** doesnot have a universal N95 respirator/ mask policy. Contrary to this allegation, **[Company name]** has comprehensively addressed the use of N95 respirators and masks in the facility. Any employee that interacts with a COVID-19 positive resident must wear an N95 respirator. With respect to the use of face masks, we have advised all staff that they are allowed to wear surgical masks throughout the facility if they would like to do so. We also allow staff to wear face masks from home so long as they are cleaned and disinfected at the completion of each shift. Because of the fluid nature of the outbreak and the CDC recommendations regarding same, **[Company name]** is constantly adopting its policies regarding the use of N95 respirators and surgical masks, in alignment with those recommendations.

***Insufficient amount of PPE****.*

**Option 1**

The complaint alleges that **[Company name]** does not have personal protective equipment (“PPE”) to adequately protect employees from COVID-19. Despite nationwide shortages, **[Company name]** has sufficient PPE to protect employees responding to our residents in these difficult times. Specifically, we have adequate supplies of N95 respirators, gloves, surgical masks, and gowns. We will continue to work aggressively to ensure that our supplies of PPE remain sufficient to protect our employees.

**Option 2**

The complaint alleges that **[Company name]** does not have personal protective equipment (“PPE”) to adequately protect employees from COVID-19. As the COVID-19 outbreak has spread, issues of availability of certain PPE have arisen. Shortages of PPE exist and our facility has experienced minor issues with respect to availability. In these situations, we have made adjustments per CDC and OSHA guidelines. For example, the CDC has provided guidance to healthcare employers regarding the reuse and rationing of PPE, which **[Company name]** has closely followed. Even with these shortages, at no time has any employee been directly exposed to a confirmed COVID-19 positive person without appropriate PPE.

***Insufficient training on PPE.***

The complaint alleges that **[Company name]** does not adequately train employees on PPE. **[Company name]** trains all affected employees on the use of PPE as it applies to their normal job functions on a regular basis as part of our in-service training and education. This training continues. In addition, the facility has implemented additional training protocols for staff given the COVID-19 outbreak to the extent the outbreak requires staff to use PPE that they would not normally be expected to use. This training involves the proper donning and doffing of the PPE, use, and maintenance. The facility will continue to ensure that all employees are trained in the preventive practices undertaken by the facility, as well as any PPE required.

***Allowing employees to work who are experiencing symptoms****.*

The complaint alleges that **[Company name]** has scheduled employees to work who are exhibiting symptoms of potentially infectious respiratory disease. **[Company name]** has strict protocols in place to determine when employees can and cannot work specific to the COVID-19 outbreak, as well as when employees can return to work under various scenarios. **[Company name]** prohibits any employee from working or even coming to work if they experience any of the following symptoms of respiratory disease or fit into a high-risk category for exposure to COVID-19 as established by the CDC:

* Productive cough/Shortness of breath
* Fever of 100.4 degrees Fahrenheit or above
* Lives with someone who is COVID-19 positive
* Been in close contact with someone who is COVID-19 positive
* Been on a cruise or traveled internationally in the past 14 days

For employees that are unable to work, their return to work is also strictly controlled by the facility. In the event an employee is restricted from work due to the onset of COVID-19 symptoms, they are not permitted to return to work until 7 days from symptom onset and only after they have been symptom free without the use of medications for at least 3 days. **[Company name]** continually monitors CDC guidelines in all respects with respect to work and return to work protocols and will make adjustments to its protocols should the CDC alter its guidance.

***Inadequate screening of employees, residents, and visitors.***

The complaint alleges that **[Company name]** is not adequately screening employees, residents, and visitors for COVID-19. In fact, **[Company name]** has screened everyone entering the facility including employees, residents, and others. This screening requires the completion of a questionnaire about whether the individual has been in contact with someone with COVID-19 and whether they are having any symptoms of COVID-19. Additionally, **[Company name]** is conducting temperature checks.

***Inadequate cleaning.***

The complaint alleges that **[Company name]** is not adequately cleaning the facility given the COVID-19 outbreak. This is untrue. **[Company name]** has increased its cleaning protocols, particularly in community areas. Each community area is wiped down, including all tables and chairs, on a regular basis. The facility follows CDC recommendations regarding appropriate cleaners to use for COVID-19 and appropriate protective equipment for those who are performing the cleaning, including gloves and gowns.