



## Managing the COVID-19-Era Workplace: Back-to-School Challenges

Presented by:

Karen O'Connor, Caroline Livett and Rachel Herrington  
Labor and Employment Practice Group  
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### Today's Presenters:



**Karen O'Connor**  
Partner  
503.294.9291  
karen.oconnor@stoel.com



**Caroline Livett**  
Attorney  
503.294.9222  
caroline.livett@stoel.com



**Rachel Herrington**  
Attorney  
206.386.7511  
rachel.herrington@stoel.com



## Today's Agenda: Back-to-School Challenges in the COVID-19 Era

- Current CDC and state guidance
- FFCRA + what to do about childcare
- Other protected leave
- Ongoing work-from-home considerations
- Questions



## Current CDC and State Guidance: What's New for the Fall?

## Evolving CDC Guidance: Current CDC Guidance Regarding Return to Work

- Close contact with individual with COVID-19: stay at home for 14 days after last exposure
  - Close contact = <6 feet social distance for at least 15 minutes (w/o regard to use of face coverings)
- COVID-19 symptoms (fever, cough, shortness of breath, etc.): may return to work after
  - (1) 10 days since symptoms first appeared,
  - (2) 24 hours with no fever without the use of fever-reducing medication, and
  - (3) other symptoms have improved
- CDC is no longer recommending a test-based strategy.

## State Guidance – Oregon What's New for the Fall?

- Counties are all in either Phase I or Phase II, does not appear that will be entering Phase III anytime soon
- Statewide face covering requirement
  - <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/e2288K.pdf>
  - All businesses and persons responsible for an indoor or outdoor space open to the public must require employees to wear a face covering except when employee does not interact with the public and at least six feet of social distance can be maintained.
  - Employers must make face coverings available for employee use.
  - August 13: Requirement extended to public and private offices, including in hallways, bathrooms, elevators, lobbies, and breakrooms.

## State Guidance – Washington What's New for the Fall?

- **Statewide face covering requirement**
  - <https://www.governor.wa.gov/news-media/inslee-announces-statewide-mask-mandate>
  - Anyone in a public space must wear face coverings. Individuals may remove face coverings while eating or drinking at a restaurant.
  - Employers must provide personal protective equipment and supplies to employees.
- **Phased reopening**
  - Most counties are in Phase 2 or 3 of reopening. King County and Clark County are in Phase 2. Yakima, Franklin, Douglas, Chelan, and Benton Counties are in modified Phase 1.

## State Guidance – Washington What's New for the Fall?

- **Gatherings**
  - Phase 2 limited to 5 or fewer; Phase 3 limited to 10 or fewer. Different restrictions for weddings and funerals.
- **On July 29, Governor Inslee extended protections for high-risk workers through the duration of the state of emergency.**
  - Includes employees 65+, employees whose conditions fall under CDC's "at increased risk" category, and, in certain circumstances, employees whose conditions fall under CDC's "might be at increased risk" category



# FFCRA + What to Do About Childcare: What to Know for the Fall



## FFCRA: Things to Know for the Fall

- Emergency Paid Sick Leave (80 hours)
- Emergency Paid Family Leave (12 weeks)
  - School is considered “closed” if physical location is closed, even if child is attending school online or through another form of distance learning
- Rules regarding intermittent use
- Potential limits to “health care provider” exemption
  - NY District Court case
  - Colorado law

## It's Your Turn: Kevin

Kevin and his wife work full time and have two children, ages 6 and 8. Kevin just learned that his children's school will be closed for in-person instruction through the end of 2020. He already exhausted his 12 weeks of FFCRA leave, has worked remotely all summer, and now wants to take every Monday and Wednesday off for the rest of the year so he can teach his kids.

**POLL: Do we have to give Kevin the time off?**

## Other Protections for Employees Who Need Leave Due to Childcare?

Dear Karen, Rachel, and Caroline,

We are not subject to FFCRA because we have 500+ employees and/or because we are a health care provider that decided to opt out from FFCRA.

Are there any other federal or state leave protections or accommodations that we must provide to employees who need to be at home with their children to help them with online learning?



## What Are Other Employers Doing for Employees Who Need Leave Due to Childcare?

Dear Karen, Rachel, and Caroline,

What are some of the best practices you have seen from companies that want to support parents who have children attending school remotely?

**We want to hear from you! What have you seen or heard about?**

**(Please use the Event Chat)**



## More on Kevin

Dear Karen, Rachel, and Caroline,

We decided not to give Kevin Mondays and Wednesdays off work entirely and are instead allowing him to work from home those days. Kevin's performance so far has been poor. What is the risk (reputation-wise or legal, if any) for holding parents of young children accountable for poor performance while they are simultaneously trying to manage their child's education?



# Other Forms of Protected Leave: What to Know for the Fall



## Other Protected Leave?

- Oregon Family Leave Act
  - Sick child leave – expansion to school closures
- FMLA
  - Is COVID-19 a “serious health condition”?
- Washington Paid Family Medical Leave
- Washington Executive Order re High Risk Individuals
- State sick leave
- Leave as an ADA accommodation
- Personal leave



## It's Your Turn: Abigail

Abigail is 61 years old and suffers from asthma, both of which put her at higher risk for complications if she were to contract COVID-19. She is unable to telework in her position and has exhausted all available FFCRA leave. Concerned about her own safety, Abigail has requested a personal leave of absence until there is a COVID-19 vaccine.

**POLL: Is it okay to provide Abigail with personal leave?**

**POLL: If we provide Abigail with a personal leave, do we have to provide personal leave to Anna, who is 28 and very healthy but is scared to return to work?**

## More on Abigail

Abigail did not request personal leave. We are concerned about Abigail's safety and want to protect her from COVID-19 exposure, and we would like to require Abigail to stay home on a leave of absence. Abigail has exhausted her FFCRA leave and would be allowed to use her accrued sick and vacation during her time off.

**POLL: Is it okay to require Abigail to take leave during the pandemic?**



## Ongoing Work from Home Considerations: Who Thought We'd Still Be Working from Home in the Fall?!



### Wage & Hour Laws Still Apply

- If not already enforcing W&H policies for employees who are working from home, need to start doing so
- Meal and rest break requirements
- Accurate timekeeping
- Set a good example by limiting meetings and email communications to “normal” business hours

## Employee Equipment Requests: What Do We Do?

It looks like our employees are going to continue working from home for at least the next couple months. Some employees are starting to request that we purchase new equipment for their home office, such as desks, chairs, and computer monitors.

**POLL: Do we have to provide employees with home office equipment?**

**POLL: What about helping employees with their increased utility bills?**

## Questions?



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