Coping with COVID-19/Coronavirus

HR Tips & Techniques Webinar | March 30, 2020
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With more than 25 years of professional experience, Christie specializes in leadership development, talent management and business performance using science and the Predictive Index suite of tools to help clients overcome their most challenging human capital and hiring dilemmas. Christie has extensive experience a human resources leader, non-profit executive, executive coach and business consultant, and supports organizations through significant change implementation and coaches for successful execution and sustainability.

As Founder and Principal of CCK Consulting LLC, Christie provides consultative and resource services to meet the transformational needs of non-profit organizations and leaders. CCK Consulting services typically include a combination of consultative, advisory, and interim resources to promote, foster and deliver mission-critical services to meet the needs of underserved communities and vulnerable populations. Christie specializes in Human Resources, Executive Succession Strategies (Leadership & Board); Strategic Vision and Organizational Design and Board, Volunteer and Staff Coaching, Training & Development.

Early Release – HR Advising/Consultancy during COVID-19/Coronavirus Crisis

We are pleased to provide early access to a new HR based program currently in development through generous support of The Heinz Endowments and The Forbes Funds and specifically created for small to mid-size nonprofits.

tHRive – People Practices for Non-Profits, is designed to elevate the human resources and people-centric practices (employees, volunteers and board) within nonprofits to enhance organizational capacity and community impact.

Submit requests for topics/best practices to: Covid-19@thrivehr.work
• Non-Profit Overview
• New Regulations: FFCRA
• Workforce Planning - Work Continuation & Disruption Scenarios
• Engaging, Protecting & Communicating with Employees: Working with Disruption
• Questions
Non-Profit Overview
NP Overview

Planning → Adapting → Adjusting → Emerging
Board Governance Practices:
• Crisis Response Committee – authorized to make decisions on behalf of the organization. (resolution)
• Signing Authorization. (resolution)
• Quorum. (resolution)
• Boardsource Blog

Volunteers: Guidelines and Procedures
• Waiver
• COVID-19 Guidelines
• See attached samples

Staff: Workforce Planning (Next Section)
New Regulations:
Families First Coronavirus Response Act (FFCRA)
Applies to private sector & governmental entities employing fewer than 500 employees (employers with fewer than 50 employees do not have traditional FMLA exemptions)

• Requires employers to provide emergency paid sick and family leave.
• **Link:** Department of Labor | FFCRA Employer Paid Leave
• Requires all group health plans to cover COVID-19 testing without employee cost-sharing.
• Employers will be provided refundable tax credits against their employer portion of Social Security taxes for 100% of the qualified sick leave and family leave wages paid in accordance with the Act.
• Enhanced Unemployment Benefits
• **Link:** FFCRA Legislation
• **Link:** PA Office of Unemployment Compensation
Eligibility of new paid leave under FFCRA

1. Eligible employers must provide two weeks (up to 80 hours) of paid sick leave at 100 percent of an employee's pay if the employee is unable to work because he or she is quarantined or experiencing symptoms associated with COVID-19 and seeking a medical diagnosis.

2. Eligible employers must provide two weeks (up to 80 hours) of paid sick leave at two-thirds of an employee's pay if he or she is unable to work because of a need to care for someone subject to quarantine, if he or she must be absent to care for a child whose school is closed or whose child care provider is unavailable for reasons related to COVID-19, or if the employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services.

3. In certain circumstances, employees who are unable to work because of a need to care for a child whose school is closed or whose childcare provider is unavailable may receive up to an additional 10 weeks of paid leave at two-thirds of the employee’s pay.

4. Employers are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed or for whom childcare is unavailable if the viability of the business would be threatened by doing so.

Resources

FFCRA - Employer-Paid-Leave

FFCRA - Questions
FFCRA – Impact?

FFCRA (Effective April 1 - December 31, 2020)
What: Paid Sick Leave
Who: Employees | On-site or Remote

Key Provisions:
• No length of service requirement.
• Full-time employees receive up to 80 hours; part-time employees are eligible for the number of hours of leave that the employee works on average over a two-week period.
• For those sick, the benefit is capped at $511 per day; for those caring for other the benefit is capped at $200 per day.
• This emergency leave is in addition to what employers already offer; employees cannot be forced to take other sick leave prior to taking leave under this emergency paid sick leave benefit.
• Notice of benefit (provided by 3/25) must be shared with employee: DOL Employee Rights Poster

Tax Credits available for this new paid emergency leave
FFCRA – Impact?

