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Mandating COVID-19 Vaccinations: Considerations for Employers

With multiple COVID-19 vaccines now approved, employers – which typically tread lightly when it comes to questions of employee health – will begin grappling with the question of whether to require employees to receive a vaccination. It will no doubt surprise many that employers typically can require employees to be vaccinated and to provide proof of that vaccination.



However, employers must not use a one-size-fits-all approach; if they are not careful in how they implement such a mandate, employers may subject themselves to claims of discrimination on the bases of disability, religion, or genetic information, to name a few.

COVID-19 Vaccine

Contact us today to discuss the legal considerations that your organization should keep in mind as vaccinations become more readily available in the coming months.

Families First Paid Leave Requirement Now Voluntary

The Families First Coronavirus Response Act (“FFCRA”) dominated HR decision making for many employers during the final nine months of 2020, requiring paid leave in a variety of circumstances where employees or their families members were affected by COVID-19. Click [here](#) or on the image to the left for a refresher of its particular provisions.

Importantly, this paid leave requirement was only mandatory through December 31, 2020. However, in its flurry of year-end activity,

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;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅓ 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:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;	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
2. has been advised by a health care provider to self-quarantine related to COVID-19;	6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;	
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);	

ENFORCEMENT
The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.

For additional information or to file a complaint:
1-866-487-9243
 TTY: 1-877-889-5627
dol.gov/agencies/whd

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



Congress authorized a voluntary extension through the end of the first quarter of 2021. As a result, employers may, but are not required to, offer paid leave consistent with the FFCRA through March 31, 2021. Those who do so will receive the tax credit that has been available up to this point. Employers will not be penalized if they choose not to comply.

Employers should note that this extension does not provide additional leave to employees: if an employee has already exhausted his or her leave, he or she is not entitled to more hours of paid leave, and employers will not receive a credit for any wages for leave beyond that covered under the FFCRA.

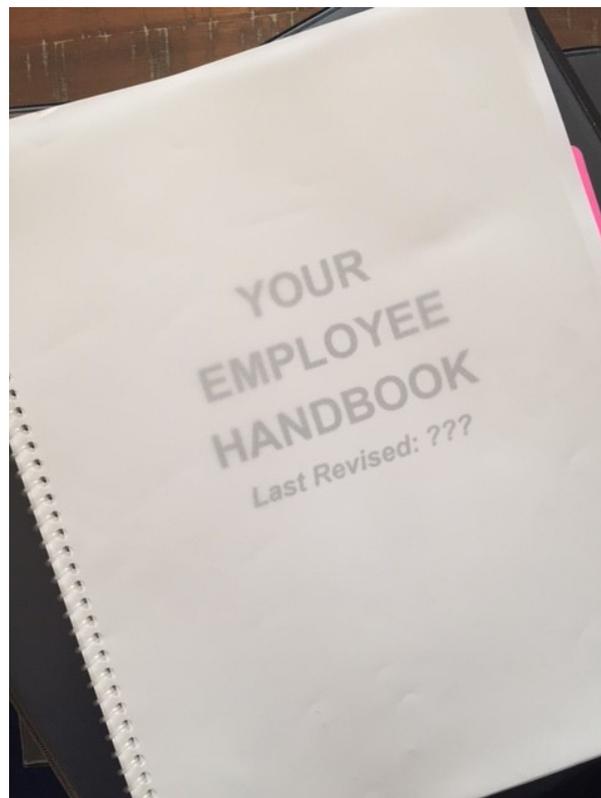
Curious whether your organization should voluntarily extend FFCRA leave during Q1 of 2021? **Email us today to start that conversation.**

ICYMI: Important Employment Law Changes from 2020

With everything else going on in 2020, you may have easily missed a number of key changes, at both the state and federal level, relating to the employer-employee relationship.

From a broadening of employment discrimination categories to prohibitions on non-competition agreements for lower-wage employees to a staggered increase in the minimum wage that begins this May, employers must be up to speed on these new requirements.

Our attorneys can help your organization stay in compliance. Whether it's reviewing which requirements are applicable based on your organization's size, updating your employee handbook to encompass critical updates, or making appropriate contract modifications moving forward, we have the experience to help protect your organization. Call or **email us** today.



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