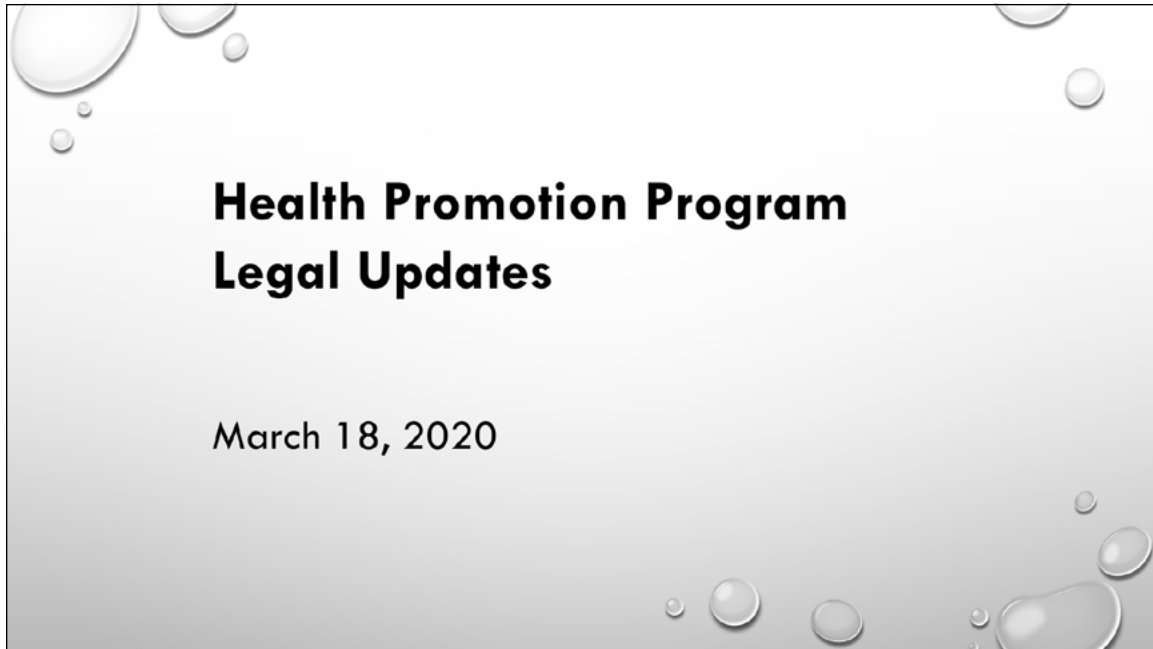


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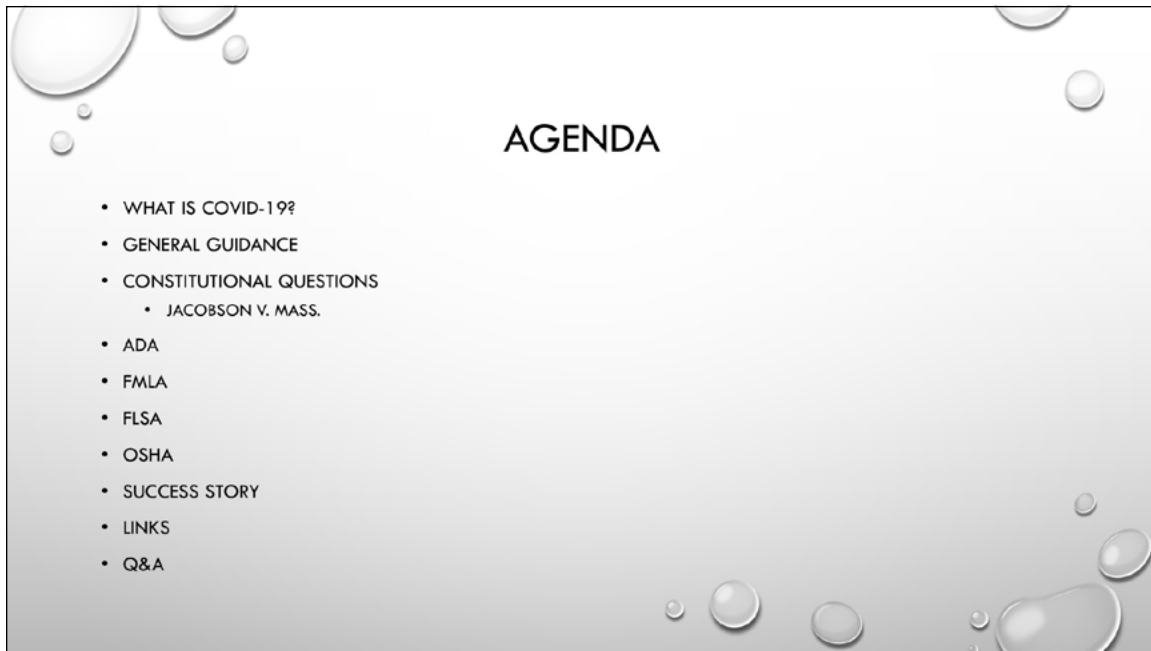
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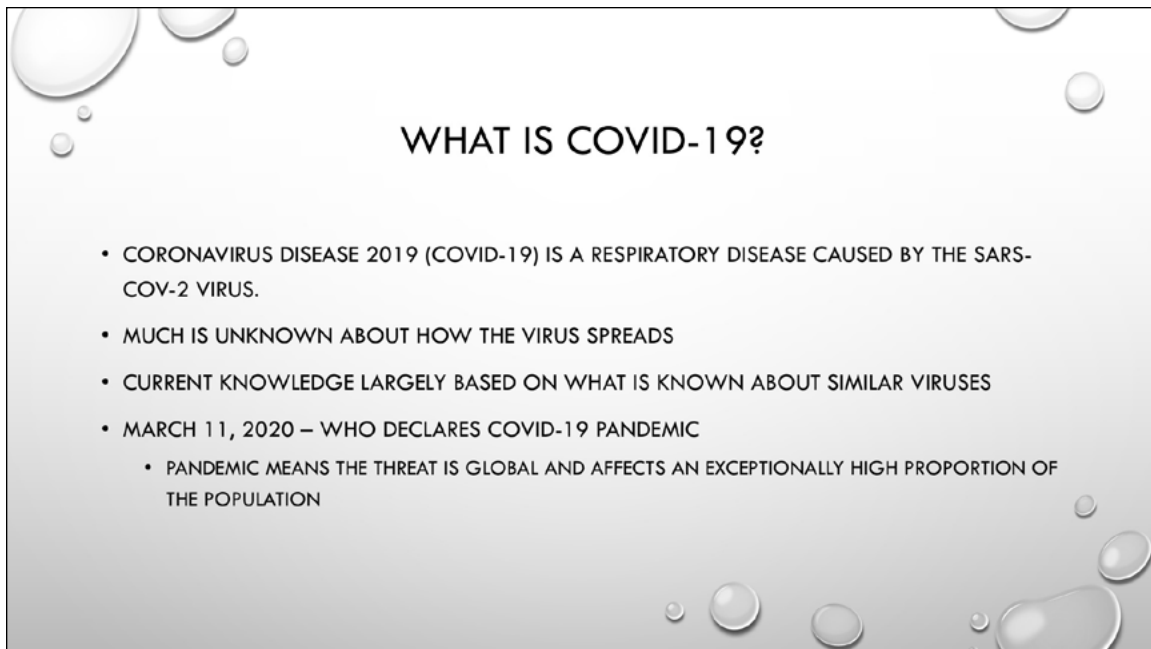