FFCRA (Effective April 1 - December 31, 2020)
What: Paid FAMILY Leave
Who: Employees | On-site or Remote

Key Provisions:
• Employees must be employed at least 30 days to be eligible.
• Provides job protection and up to 12 weeks of paid leave for any employee with a COVID-19 qualifying event who cannot work or telework due childcare availability as the Act stipulates.
• Leave will be paid at 2/3 of employee’s regular rate of pay.
• Up to the first 10 days of leave can be unpaid, leave payments are capped at $200/day.
• First responders or healthcare workers are not required to provide this leave.
FFCRA – Leave Practices

Employee Request
- Written request by employee – name, qualifying reason (per the ACT), cannot work including remote, length of time requested for leave
- Supporting documentation – source of quarantine order, name of health care provider, notice of school closure (website announcement acceptable) FFCRA poster to employer to ensure they are aware of all
- Documentation of FFCRA leave – while there is no formal requirement to provide a written confirmation, it is best practice to document to ensure clear understanding. It should include date of leave, salary continuation amount, return to work considerations, as well as overview of program. (suggest attaching poster pdf).
- Note to employer - will need to maintain this documentation to request payroll tax credit
- If an employee requests time off that does not qualify under FFCRA, the request should be treated as an unpaid leave request. While there are not any current DOL rules on this, a DOL representative said “Given the lack of certainty in existing employment laws as applied to COVID-19, employers should take caution before terminating or otherwise disciplining an employee for refusing to perform work that could expose the employee to COVID-19”.

Return to Work
- Employer is permitted to require a doctor’s note, a medical examination, or a time period during which the employee has been symptom free, before it allows the employee to return to work.

While Employee is Out on Leave
- Salary continuation per DOL guidelines
- Healthcare insurance continuation
- Note that both types of FFCRA leave include salary continuation
- No work conversations during leave to ensure employee eligibility for paid leave is not jeopardized
Administrative steps to ensure Leave Programs are recorded and compensated appropriately.

- Create new earnings/pay codes in your payroll system.
- Provide method to track payments made to employees under each FFCRA benefit.
- Provide method to exclude the 6.2% OASDI (Social Security) employer tax obligation on FFCRA benefit payments.
- Accumulators on codes could help track maximum FFCRA benefit payment allowed.
- If your organization does not create new codes, alternate means will be needed to accurately process FFCRA benefit payments.

- Determine method by which your organization will track FFCRA benefits.
- Does your organization have time & resources to configure these benefits in your HRMS/Payroll system?
- If not, which method will your organization use as a solution for this need (e.g. Excel spreadsheets, etc.)?
- Determine how your employees will request FFCRA benefits.
- Can these new benefits be integrated in your current process or will you need to create a new process?

Review new CARES Act: Payroll Loans and Loans to overcome loss in revenue: CARES Act
New Versus Existing Regulations:

- FFCRA
- CORONAVIRUS Health Guidelines
- Emergency Closures

ADA – American’s with Disabilities Act
OSHA – Workplace Safety
EEOC – Equal Employment Opportunity Commission
FLSA – Fair Labor Standards Act
FMLA – Family Medical Leave Act
ERISA – Employee Retirement Income Security Act
Worker’s Comp Insurance
HIPAA – Healthcare Information Portability and Accountability Act

- Title VII, ADA, ADEA, EPA, Lilly Ledbetter Fair Pay Act and GINA are federal laws that protect employees from discrimination, harassment and retaliation.
- These laws prohibit employers with at least 15 employees (20 for the ADEA), including employment agencies and unions, from discriminating in employment based on race, color, religion, sex (including gender identity, pregnancy and sexual orientation), national origin, disability, age or genetic information.
- They also prohibit retaliation against people who complain of discrimination or participate in an EEO investigation. These federal laws help create a workplace where employees are treated with respect and dignity.
Workforce Planning
Workforce Scenarios

Scenario #1
Work Continuation
Employees continue to perform regular work functions from now through June 2020 (or foreseeable future).

Scenario #2
Work Continuation
Employees continue to perform regular work functions but operate REMOTELY / WORK FROM HOME from now through June 2020 (or foreseeable future).

Scenario #3
Work Disruption
Employer is unable to provide continuation of work from now through June 2020 (or foreseeable future) for the organization, programs within the organization, and positions within the organization.

Scenario #4
Work Disruption
Employer is unable to provide continuation of work from now through June 2020 and does not believe the organization can continue.
Scenario #1:

Employees continue to **perform regular work functions** from now through June 2020 (or foreseeable future).

