


Human Resources Considerations during the COVID-19 Pandemic

Community Immunity Series Session #2


For New Castle-Henry County Chamber of Commerce
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Items We Will Cover

- General HR concerns
- Responsibilities under OSHA's General Duty Clause
- Families First Coronavirus Response Act (FFCRA)
- Coronavirus Aid, Relief and Economic Security Act (CARES)
- Unemployment (specific to Indiana)
- Employer Financial Assistance
- Employee Benefit Provisions
- Tips to keep your workforce engaged




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General HR Concerns

Wage and Hour Laws – nothing has changed!

- Exempt – must pay for entire week if any work is performed
- Nonexempt – must pay for all hours worked – track the time spent working at home!
- Reclassifying employees
- Changing job duties



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General HR Concerns

Discrimination

- When deciding which employees to lay off, furlough, reduce hours, be aware of potential discrimination
- Employees at high risk for COVID-19 could be protected under Americans with Disabilities Act (ADA)

Don't Retaliate!



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OSHA Concerns

General Duty Clause

Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees



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OSHA Concerns

- Cleaning/hygiene
- OSHA Recordkeeping
- Working from home
- Temperature checks
- Respirators/masks
- Can employees refuse to work?



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Families First Coronavirus Response Act (FFCRA)

- Effective April 1 – December 30, 2020
- Applies to schools, governmental employers of any size, and private employers with **less than 500 employees**
- Damages and penalties for noncompliance and unlawful discharge, discipline, or discrimination



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FFCRA - EFMLA

Expanded Family and Medical Leave Act

- Provides for leave if the employee has a minor child whose school or daycare closes because of COVID-19 or if the child's normal, paid care provider is unavailable because of COVID-19; as a result of this, the employee cannot work or telework because they need to care for the child.
- Allows a total of 12 weeks
 - First 2 weeks are unpaid
 - Weeks 3-12 are paid at 2/3s the regular rate of pay



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FFCRA - EPSL

Emergency Paid Sick Leave

- Provides for leave for the following circumstances:
 - State or local quarantine or isolation order (COVID-19)
 - Self-quarantine at healthcare provider's advice
 - Experiencing symptoms and seeking medical diagnosis
 - Caring for individual subject to a quarantine/isolation order
- Allows for two weeks of paid leave at 100%
 - 80 hours for full-time
 - Two-week average for part-time



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FFCRA – EPSL, cont.

- Emergency Paid Sick Leave
 - Also provides for leave for the following circumstances:
 - Caring for a son or daughter whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19
 - Allows for two weeks of paid leave at 2/3s the regular rate of pay
 - 80 hours for full-time
 - Two-week average for part-time



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Reimbursement Tax Credit

- You can be reimbursed through a tax credit for:
 - All of the wages you pay under FFCRA
 - The costs to maintain health insurance coverage for employees during period of leave
- Claiming the credit
 - Quarterly 941, or
 - Retain funds you would normally pay in payroll taxes
 - If this is not sufficient to cover the costs, you can receive a direct advance payment by filing IRS Form 7200



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Small Employer Exemption

- Employers with fewer than 50 employees can claim an exemption from only the child care portion of the act if an authorized officer of the business determines that any of the following is true:
 - If providing leave would result in expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity.
 - The absence of the employees would cause a substantial risk because of their specialized skills, business knowledge, or responsibilities.
 - Allowing leave would leave the business with an insufficient number of workers needed to operate at a minimal capacity.
- Retain documentation at your place of business to substantiate. Do not send to the Dept. of Labor



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EMPLOYEE RIGHTS
PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA) or Act requires certain employers to provide their employees with paid sick and family and medical leave, and extend the family and medical leave provisions related to COVID-19.

PAID LEAVE ENTITLEMENTS
Employees are entitled to either the following periods of leave:
 • Up to one week (56 hours) of a certain employer's two-week requirement (paid sick leave based on the higher of their regular rate of pay or the applicable state or Federal minimum wage rate), or
 • 100% for qualifying reason #1's below, up to 80% days, and 80,000 hours, and
 • 100% for qualifying reason #2's below, up to 80% days, and 80,000 hours, and
 • Up to 12 weeks of paid sick leave, not required family and medical leave paid at full qualifying reason #1's below, up to 80% days, and 80,000 hours.

