



# The COVID-19 Pandemic: Labor & Employment Consideration for Reopening the Workspace

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# May an employer require disclosure of an illness?

- Americans with Disabilities Act (ADA) *typically* restricts disability-related inquiries and medical examinations during employment
- EEOC guidance on mandatory health screening
  - Temperature Screening, Testing, Health Questionnaires
- Pitfalls Remain:
  - Discrimination
  - Confidentiality
  - Wage & Hour Laws
- Practical Considerations

# Employers must comply with OSHA requirements

- Occupational Safety and Health Administration
- Enforcement continues under existing standards
- Traditional Controls to Workplace Safety Applied to Pandemic Environment
- Enforcement of Workplace Safety Whistleblower Rules
- Plan to Avoid Inspections, Citations, and Monetary Penalties
  - Identify Risks
  - Comply with OSHA and Federal, State, and Local Orders
  - Communication with workforce is key

# What to do about teleworking employees?

- Implement telecommuting agreement or policy
- Extra steps to protect confidential information
- Timekeeping procedures for non-exempt staff
- Keep employees engaged through assistive technology
- Beware of the reasonable accommodation / ADA issue
- Make consistent decisions about who can and cannot telework

## Additional Risks

- Labor Unions
- Take Home Toxic Tort Liability

# What are the new federal leave laws?

- Employers with fewer than 500 employees
- Two buckets of leave
  - Emergency Family Medical Leave
  - Emergency Paid Sick Leave
- Dollar-for-dollar tax credits
- Potential exemptions for employers with fewer than 50 employees
- Reinstatement and anti-retaliation rights for employees who take leave
- Supplements existing leave benefits
- Expires December 31, 2020

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# Questions?

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