- Has employee schedule changed? Has pay changed?
- Reduction in hours/pay may create eligibility for Unemployment Benefits. Non-exempt employees still have meal/break period requirements.
- Review ERISA for full time employee; review ADA and EEOC to ensure you are not unfairly treating employee; review FLSA to ensure you are meeting minimum pay requirements.
- Review and document reasons for rate/hours reduction. Formalize the expectations of work during this period. How will performance be evaluated?
- Ensure all employee health protection protocols and supplies are in place and ensure compliance to health practices by all on site- employees, volunteers, board members and vendors.

**Question:**

*What do you do if you think an employee has COVID-19 or believe that employee should be self quarantining due to exposure?*

*What do you do if an employee refuses to come to work?*
Scenario # 2:

Employees continue to perform regular work functions but operate REMOTELY/WORK FROM HOME from now through June 2020 (or foreseeable future).

- Has employee schedule changed? Does employee have equipment/access to perform work requirements (Ensure telecommute/remote agreement is in place)
- Has pay changed?
- Reduction in hours/pay may create eligibility for Unemployment Benefits. Non-exempt employees still have meal/break period requirements.- even when they work remotely.
- Review ERISA for full time employee; review ADA and EEOC to ensure you are not unfairly treating employee; review FLSA to ensure you are meeting minimum pay requirements.
- Review and document reasons for rate/hours reduction. Ensure you are clear if virtual meetings are required and etiquette.
- Formalize the expectations of work during this period. How will performance be evaluated?

Question:

What do you do if you think an employee is not fulfilling the work requirement/obligation?
Scenario # 3:

Employer is unable to provide continuation of work from now through June 2020 (or foreseeable future) for the organization, programs within the organization, and positions within the organization.

- Consider lay off or temporary lay off options. Lay off is permanent. Temporary lay off is with intent to recall. Under Temporary layoff option, employers are now able to cover premium costs during April 1 - July. COBRA would be issued afterwards if there is a continuation of the layoff period. Check with your benefit carrier/broker for your plan specifications.
- Consider “how to” best practice communication for remote workers. (see tHRive tip sheet on Slide 23)
- Formalize the expectations of work during any period of work up to the separation date.
- Determine the pay arrangement for the person identified as the organizational representative during temporary layoff period.

Question:

How do you communicate a layoff with remote employees?

What do you do if an employee is on paid sick leave and you have to layoff?
**Scenario # 4:**

Employer is unable to provide continuation of work from now through June 2020 and does not believe the organization can continue.

Requires complex legal, financial, HR planning.

Advise tHRive if this is your projected situation for confidential consultation re: needed services, expertise.

Email us: covid-19@thrivehr.work
Engaging, Protecting & Communicating with Employees: Working With Disruption
1. Set clear and simple expectations for personal accountabilities, virtual meetings and electronic communication.

2. Be mindful - awareness of the emotional state of employees is the only way to keep trust intact.

3. Create a boundary between work and leisure - don't work from the couch!

4. Create a work routine - structure provides a great psychological comfort blanket. Designate a work end time.

5. Practice balance - Take breaks and build physical activity into your day.

Stay in touch without crossing boundaries. Add a personal touch to your emails; check on employees who live alone; send a note of encouragement to someone struggling. Recognize grief as we move through this crisis.
How can we reassure employees?

- Communicate Frequently
- Provide Information
- Empathize & Listen
- Make it easy for sick or exposed employees to stay home – best to make sure to reach out to doctors/telemedicine where possible
- Remind Employees About Available Benefits
- Be Generous Where Possible
- Be Creative
- Discussion - tips & techniques for supervision, maintaining focus
The key to all successful team work is effective communication and this is even more important when team members are working remotely.

Your team will be relying on some form of electronic communication the following rules should be considered:

• Be clear about who is in charge of the meeting.
• Whenever possible, circulate the agenda in advance.
• Be mindful of your surroundings during group meetings.
• Listen actively. Do not multi-task.
• Make sure everyone has the opportunity to contribute.
• Periodically, take a moment for a process check to make sure everyone is on the same page.
• If you are at all unsure about a proposed action point, seek clarification.
• When action items are delegated, get a verbal commitment from those charged with taking action that they fully understand and agree with what is required of them.
Coping with Coronavirus/COVID-19 Webinar or general HR Questions?

Email us: covid-19@thrivehr.work