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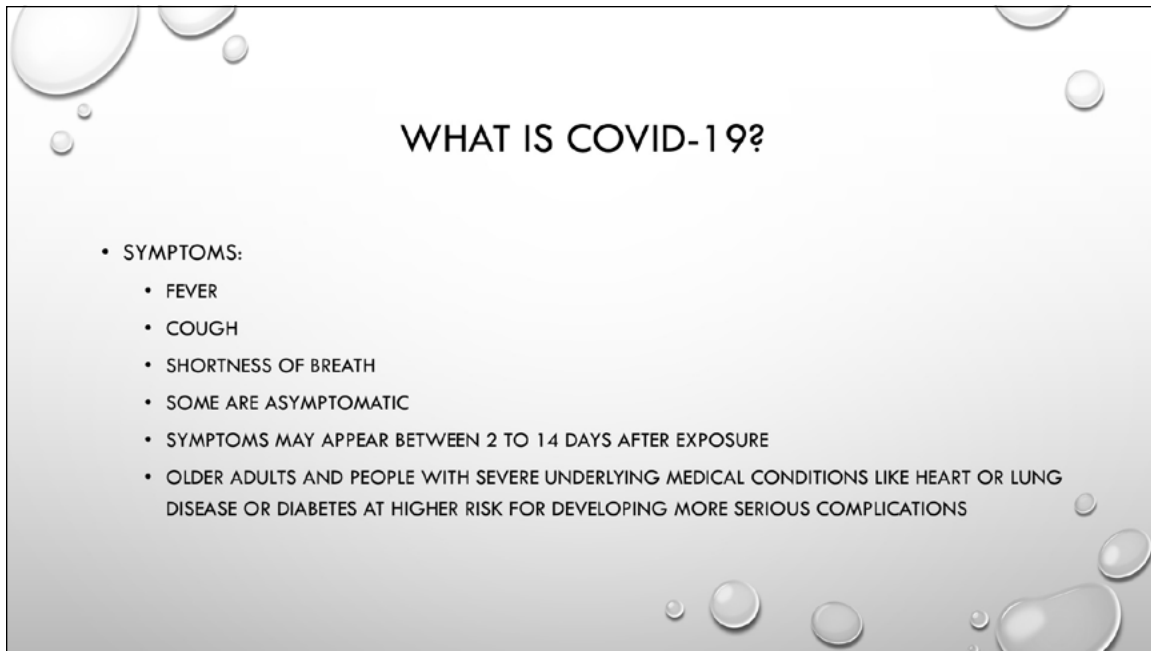
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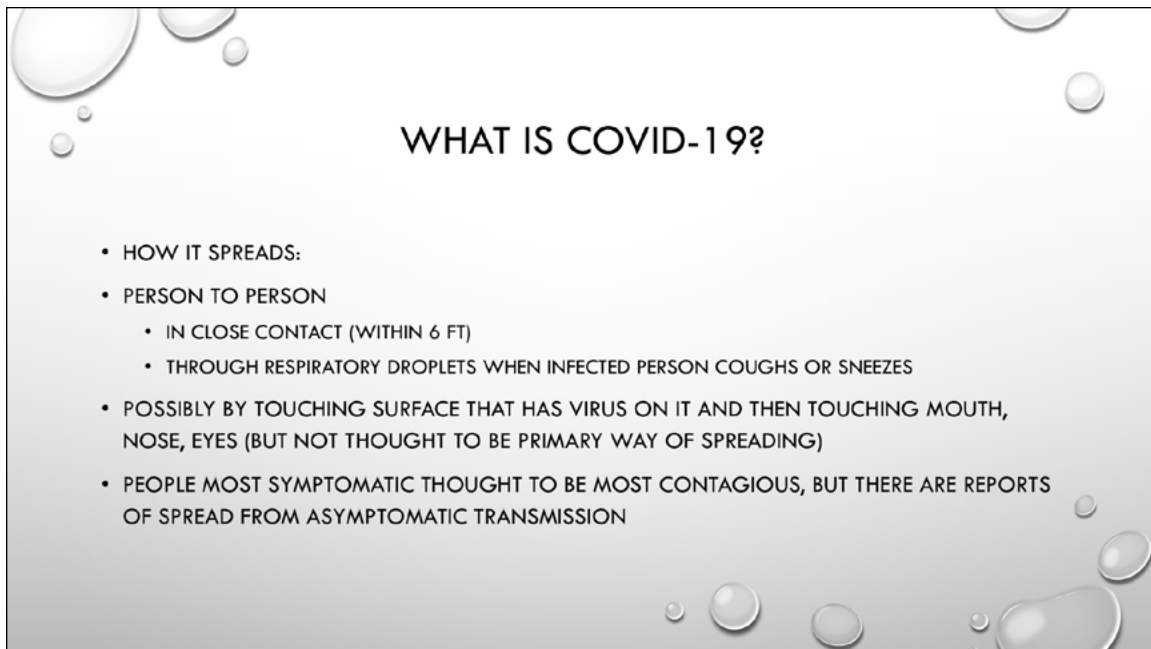
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WHAT IS COVID-19?

