



Taming the COVID-19 Chaos: What Employers Need to Know PART 6: Bringing Employees Back to Work

Webinar Attendees:

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1



Today's Presenters:



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2

2



Taming the COVID-19 Chaos—Part 6: Bringing Employees Back to Work

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Labor & Employment Practice Group
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3



Agenda for Today – Bringing Employees Back to Work

- Workplace and schedule modifications
- Medical screenings
- Offers of reemployment
- What to do if an employee gets sick
- Legal issues – FFCRA, FMLA, ADA, and W&H

4

4



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Start planning now for when employees return to work

5



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Workplace and Schedule Modifications

- Social distancing is here to stay, at least in the short-term
- Workplace modifications
 - Layout of workspaces
 - Where are employees sitting or standing?
 - Plexiglass and dividers
 - One-way aisles
- Schedule modifications
 - Staggered shifts and/or breaks
 - Flexible work hours
 - Shorter shifts

6

6

Workplace Modifications— Other Things to Consider

- Limit or prohibit visitors
- Virtual meetings
- Telework arrangements, on either a full- or part-time basis
- Pooling or adjusting task assignments to limit the number of employees who have to be onsite
- Require frequent handwashing
- Require face coverings and/or gloves
- Provide return to work training on hygiene and respiratory etiquette (+ no handshakes or hugs)
- Continued communication and posting of workplace notices

7

7

Medical Screenings?

- Temperature checks
- Ask about symptoms (fever, dry cough, shortness of breath)
- Ask about exposure to others who may have been exposed
- Require social activity questionnaires
- Exclude employees from work if they are showing symptoms
- Medical information needs to be kept confidential
- Consider if you want to require a medical release before the employee returns

8

8



Offering to bring laid off employees back

9



Offers of Reemployment

- Furloughed employees should be given an offer of reemployment, including:
 - Return to work date
 - Position and job duties
 - Supervisor
 - Exempt/non-exempt status
 - Rate of pay
 - Work schedule

10

10

Offers of Reemployment – Other Things to Include

- Will PTO/vacation/sick leave banks be reinstated or start at zero?
- Seniority considerations
- Explain what the company will be doing to keep employees safe and healthy
- At-will employment, expected to continue to comply with employment policies
- Give employee an opportunity to reach out privately with questions
- Emphasize that employment will be terminated if offer of reemployment is not accepted

11

11

Legal issues in the COVID-19 workplace

12

What to Do if an Employee Gets Sick

- Send employee home immediately
- Ask employee to provide you with list of other employees with whom employee has recently been in close contact
- Ask employee to notify you if he or she gets tested
- Notify other employees that someone they work with may have been exposed
- Provide reassurance about steps you are taking to keep the workplace safe
- Privacy concerns – do not disclose employee's identity

13

13

Leave Requests

- FMLA or state family medical leave
 - Does a COVID-19 diagnosis count as a SHC?
 - Temporary OFLA extension for school/ daycare closures
 - How does a temporary furlough or layoff affect the eligibility requirements?
- FFCRA (emergency paid sick leave and paid family leave) – in effect through December 31, 2020

14

14

ADA Accommodations

- Threshold questions: Is the employee or applicant a qualified individual with a disability?
Are you on notice?
- Potential ADA scenarios:
 - Requests for workplace modifications or to work from home
 - Being too scared or anxious to come to work
 - Inability to wear face coverings or PPE
 - Additional accommodations for employees who are considered to be at “high risk” if they contract COVID-19

15

15

Wage and Hour Issues

- Time spent waiting for temperature checks
- Time spent donning and doffing face coverings or other PPE (or getting fitted)
- Time spent training on appropriate hygiene and social distancing practices
- Telework and remote work issues

16

16

Questions?



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