ELIGIBLE EMPLOYEES
All public employees of private sector employers with fewer than 500 employees, and certain public sector employees, are eligible for leave under the Act. Employees are eligible for leave under the Act if they are:
 • Employed by a covered employer for at least 30 days prior to the leave taken under the Act for up to an additional 12 weeks of qualifying leave and applicable family and medical leave for leave for certain reasons.

QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19
Employees are eligible for leave under the Act for the following reasons:
 1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
 2. Has been advised by a health care provider to self-quarantine related to COVID-19.
 3. Is experiencing COVID-19 symptoms and is seeking medical diagnosis.
 4. Is caring for an individual subject to an order described in (1) or (2) above, or is described in (3).
 5. Is caring for his or her child whose school or place of care is closed (or their child's care is unavailable) due to COVID-19-related reasons, or
 6. Is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

ENFORCEMENT
The U.S. Department of Labor (DOL) and the EEOC have the authority to investigate and enforce compliance with the FFCRA. Employees who are discharged, discriminated, or otherwise mistreated against any provision who may file a charge or complaint with the EEOC. Employees in violation of the FFCRA will be subject to criminal penalties under the FFCRA. Employees in violation of the FFCRA will be subject to civil penalties as provided in the Act. Employees in violation of the provisions of the FFCRA will be subject to criminal and civil penalties as provided in the Act.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR
800-457-9242
1-800-847-7687
EEOC
800-368-1099

• https://www.dol.gov/sites/dolgov/files/WH1422_Non-Federal.pdf

• Free to download

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Coronavirus Aid, Relief, and Economic Security (CARES) Act Provisions

- Unemployment Expansion
- Employer Retention Credit
- Deferral of Payroll Tax Deposits
- Paycheck Protection Program
- Retirement Plan Provisions
- Student Loan Garnishments
- OTC purchases on FSAs and HRAs

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Unemployment Expansion

- Added 13 weeks of unemployment if COVID-19 related
- Additional \$600/week payment for eligible workers from March 29 – July 31, 2020
- Waives waiting week for COVID-19 purposes
- Will not affect employer's UI rate

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Employer Financial Assistance

- Employer Retention Credit
 - Refundable credit against employer portion of Social Security tax (6.2%)
 - Private employers that experience COVID-19-related partial or total interruptions to business due to orders from an appropriate governmental authority but continue to pay employees during the interruption; and whose gross receipts decline by 50% compared to the same quarter in the previous calendar year.
 - Equal to 50% of qualified wages (capped at \$5,000 per employee)



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Employer Financial Assistance

- Delay of payment of payroll taxes
 - Allowed to defer payment of employer social security amounts on tax deposits between 3/27 and 12/31
 - Repayment is in 2 installments:
 - 50% by 12/31/2021
 - 50% by 12/31/2022
- Paycheck Protection Program
 - Small business loan – 1% interest
 - Forgivable if current levels of staffing and wages are maintained



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Retirement Plan Provisions

- Increased access to retirement plan funds
 - “Coronavirus-related distribution” of up to \$100K
 - Available to individual who is diagnosed with COVID-19, or whose spouse or dependent is diagnosed, and who experiences adverse financial consequences . . .
 - Not subject to 10% early withdrawal penalth
 - Repay over 3-year period
- Increased access to loans



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Employer-Provided Student Loan Assistance

- Permits employers to pay principal or interest on any qualified education loan (to employee or directly to lender)
 - Tax free to employee
 - Maximum of \$5,250 and must be paid between March 27 and December 31
- Suspension of Student Loan Garnishment Collections



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Health Care Benefit Provisions

Over the counter drugs and medicines are now eligible for reimbursement from HSAs and FSAs

- Applies to amounts paid or expenses incurred after December 31, 2019 and until December 31, 2020
- Must change plan documents and distribute to employees



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Tips for Engaging Your Workforce

- Communicate!
- Make sure they have the tools and supplies they need to get their work done.
- Set clear expectations, but be flexible when needed
- Encourage collaboration with other co-workers.
- Work/life balance
- Allow for socializing at the beginning of online meetings



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Tips for Engaging Your Workforce

- Use collaborative technology if available (Asana, Slack)
- Provide training on how to telework effectively and set up a home office
- Make sure employees have access to your Employee Assistance Program (EAP) or other benefit programs
- Model best practices



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Thank you!

Questions?



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Sources:

- www.us.gov/agencies/dol
- www.irs.gov
- www.xperthr.com
- <https://ogletree.com/coronavirus-covid-19-resource-center/>