- SYMPTOMS:
 - FEVER
 - COUGH
 - SHORTNESS OF BREATH
 - SOME ARE ASYMPTOMATIC
 - SYMPTOMS MAY APPEAR BETWEEN 2 TO 14 DAYS AFTER EXPOSURE
 - OLDER ADULTS AND PEOPLE WITH SEVERE UNDERLYING MEDICAL CONDITIONS LIKE HEART OR LUNG DISEASE OR DIABETES AT HIGHER RISK FOR DEVELOPING MORE SERIOUS COMPLICATIONS

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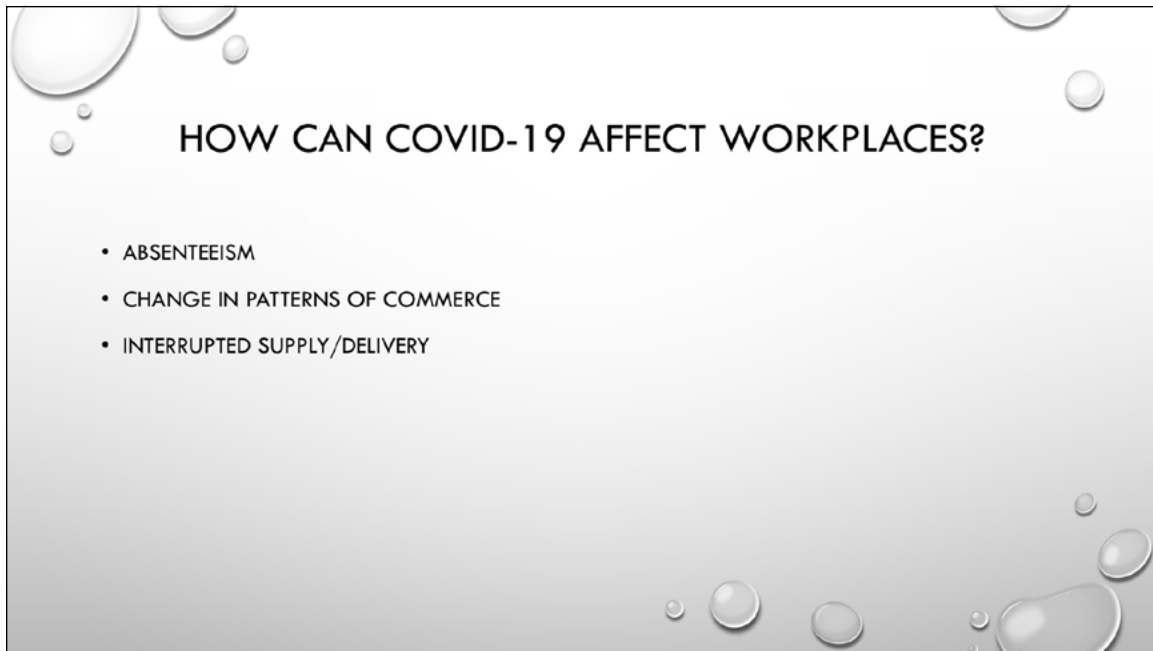
WHAT IS COVID-19?

- HOW IT SPREADS:
 - PERSON TO PERSON
 - IN CLOSE CONTACT (WITHIN 6 FT)
 - THROUGH RESPIRATORY DROPLETS WHEN INFECTED PERSON COUGHS OR SNEEZES
 - POSSIBLY BY TOUCHING SURFACE THAT HAS VIRUS ON IT AND THEN TOUCHING MOUTH, NOSE, EYES (BUT NOT THOUGHT TO BE PRIMARY WAY OF SPREADING)
 - PEOPLE MOST SYMPTOMATIC THOUGHT TO BE MOST CONTAGIOUS, BUT THERE ARE REPORTS OF SPREAD FROM ASYMPTOMATIC TRANSMISSION

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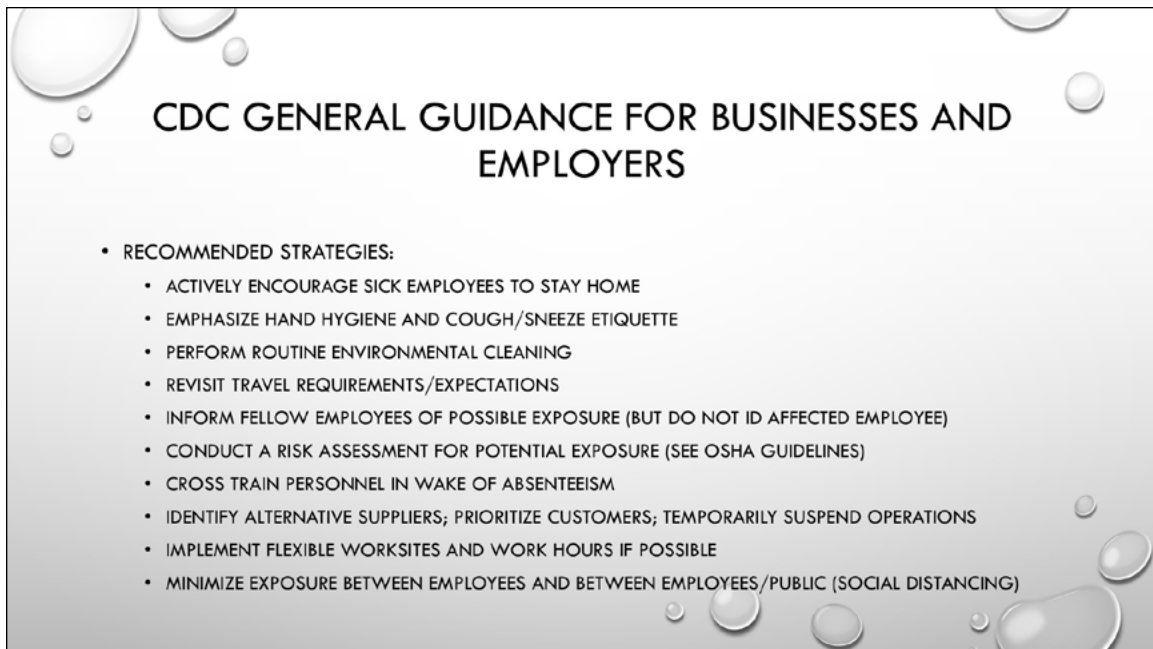
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HOW CAN COVID-19 AFFECT WORKPLACES?

- ABSENTEEISM
- CHANGE IN PATTERNS OF COMMERCE
- INTERRUPTED SUPPLY/DELIVERY

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CDC GENERAL GUIDANCE FOR BUSINESSES AND EMPLOYERS

- RECOMMENDED STRATEGIES:
 - ACTIVELY ENCOURAGE SICK EMPLOYEES TO STAY HOME
 - EMPHASIZE HAND HYGIENE AND COUGH/SNEEZE ETIQUETTE
 - PERFORM ROUTINE ENVIRONMENTAL CLEANING
 - REVISIT TRAVEL REQUIREMENTS/EXPECTATIONS
 - INFORM FELLOW EMPLOYEES OF POSSIBLE EXPOSURE (BUT DO NOT ID AFFECTED EMPLOYEE)
 - CONDUCT A RISK ASSESSMENT FOR POTENTIAL EXPOSURE (SEE OSHA GUIDELINES)
 - CROSS TRAIN PERSONNEL IN WAKE OF ABSENTEEISM
 - IDENTIFY ALTERNATIVE SUPPLIERS; PRIORITIZE CUSTOMERS; TEMPORARILY SUSPEND OPERATIONS
 - IMPLEMENT FLEXIBLE WORKSITES AND WORK HOURS IF POSSIBLE
 - MINIMIZE EXPOSURE BETWEEN EMPLOYEES AND BETWEEN EMPLOYEES/PUBLIC (SOCIAL DISTANCING)

