## Human Resources Considerations during the COVID-19 Pandemic

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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

### **General HR Concerns**

Discrimination

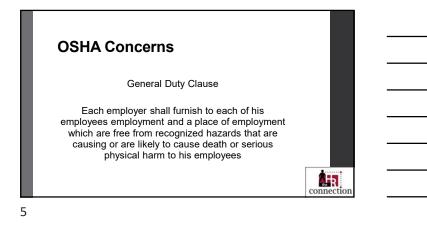
 When deciding which employees to lay off, furlough, reduce hours, be aware of potential discrimination

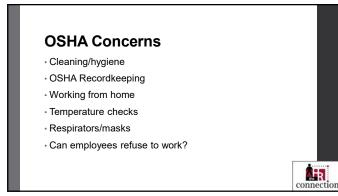
 Employees at high risk for COVID-19 could be protected under Americans with Disabilities Act (ADA)

Don't Retaliate!

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#### 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

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 Damages and penalties for noncompliance and unlawful discharge, discipline, or discrimination

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#### FFCRA - EFMLA

Expanded Family and Medical Leave Act

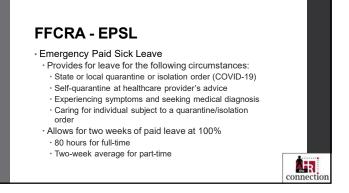
 Provides for leave if the employee has a minor child whose school or daycare closes because of COVID-19 or if the child's normal, paid care provider is unavailable because of COVID-19; as a result of this, the employee cannot work or telework because they need to care for the child.

· 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, 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 <u>only the child care portion</u> 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.

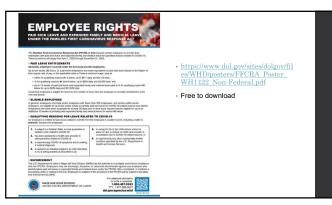
  - The absence of the employees would cause a substantial risk because of their specialized skills, business knowledge, or responsibilities.
  - Allowing leave would leave the business with an insufficient number of workers needed to operate at a minimal capacity.

Retain documentation at your place of business to substantiate. Do not send to the Dept. of Labor

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# 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



### **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





