

# COVID-19: Handbooks & Paid Leave

March 27, 2020



Dominion Payroll™  
*Empowering Your Business*



# COVID-19 Planning

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- Employers need to plan!
- Lack of continuity plan can result in a cascade of challenges for employers
- Employers should identify risk levels in their workplace settings and to determine appropriate control measures to implement
- Workplace concerns include health and safety, leaves of absence, discrimination and travel.



# COVID-19 Planning

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- Four Things Employers Can Do

1. Keep informed of facts and recommended practices as advised by CDC, World Health Organization (WHO), applicable state specific health sites, local government and occupational health consultants.
2. Understand potential legal issues
3. Consider business risk and make business decisions with respect to legal obligations and within the context of information available at the time.
4. Update Handbook and Paid Leave Policies



# Legal Risks

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- Occupational Safety and Health (OSH) Act
  - General Duty Clause
  - Personal Protective Equipment (PPE)
  - Civil courts may look to determine if an employer followed the general duty clause and was not negligent in it and was not negligent in its protection of employees
  - Retaliation
- EEOC
  - Potential Discrimination Issues may arise



# Legal Risks

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- FMLA/FFMLA
- Leave and Sick Pay Issues
- FLSA/DOL Wage and Hour Implications
- ADA
- HIPPA



# HR Policies and Procedures in a Pandemic

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- Determine if workplace policies need to temporarily modified or created due to current environment
  - Identify the policies
  - Develop timeline for the change
  - Assure the changes are applied consistently and are not discriminatory



# HR Policies and Procedures in a Pandemic

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- Flexible attendance policies
  - Don't require doctors' notes
  - Don't track absences towards discipline
  - Plan for family members illnesses



# HR Policies and Procedures in a Pandemic

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- Incubation Period Leave Policy
  - Follow CDC guidelines
- Families First Coronavirus Response Act (FFCRA or Act)
  - Goes into effect on 4/1
  - Extension of Family Medical Leave Act
  - Poster is out and needs to be up by 4/1 or distributed to all employees
  - For further information recorded webinar on Dominion site





# 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 leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
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# HR Policies and Procedures in a Pandemic

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- Telecommuting Policy

- Work schedule and expectations
- Timekeeping
- Safety
- Understand that the policies and procedures relating to legal compliance, safety, and ethics obligations remain in full force and effect while off-site.
- Responsible for any Company equipment used off-site.
- Maintain your work files in a safe and secure environment.
- Workers' compensation
- Maintain a work environment that is free from distractions
- Other (Insurance, no other business, zoning laws for employees)



# HR Policies and Procedures in a Pandemic

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- Workplace Distancing
  - Face-to-face meetings
  - Video or Telephone conferencing
  - E-mail
  - Minimize the meeting time and larger meeting spaces
  - Cancel or postpone nonessential meetings, gatherings, workshops and training sessions.
  - Do not congregate in offices, break room, copier
  - Flexible or rotating work schedules
  - Outside visitor policy



# HR Policies and Procedures in a Pandemic

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- Travel policy
  - All nonessential travel
  - Business related travel outside the United States
  
- Self Reporting of Exposure



# HR Policies and Procedures in a Pandemic

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- Hygiene and Infection Control
  - Promote frequent and thorough hand washing
  - Mandate workers to stay home if they are sick.
  - Encourage respiratory etiquette, including covering coughs and sneezes.
  - Discourage employees from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
  - Develop mandatory workspace cleanliness and routine cleaning policy. Including disinfecting of surfaces, equipment, and other elements of the work environment.



# Paid Time Off Programs

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- Vacation
  - No federal or state law requires
  - Use-it-or-lose-it vacation policies- some states expressly prohibit.
  - Payment of unused vacation on termination. State laws vary whether unused vacation must be paid



# Paid Time Off Programs

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- Sick/Personal Time
  - Doesn't have to be paid to the employee upon termination.
- Paid Time Off (PTO)
  - Growing number of organizations have moved to PTO
  - Incorporates all policies into one all inclusive plan.
- It's important for an employer to be clear on their PTO policy while staying within the law



# Paid Time Off Programs

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- Paid Time Off

- Pros

- Employees appreciate the flexibility PTO plans provide.
- Employees are more honest about need for time off
- Less to track for employees and employer
- Employers typically receive more notice about scheduled vacations and can plan for adequate coverage.

- Cons

- Employees will most likely use their PTO whereas personal and/or sick days may be left unused.
- Employees tend to save all their PTO for vacations and come to work when they're sick
- In some states unused PTO must be paid to the employee upon termination





# HR Policies and Procedures in a Pandemic

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- This is unprecedented and we are navigating through uncharted territories
- Be flexible, understand the situation is constantly changing so you must adapt policies accordingly
- Apply consistently to avoid discrimination
- Support your employees!



# Upcoming Webinars

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All held at 11:00 AM EDT

**Monday:** Legislative Update: CARES Act and FFCRA

**Tuesday:** Town Hall Q&A

**Wednesday:** Unemployment Benefits

**Thursday:** Town Hall Q&A

**Friday:** Legislative Update: CARES Act and FFCRA



# Questions? *We're here to help!*

*View webinar schedule, daily updates, templates, & resources at:*

<https://empower.dominionpayroll.com/covid-19updates>

*Email us at:*

[questions@dominionpayroll.com](mailto:questions@dominionpayroll.com)