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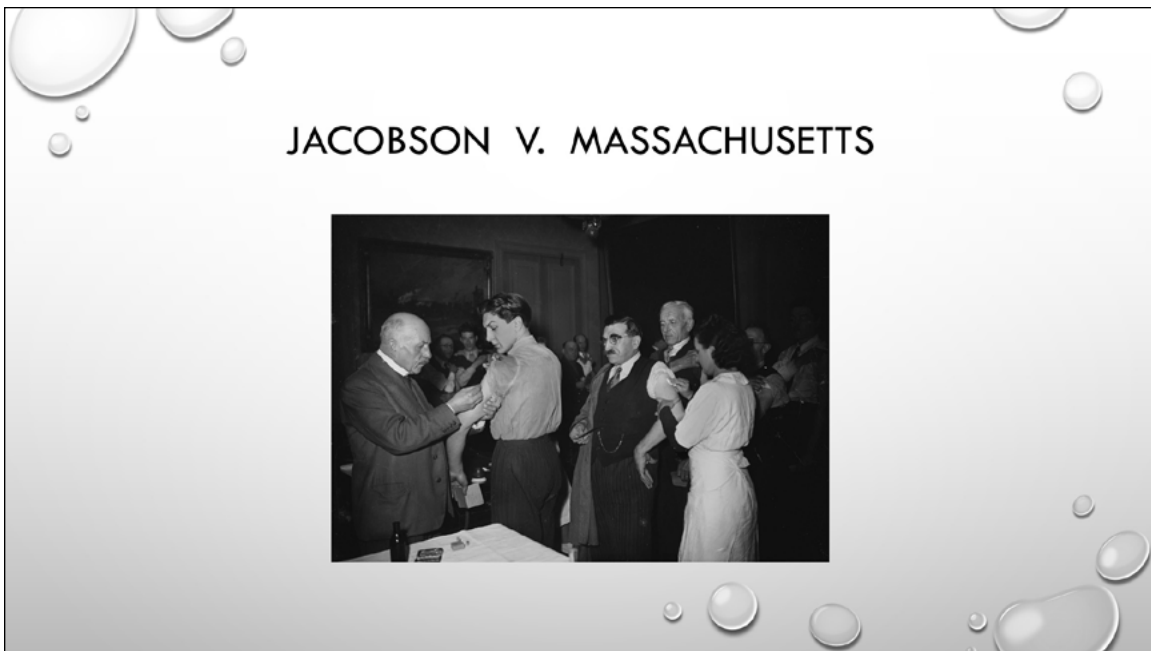
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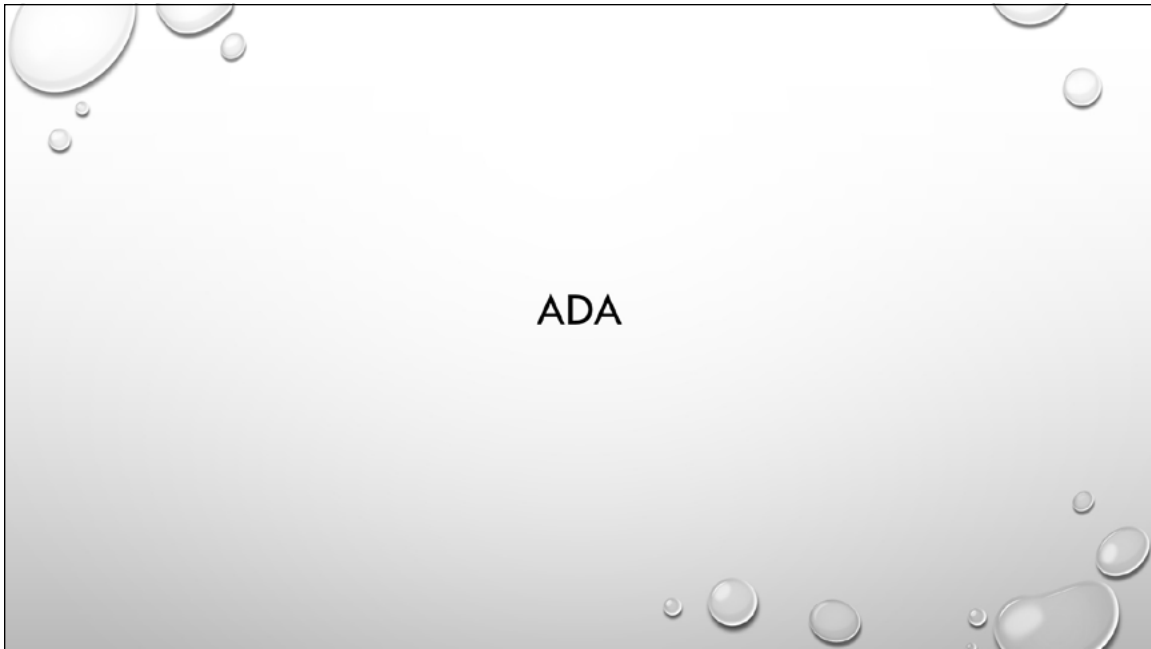


