

The Latest Legal Updates on COVID-19

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OSHA & Workers' Compensation

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DISCLAIMER

The information contained in these slides and covered in this presentation is for informational purposes only. It is not legal advice.

Each employer's situation presents unique issues and business considerations. You should consult legal counsel in advance on decisions specific to your business that are being made during this time.

OSHA IMPLICATIONS

- COVID-19 falls under the general duty clause
- General duty claim
 - Employers are required to provide their employees with a place of employment free of recognized hazards that are causing or likely to cause death or serious physical harm

OSHA GUIDANCE DOCUMENTS

- OSHA recommendations:
 - Promote frequent and thorough hand washing
 - Stay home if you are sick
 - Encourage respirator etiquette
 - Provide employees with tissues and trash receptacles
 - Explore the use of flexible worksites
 - Discourage employees from using other people's property and equipment

OSHA GUIDANCE DOCUMENTS

- OSHA recommendations (cont'd):
 - Maintain regular housekeeping practices
 - Avoid touching face
 - Assess hazards
 - Evaluate risk of exposure
 - Develop preventative measures such as barriers, etc.

OSHA RISK CATEGORIES

1. Lower risk

- Monitor public health information; nothing else recommended

2. Medium risk

- Consider making some changes such as restricting public access, limit face to face contacts, and make medical screening available

OSHA RISK CATEGORIES

3. High risk

- See below

4. Very high risk

- There are more considerations including engineering controls, administrative controls, monitoring medical and stress inducing conditions, education, and PPE

These are all recommendations.

OSHA

- OSHA Recordkeeping Considerations
- Workers' Compensation Issues

QUESTIONS AFTER TODAY?

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Pulling Double Duty

- Answering common labor and employment questions
- Providing legal updates in the process:
 - New federal leave law under the Coronavirus Response Act
 - Applying sick and return to work policies
 - Taking temperatures, doctor's notes, etc.
 - Government issued restrictions
 - State unemployment law (OH)
 - And more...

THE QUESTIONS

**Do current government restrictions
prevent your business from staying
open?**

THE QUESTIONS

**How does the federal Families First
Coronavirus Response Act apply to
you?**

More on the FFCRA...

- Effective April 2
- Employers with <500 employees
- Most relevant to you:
 - Emergency Paid Sick Leave Act
 - Expanded Family & Medical Leave Act
- Those employed as of effective date may be eligible for leave, and employers cannot fail to pay or retaliate against those who take it

More on the FFCRA...

- Emergency Paid Sick Leave Act
 - 80 hours for full-time employees who cannot work or telework
 - Part-time employees prorated
 - Available immediately if employee falls under 1 of 6 categories
 - Employers cannot make employees use other paid leave first
 - There are daily and total caps on pay

More on the FFCRA...

- Categories for Paid Sick Leave eligibility
 1. Employee subject to govt quarantine or isolation order related to COVID-19
 2. Employee advised by healthcare provider to self-quarantine
 3. Employee experiencing COVID-19 and seeking medical diagnosis
 4. Employee caring for individual in #1 or #2
 5. Employee caring for his/her child if school or place of care is closed or childcare provider is unavailable due to COVID-19 precautions
 6. Other govt specified substantially similar condition

More on the FFCRA...

- Categories for Paid Sick Leave eligibility
 1. Paid at employee's regular rate of pay and capped at \$511 per day and \$5,110 total
 2. (Same as #1)
 3. (Same as #1)
 4. Paid at 2/3 the employee's regular rate and capped at \$200 per day and \$2,000 total
 5. (Same as #4)
 6. (Same as #4)

More on the FFCRA...

- Expanded Family & Medical Leave Act
 - After 30 days of employment, up to 12 weeks of leave for one reason:
 - Employee unable to work or telework due to need to care for employee's child if school or place of care is closed or childcare provider is unavailable due to COVID-19 public health emergency declared by govt authority
 - First 10 days unpaid
 - Remaining leave paid at 2/3 employee's rate; capped at \$200/day, \$10,000 total

More on the FFCRA...

Multi-Employer Bargaining Provisions

More on the FFCRA...

- Potential relief for the smallest of employers
 - Secretary of Labor given power to exempt businesses with fewer than 50 employees
- Tax credits provided
 - Against employer's portion of social security taxes
 - Refund potentially issued if overpayment by employer of its portion of SS taxes

THE QUESTIONS

Are you required to take employees' temperatures before letting them come to work?

Are you allowed to do it?

THE QUESTIONS

Can you send home employees who come to work displaying signs of illness?

THE QUESTIONS

What questions can you ask employees who report feeling ill at work or who call in sick?

THE QUESTIONS

Can you require employees to get tested for COVID-19?

THE QUESTIONS

Can you tell sick employees to stay home, and to not return to work unless they can provide a doctor's note confirming they are not contagious?

THE QUESTIONS

What information can you disclose to other employees if one of your workers has a confirmed case of COVID-19?

THE QUESTIONS

Can you fire someone who has a confirmed case of COVID-19?

THE QUESTIONS

Do you have to excuse an employee who calls off work to self-quarantine or to practice social distancing, if the employee does not have symptoms or previous known exposure to COVID-19?

THE QUESTIONS

**Are you required to let people work
from home?**

THE QUESTIONS

Are there long-term consequences to allowing employees to work from home during this time?

THE QUESTIONS

If you reduce the work hours of employees, do they have to be paid their full wages?

THE QUESTIONS

What questions can you ask of applicants and temporary workers related to COVID-19?

THE QUESTIONS

If you decide or are required to close or lay off employees for COVID-19 reasons, are you required to give advance notice?

THE QUESTIONS

Can you impose travel restrictions on your employees?

THE QUESTIONS

(Ohio)

Will employees be eligible for unemployment benefits in Ohio if you close or lay off employees due to COVID-19?

THE QUESTIONS

Are employees eligible for short-term disability benefits?

QUESTIONS AFTER TODAY?

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ADDITIONAL QUESTIONS FROM ATTENDEES...