

What to Do When Your Employees Are Scared to Come to Work?

Labor & Employment Law Update

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For the first few months of 2020, we watched COVID-19 spreading in other countries as if it were some sort of science experiment that would never reach the U.S. Now, with reported cases in 50 states and confirmed community spread in numerous locations throughout the U.S., we frighteningly watch the numbers increase. But how do we deal with our fears? Is fear a reason not to come to work when your job simply does not otherwise allow you to work from home? It's important for employers to be the voice of reason amidst the panic and not feel bad for doing so.

Business needs to be able to survive this temporary era of self-isolation and sheltering in place in order for the economy to rebound when this passes. This interest is a critical one and can't be entirely disregarded when balancing the need to slow the spread of COVID-19 and flatten the curve.

In fact, the CDC recognizes the need to balance these interests in, "15 Days to Slow the Spread:"

Work or engage in schooling FROM HOME whenever possible.

IF YOU WORK IN A CRITICAL INFRASTRUCTURE INDUSTRY, as defined by the Department of Homeland Security, such as health care services, and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule. You and your employers should follow CDC guidance to protect your health at work.

In other words, while we need to make every effort to distance, quarantine and disinfect during this period, each individual also has a social responsibility to help make sure the economy is not completely shut down and people are taken care of. It's also imperative for the industries supporting those specifically mentioned by the CDC as "critical infrastructure" such as banking, shipping, etc. to continue operations at some level. Some positions just aren't capable of being done from home.

To clarify, employers should be flexible with sick leave policies. After all, in order to make sure business can continue to operate, we need to make sure essential workplaces remain safe. This means erring on the side of caution when someone

feels ill. Being flexible with your sick leave policy does *not* translate to making the time available for any reason at all. ***The new paid leave act only references certain reasons and specific employers that are required to offer paid leave. If an employee simply does not want to come in (and is not otherwise able to telecommute), they are not entitled to paid time off nor provided with job security if they make that choice.***

This is not to say that employees braving the front lines and recognizing their social responsibility and the need to continue to report to work should not be rewarded. There are numerous ways to recognize the challenges your employees are facing, and it's important to do so during this difficult time. For more information on how to structure additional payments in the most advantageous way for tax purposes see our previous post, "Tax Breaks for Qualified Disaster Relief Payments to Employees."

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