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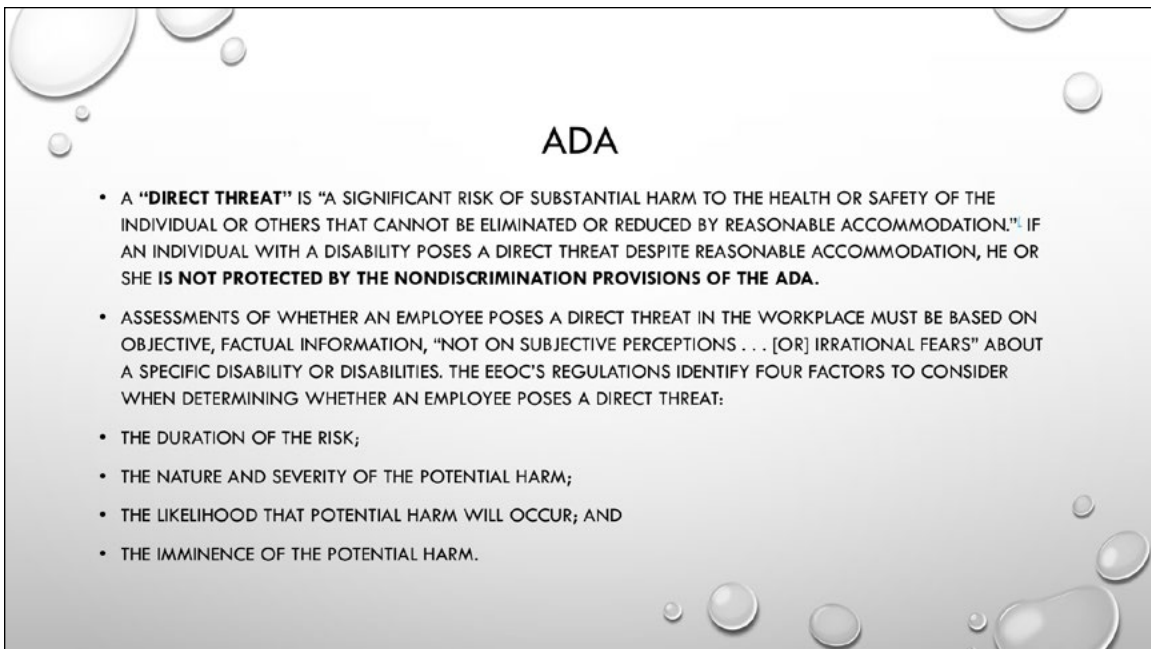
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- A **"DIRECT THREAT"** IS "A SIGNIFICANT RISK OF SUBSTANTIAL HARM TO THE HEALTH OR SAFETY OF THE INDIVIDUAL OR OTHERS THAT CANNOT BE ELIMINATED OR REDUCED BY REASONABLE ACCOMMODATION." IF AN INDIVIDUAL WITH A DISABILITY POSES A DIRECT THREAT DESPITE REASONABLE ACCOMMODATION, HE OR SHE **IS NOT PROTECTED BY THE NONDISCRIMINATION PROVISIONS OF THE ADA.**
- ASSESSMENTS OF WHETHER AN EMPLOYEE POSES A DIRECT THREAT IN THE WORKPLACE MUST BE BASED ON OBJECTIVE, FACTUAL INFORMATION, "NOT ON SUBJECTIVE PERCEPTIONS . . . [OR] IRRATIONAL FEARS" ABOUT A SPECIFIC DISABILITY OR DISABILITIES. THE EEOC'S REGULATIONS IDENTIFY FOUR FACTORS TO CONSIDER WHEN DETERMINING WHETHER AN EMPLOYEE POSES A DIRECT THREAT:
 - THE DURATION OF THE RISK;
 - THE NATURE AND SEVERITY OF THE POTENTIAL HARM;
 - THE LIKELIHOOD THAT POTENTIAL HARM WILL OCCUR; AND
 - THE IMMINENCE OF THE POTENTIAL HARM.

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ADA-RELATED FAQS

- **MAY AN ADA-COVERED EMPLOYER SEND EMPLOYEES HOME IF THEY DISPLAY INFLUENZA-LIKE SYMPTOMS DURING A PANDEMIC?**
- YES. THE CDC STATES THAT EMPLOYEES WHO BECOME ILL WITH SYMPTOMS OF INFLUENZA-LIKE ILLNESS AT WORK DURING A PANDEMIC SHOULD LEAVE THE WORKPLACE. ADVISING SUCH WORKERS TO GO HOME IS NOT A DISABILITY-RELATED ACTION IF THE ILLNESS IS AKIN TO SEASONAL INFLUENZA OR THE 2009 SPRING/SUMMER H1N1 VIRUS. ADDITIONALLY, THE ACTION WOULD BE PERMITTED UNDER THE ADA IF THE ILLNESS WERE SERIOUS ENOUGH TO POSE A DIRECT THREAT.

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ADA-RELATED FAQS

- **DURING A PANDEMIC, HOW MUCH INFORMATION MAY AN ADA-COVERED EMPLOYER REQUEST FROM EMPLOYEES WHO REPORT FEELING ILL AT WORK OR WHO CALL IN SICK?**
- ADA-COVERED EMPLOYERS MAY ASK SUCH EMPLOYEES IF THEY ARE EXPERIENCING INFLUENZA-LIKE SYMPTOMS, SUCH AS FEVER OR CHILLS AND A COUGH OR SORE THROAT. EMPLOYERS MUST MAINTAIN ALL INFORMATION ABOUT EMPLOYEE ILLNESS AS A CONFIDENTIAL MEDICAL RECORD IN COMPLIANCE WITH THE ADA.
- IF PANDEMIC INFLUENZA IS LIKE SEASONAL INFLUENZA OR SPRING/SUMMER 2009 H1N1, THESE INQUIRIES ARE NOT DISABILITY-RELATED. IF PANDEMIC INFLUENZA BECOMES SEVERE, THE INQUIRIES, EVEN IF DISABILITY-RELATED, ARE JUSTIFIED BY A REASONABLE BELIEF BASED ON OBJECTIVE EVIDENCE THAT THE SEVERE FORM OF PANDEMIC INFLUENZA POSES A DIRECT THREAT.

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ADA-RELATED FAQS

- **DURING A PANDEMIC, MAY AN ADA-COVERED EMPLOYER TAKE ITS EMPLOYEES' TEMPERATURES TO DETERMINE WHETHER THEY HAVE A FEVER?**
- GENERALLY, MEASURING AN EMPLOYEE'S BODY TEMPERATURE IS A MEDICAL EXAMINATION. IF PANDEMIC INFLUENZA SYMPTOMS BECOME MORE SEVERE THAN THE SEASONAL FLU OR THE H1N1 VIRUS IN THE SPRING/SUMMER OF 2009, OR IF PANDEMIC INFLUENZA BECOMES WIDESPREAD IN THE COMMUNITY AS ASSESSED BY STATE OR LOCAL HEALTH AUTHORITIES OR THE CDC, THEN EMPLOYERS MAY MEASURE EMPLOYEES' BODY TEMPERATURE. HOWEVER, EMPLOYERS SHOULD BE AWARE THAT SOME PEOPLE WITH INFLUENZA, INCLUDING THE 2009 H1N1 VIRUS, DO NOT HAVE A FEVER.

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ADA-RELATED FAQS

- **WHEN AN EMPLOYEE RETURNS FROM TRAVEL DURING A PANDEMIC, MUST AN EMPLOYER WAIT UNTIL THE EMPLOYEE DEVELOPS INFLUENZA SYMPTOMS TO ASK QUESTIONS ABOUT EXPOSURE TO PANDEMIC INFLUENZA DURING THE TRIP?**
- NO. THESE WOULD NOT BE DISABILITY-RELATED INQUIRIES. IF THE CDC OR STATE OR LOCAL PUBLIC HEALTH OFFICIALS RECOMMEND THAT PEOPLE WHO VISIT SPECIFIED LOCATIONS REMAIN AT HOME FOR SEVERAL DAYS UNTIL IT IS CLEAR THEY DO NOT HAVE PANDEMIC INFLUENZA SYMPTOMS, AN EMPLOYER MAY ASK WHETHER EMPLOYEES ARE RETURNING FROM THESE LOCATIONS, EVEN IF THE TRAVEL WAS PERSONAL.

