

## Employers Must Update Employee Handbooks due to COVID-19

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As a result of the COVID-19 pandemic, the landscape of the workplace has changed and there are state and federal laws that impose new obligations on all employers. Do you have policies and procedures in place to adapt to the modified workplace and comply with the new laws and regulations? Are you equipped to monitor **teleworking** and **staggered work schedules**? Are you familiar with **all** the laws that are potentially implicated if employees need time off for themselves or to care for a family member due to COVID-19?

While some changes to employer handbooks may be temporary to alleviate immediate issues caused by COVID-19, some changes may become permanent - the new normal. We are now faced with a new reality, where the way we operate in the office may change radically. Employers need to stay ahead of these policy changes, and be aware that you may have to update your handbook on a more regular basis. The below details some handbook updates that should be considered both for the short and long-term.

### **Time and Attendance**

During these unprecedented times, employers should develop comprehensive [work-from-home policies](#) and consider modifying their **attendance** and **work schedule policies**. These policies should carefully articulate the times and days employees are expected to report to the workplace or work from home; the circumstances when an employee may be permitted to work from home; the approval process; and employee obligations to ensure their productivity. Employers may also want to develop a strict **overtime policy** to prohibit nonexempt and hourly employees from performing any tasks outside of their normal working hours (including reading and responding to emails), without prior approval. In addition, attendance policies should be modified to include **screening procedures** in attempt to maintain a safe work environment and reporting procedures so that employers can maintain a record of who is in the workplace at any given point in time for **contact tracing** purposes.

### **Technology and Confidentiality**

Employers may also want to review their **technology policies** to ensure adequate procedures are in place to safeguard confidential and proprietary business information. The Company's policies should also reserve the employer's right to **access the use of all devices** utilized to perform company business and/or communicate with clients and vendors, including employees' personal devices.

### **Vacation and Sick Policies**

In light of the new legal mandates providing time off to employees for numerous protected reasons, employers should implement policies and procedures to administer these new benefits and protections. Employers may also want to modify their **paid time off** policies to have a policy for **paid sick time off** that is separate from **vacation** and **personal time off** so that they are not bound by the use restrictions imposed by state and local paid sick time laws.

As a result of health and safety concerns pertaining to travel, employers should follow CDC guidelines relating to travel and may require employees to provide notice and obtain approval before finalizing travel plans. Employers may require employees to self-quarantine for a period of time following a vacation.

### **Facilities Policy**

We recommend employers develop protocols to maintain a safe workplace. For example, employers should implement clear policies and procedures for the use of all common areas, including conference rooms, kitchens, bathrooms and supply closets. Similarly, procedures should be established for the use of Company equipment, including coffee machines, water coolers, telephones, photocopiers and postal machines.

### **Visitors Policy**

All employers should develop a visitor policy that requires advance notice, pre-screening protocols and restrictions on where visitors may go in the workplace. It may also be advisable to limit the number of visitors to the workplace and encourage teleconferencing for meetings when it is practical.

### **Hygiene and Dress Code**

Employers may want to consider establishing express hygiene requirements for all employees and visitors. These requirements may include wearing masks, gloves, cleaning workstations, working with office doors closed, hand-washing and the use of hand sanitizer. We recommend posting notices around the office and in restrooms reminding employees about the employer's hygiene expectations.

### **Travel and Expense Reimbursement**

Employers should amend their travel policy to discourage non-essential business travel and to require prior-approval for any business trips. In addition, travel policies should restrict travel to locations that are considered high-risk based on CDC guidelines and may restrict the duration of trips, the number of employees that attend a single event, and the activities employees may participate in while on a business trip. Employers may also want to modify their expense reimbursement policy to include supplies for employees working remotely as well as personal protective equipment ("PPE") and commuting expenses to avoid the use of public transportation.

### **Leaves of Absence for Protected Reasons**

Employers will need to develop policies to address the numerous changes to laws that provide **leave to employees that are unable to work for protected reasons**. The policies should educate employees about their rights as well as the eligibility requirements. In addition, employees must be notified of the notification protocol should they be unable to work due to their own serious health condition or the need to care for a family member. Human Resources representatives with knowledge of the various laws should be involved in these processes. Employers should implement procedures to protect the confidentiality of health information that may be shared by employees.

The following is a non-exhaustive list of some of the new laws as well as modifications to existing laws that employers should address in their handbooks.

### **Family Leave Insurance Benefits Law**

**Starting July 1, 2020**, New Jersey's Family Leave Insurance Benefits Law will impose significant new obligations on all employers. Employees will be eligible for Family Leave Benefits for up to twelve weeks of benefits (or 56 days of intermittent benefits) for protected reasons. Eligible employees will also be able to receive 85% of the weekly wages up to \$881 per week. The updates to FLI also prohibit employers from discriminating, harassing or retaliating against an employee for exercising [their right to receive these benefits](#). Moreover, benefits are available to employees for expanded COVID-19 qualifying reasons.

### **New Jersey Family Leave Act**

The [New Jersey Family Leave Act \(NJFLA\)](#), which applies to employers with 30 or more employees, was recently expanded to include protections for certain absences related to COVID-19. Specifically, eligible employees may qualify for up to 12 weeks of leave in a 24-month period for leaves of absences related to school or daycare closures caused by COVID-19 or to care for family members who must quarantine because of a communicable disease, such as COVID-19.

### **The Families First Coronavirus Response Act (“FFCRA”)**

As of April 1, 2020, employers with fewer than 500 employees are required to provide paid leave benefits to certain employees for reasons related to COVID-19. [FFCRA expands the federal Family and Medical Leave Act](#) to provide for 12 weeks of protected leave for an employee that is unable to work (or telework) due to a need for leave to care for the employee's child, if the school or place of care has been closed, or the child care provider is unavailable due to a COVID-19-related public health emergency. **FFCRA also provides** eligible employees with 10 days of **Emergency Paid Sick Leave** if they are unable to work for certain delineated COVID-19 related reasons.

### **New York Paid Sick Leave**

[New York State passed legislation](#) that provides certain employees with additional time off relating to COVID-19. In particular, if an employee is issued a mandatory or precautionary order to quarantine by the State of New York, the State or local health department or any other

authorized governmental entity, he or she is eligible for job-protected time off. Employees are entitled to sick leave for the duration of the order to quarantine or self-isolate. During any unpaid portion of leave, employees may be eligible for **New York State paid family leave** or **disability benefits**. The amount of paid time off depends on the size and/or income of the employer.

**We are available to help employers develop policies and procedures to address the ever changing workplace landscape and to comply with the new and modified leave laws.**