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ADA-RELATED FAQs

- **DURING A PANDEMIC, MAY AN ADA-COVERED EMPLOYER ASK EMPLOYEES WHO DO NOT HAVE INFLUENZA SYMPTOMS TO DISCLOSE WHETHER THEY HAVE A MEDICAL CONDITION THAT THE CDC SAYS COULD MAKE THEM ESPECIALLY VULNERABLE TO INFLUENZA COMPLICATIONS?**
- NO. IF PANDEMIC INFLUENZA IS LIKE SEASONAL INFLUENZA OR THE H1N1 VIRUS IN THE SPRING/SUMMER OF 2009, MAKING DISABILITY-RELATED INQUIRIES OR REQUIRING MEDICAL EXAMINATIONS OF EMPLOYEES WITHOUT SYMPTOMS IS PROHIBITED BY THE ADA. HOWEVER, UNDER THESE CONDITIONS, EMPLOYERS SHOULD ALLOW EMPLOYEES WHO EXPERIENCE FLU-LIKE SYMPTOMS TO STAY AT HOME, WHICH WILL BENEFIT ALL EMPLOYEES INCLUDING THOSE WHO MAY BE AT INCREASED RISK OF DEVELOPING COMPLICATIONS.
- IF AN EMPLOYEE VOLUNTARILY DISCLOSES (WITHOUT A DISABILITY-RELATED INQUIRY) THAT HE HAS A SPECIFIC MEDICAL CONDITION OR DISABILITY THAT PUTS HIM OR HER AT INCREASED RISK OF INFLUENZA COMPLICATIONS, THE EMPLOYER MUST KEEP THIS INFORMATION CONFIDENTIAL. THE EMPLOYER MAY ASK HIM TO DESCRIBE THE TYPE OF ASSISTANCE HE THINKS WILL BE NEEDED (E.G. TELEWORK OR LEAVE FOR A MEDICAL APPOINTMENT). EMPLOYERS SHOULD NOT ASSUME THAT ALL DISABILITIES INCREASE THE RISK OF INFLUENZA COMPLICATIONS. MANY DISABILITIES DO NOT INCREASE THIS RISK (E.G. VISION OR MOBILITY DISABILITIES).
- IF AN INFLUENZA PANDEMIC BECOMES MORE SEVERE OR SERIOUS ACCORDING TO THE ASSESSMENT OF LOCAL, STATE OR FEDERAL PUBLIC HEALTH OFFICIALS, ADA-COVERED EMPLOYERS MAY HAVE SUFFICIENT OBJECTIVE INFORMATION FROM PUBLIC HEALTH ADVISORIES TO REASONABLY CONCLUDE THAT EMPLOYEES WILL FACE A DIRECT THREAT IF THEY CONTRACT PANDEMIC INFLUENZA. ONLY IN THIS CIRCUMSTANCE MAY ADA-COVERED EMPLOYERS MAKE DISABILITY-RELATED INQUIRIES OR REQUIRE MEDICAL EXAMINATIONS OF ASYMPTOMATIC EMPLOYEES TO IDENTIFY THOSE AT HIGHER RISK OF INFLUENZA COMPLICATIONS.

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ADA-RELATED FAQs

- **MAY AN EMPLOYER ENCOURAGE EMPLOYEES TO TELEWORK (I.E., WORK FROM AN ALTERNATIVE LOCATION SUCH AS HOME) AS AN INFECTION-CONTROL STRATEGY DURING A PANDEMIC?**
- YES. TELEWORK IS AN EFFECTIVE INFECTION-CONTROL STRATEGY THAT IS ALSO FAMILIAR TO ADA-COVERED EMPLOYERS AS A REASONABLE ACCOMMODATION.
- IN ADDITION, EMPLOYEES WITH DISABILITIES THAT PUT THEM AT HIGH RISK FOR COMPLICATIONS OF PANDEMIC INFLUENZA MAY REQUEST TELEWORK AS A REASONABLE ACCOMMODATION TO REDUCE THEIR CHANCES OF INFECTION DURING A PANDEMIC.

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ADA-RELATED FAQs

- **DURING A PANDEMIC, MAY AN EMPLOYER REQUIRE ITS EMPLOYEES TO ADOPT INFECTION-CONTROL PRACTICES, SUCH AS REGULAR HAND WASHING, AT THE WORKPLACE?**
- YES. REQUIRING INFECTION CONTROL PRACTICES, SUCH AS REGULAR HAND WASHING, COUGHING AND SNEEZING ETIQUETTE, AND PROPER TISSUE USAGE AND DISPOSAL, DOES NOT IMPLICATE THE ADA.

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ADA-RELATED FAQs

- **DURING A PANDEMIC, MAY AN EMPLOYER REQUIRE ITS EMPLOYEES TO WEAR PERSONAL PROTECTIVE EQUIPMENT (E.G., FACE MASKS, GLOVES, OR GOWNS) DESIGNED TO REDUCE THE TRANSMISSION OF PANDEMIC INFECTION?**
- YES. AN EMPLOYER MAY REQUIRE EMPLOYEES TO WEAR PERSONAL PROTECTIVE EQUIPMENT DURING A PANDEMIC. HOWEVER, WHERE AN EMPLOYEE WITH A DISABILITY NEEDS A RELATED REASONABLE ACCOMMODATION UNDER THE ADA (E.G., NON-LATEX GLOVES, OR GOWNS DESIGNED FOR INDIVIDUALS WHO USE WHEELCHAIRS), THE EMPLOYER SHOULD PROVIDE THESE, ABSENT UNDUE HARDSHIP.

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ADA-RELATED FAQs

- **MAY AN EMPLOYER COVERED BY THE ADA AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 COMPEL ALL OF ITS EMPLOYEES TO TAKE THE INFLUENZA VACCINE REGARDLESS OF THEIR MEDICAL CONDITIONS OR THEIR RELIGIOUS BELIEFS DURING A PANDEMIC?**
- NO. AN EMPLOYEE MAY BE ENTITLED TO AN EXEMPTION FROM A MANDATORY VACCINATION REQUIREMENT BASED ON AN ADA DISABILITY THAT PREVENTS HIM FROM TAKING THE INFLUENZA VACCINE. THIS WOULD BE A REASONABLE ACCOMMODATION BARRING UNDUE HARDSHIP (SIGNIFICANT DIFFICULTY OR EXPENSE). SIMILARLY, UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, ONCE AN EMPLOYER RECEIVES NOTICE THAT AN EMPLOYEE'S SINCERELY HELD RELIGIOUS BELIEF, PRACTICE, OR OBSERVANCE PREVENTS HIM FROM TAKING THE INFLUENZA VACCINE, THE EMPLOYER MUST PROVIDE A REASONABLE ACCOMMODATION UNLESS IT WOULD POSE AN UNDUE HARDSHIP AS DEFINED BY TITLE VII ("MORE THAN DE MINIMIS COST" TO THE OPERATION OF THE EMPLOYER'S BUSINESS, WHICH IS A LOWER STANDARD THAN UNDER THE ADA).
- GENERALLY, ADA-COVERED EMPLOYERS SHOULD CONSIDER SIMPLY ENCOURAGING EMPLOYEES TO GET THE INFLUENZA VACCINE RATHER THAN REQUIRING THEM TO TAKE IT.

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ADA-RELATED FAQs

- **DURING A PANDEMIC, MUST AN EMPLOYER CONTINUE TO PROVIDE REASONABLE ACCOMMODATIONS FOR EMPLOYEES WITH KNOWN DISABILITIES THAT ARE UNRELATED TO THE PANDEMIC, BARRING UNDUE HARDSHIP?**
- YES. AN EMPLOYER'S ADA RESPONSIBILITIES TO INDIVIDUALS WITH DISABILITIES CONTINUE DURING AN INFLUENZA PANDEMIC. ONLY WHEN AN EMPLOYER CAN DEMONSTRATE THAT A PERSON WITH A DISABILITY POSES A DIRECT THREAT, EVEN AFTER REASONABLE ACCOMMODATION, CAN IT LAWFULLY EXCLUDE HIM FROM EMPLOYMENT OR EMPLOYMENT-RELATED ACTIVITIES.
- IF AN EMPLOYEE WITH A DISABILITY NEEDS THE SAME REASONABLE ACCOMMODATION AT A TELEWORK SITE THAT HE HAD AT THE WORKPLACE, THE EMPLOYER SHOULD PROVIDE THAT ACCOMMODATION, ABSENT UNDUE HARDSHIP. IN THE EVENT OF UNDUE HARDSHIP, THE EMPLOYER AND EMPLOYEE SHOULD COOPERATE TO IDENTIFY AN ALTERNATIVE REASONABLE ACCOMMODATION.

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ADA-RELATED FAQs

- **DURING A PANDEMIC, MAY AN EMPLOYER ASK AN EMPLOYEE WHY HE OR SHE HAS BEEN ABSENT FROM WORK IF THE EMPLOYER SUSPECTS IT IS FOR A MEDICAL REASON?**
- YES. ASKING WHY AN INDIVIDUAL DID NOT REPORT TO WORK IS NOT A DISABILITY-RELATED INQUIRY. AN EMPLOYER IS ALWAYS ENTITLED TO KNOW WHY AN EMPLOYEE HAS NOT REPORTED FOR WORK.
- **EXAMPLE:** DURING AN INFLUENZA PANDEMIC, AN EMPLOYER DIRECTS A SUPERVISOR TO CONTACT AN EMPLOYEE WHO HAS NOT REPORTED TO WORK FOR FIVE BUSINESS DAYS WITHOUT EXPLANATION. THE SUPERVISOR ASKS THIS EMPLOYEE WHY HE IS ABSENT AND WHEN HE WILL RETURN TO WORK. THE SUPERVISOR'S INQUIRY IS NOT A DISABILITY-RELATED INQUIRY UNDER THE ADA.

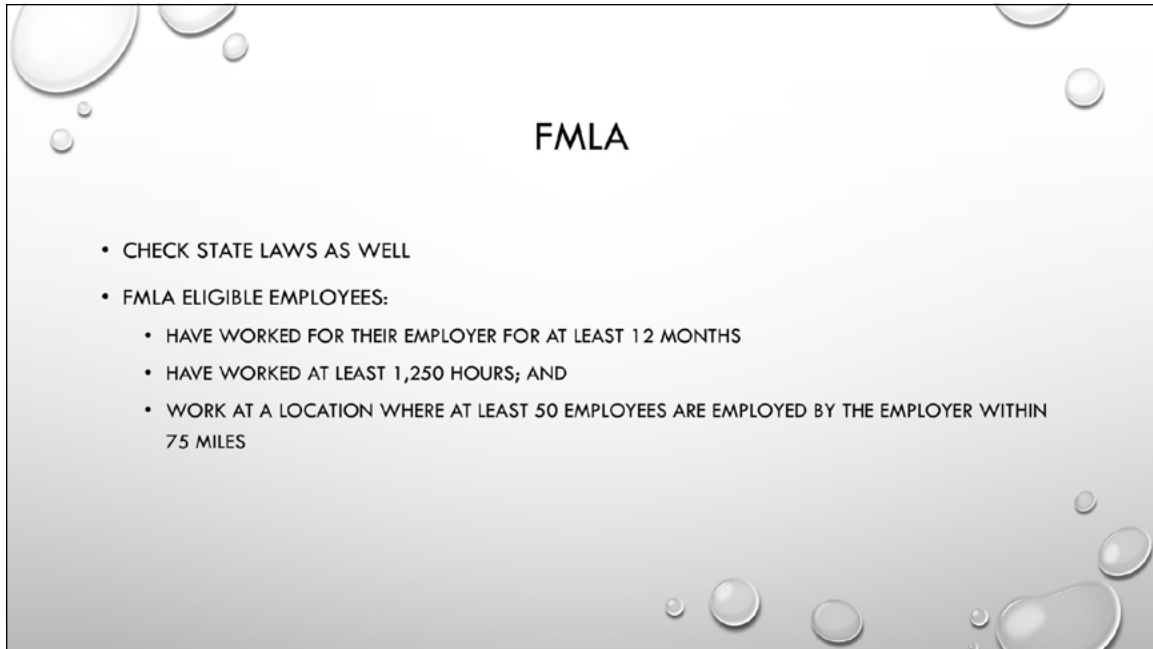
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FMLA

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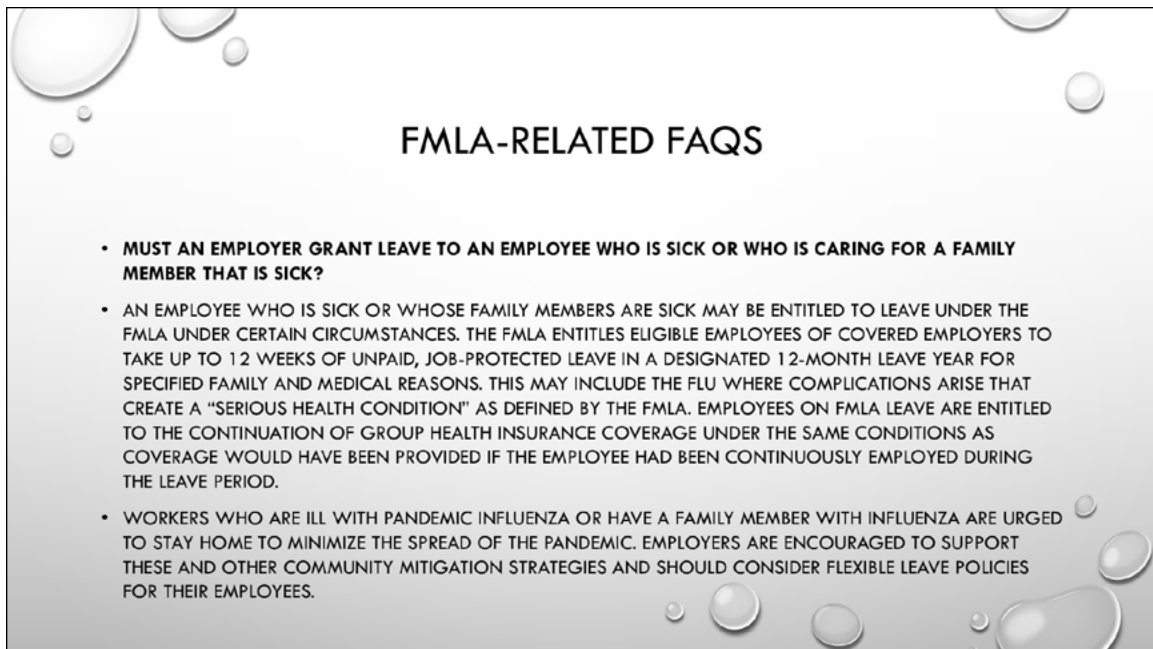
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FMLA

- CHECK STATE LAWS AS WELL
- FMLA ELIGIBLE EMPLOYEES:
 - HAVE WORKED FOR THEIR EMPLOYER FOR AT LEAST 12 MONTHS
 - HAVE WORKED AT LEAST 1,250 HOURS; AND
 - WORK AT A LOCATION WHERE AT LEAST 50 EMPLOYEES ARE EMPLOYED BY THE EMPLOYER WITHIN 75 MILES

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FMLA-RELATED FAQs

- **MUST AN EMPLOYER GRANT LEAVE TO AN EMPLOYEE WHO IS SICK OR WHO IS CARING FOR A FAMILY MEMBER THAT IS SICK?**
- AN EMPLOYEE WHO IS SICK OR WHOSE FAMILY MEMBERS ARE SICK MAY BE ENTITLED TO LEAVE UNDER THE FMLA UNDER CERTAIN CIRCUMSTANCES. THE FMLA ENTITLES ELIGIBLE EMPLOYEES OF COVERED EMPLOYERS TO TAKE UP TO 12 WEEKS OF UNPAID, JOB-PROTECTED LEAVE IN A DESIGNATED 12-MONTH LEAVE YEAR FOR SPECIFIED FAMILY AND MEDICAL REASONS. THIS MAY INCLUDE THE FLU WHERE COMPLICATIONS ARISE THAT CREATE A "SERIOUS HEALTH CONDITION" AS DEFINED BY THE FMLA. EMPLOYEES ON FMLA LEAVE ARE ENTITLED TO THE CONTINUATION OF GROUP HEALTH INSURANCE COVERAGE UNDER THE SAME CONDITIONS AS COVERAGE WOULD HAVE BEEN PROVIDED IF THE EMPLOYEE HAD BEEN CONTINUOUSLY EMPLOYED DURING THE LEAVE PERIOD.
- WORKERS WHO ARE ILL WITH PANDEMIC INFLUENZA OR HAVE A FAMILY MEMBER WITH INFLUENZA ARE URGED TO STAY HOME TO MINIMIZE THE SPREAD OF THE PANDEMIC. EMPLOYERS ARE ENCOURAGED TO SUPPORT THESE AND OTHER COMMUNITY MITIGATION STRATEGIES AND SHOULD CONSIDER FLEXIBLE LEAVE POLICIES FOR THEIR EMPLOYEES.

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FMLA-RELATED FAQs

- **CAN AN EMPLOYEE STAY HOME UNDER FMLA LEAVE TO AVOID GETTING PANDEMIC INFLUENZA?**
- THE FMLA PROTECTS ELIGIBLE EMPLOYEES WHO ARE INCAPACITATED BY A SERIOUS HEALTH CONDITION, AS MAY BE THE CASE WITH THE FLU WHERE COMPLICATIONS ARISE, OR WHO ARE NEEDED TO CARE FOR COVERED FAMILY MEMBERS WHO ARE INCAPACITATED BY A SERIOUS HEALTH CONDITION. **LEAVE TAKEN BY AN EMPLOYEE FOR THE PURPOSE OF AVOIDING EXPOSURE TO THE FLU WOULD NOT BE PROTECTED UNDER THE FMLA.** EMPLOYERS SHOULD ENCOURAGE EMPLOYEES WHO ARE ILL WITH PANDEMIC INFLUENZA OR ARE EXPOSED TO ILL FAMILY MEMBERS TO STAY HOME AND SHOULD CONSIDER FLEXIBLE LEAVE POLICIES FOR THEIR EMPLOYEES IN THESE CIRCUMSTANCES.

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FMLA-RELATED FAQs

- **WHAT LEGAL RESPONSIBILITY DO EMPLOYERS HAVE TO ALLOW PARENTS OR CARE GIVERS TIME OFF FROM WORK TO CARE FOR THE SICK OR CHILDREN WHO HAVE BEEN DISMISSED FROM SCHOOL?**
- COVERED EMPLOYERS MUST ABIDE BY THE FMLA AS WELL AS ANY APPLICABLE [STATE FMLA LAWS](#). AN EMPLOYEE WHO IS SICK, OR WHOSE FAMILY MEMBERS ARE SICK, MAY BE ENTITLED TO LEAVE UNDER THE FMLA. THE FMLA ENTITLES ELIGIBLE EMPLOYEES OF COVERED EMPLOYERS TO TAKE UP TO 12 WEEKS OF UNPAID, JOB-PROTECTED LEAVE IN A DESIGNATED 12-MONTH LEAVE YEAR FOR SPECIFIED FAMILY AND MEDICAL REASONS WHICH MAY INCLUDE THE FLU WHERE COMPLICATIONS ARISE THAT CREATE A "SERIOUS HEALTH CONDITION" AS DEFINED BY THE FMLA.
- THERE IS CURRENTLY NO FEDERAL LAW COVERING NON-GOVERNMENT EMPLOYEES WHO TAKE OFF FROM WORK TO CARE FOR HEALTHY CHILDREN, AND EMPLOYERS ARE NOT REQUIRED BY FEDERAL LAW TO PROVIDE LEAVE TO EMPLOYEES CARING FOR DEPENDENTS WHO HAVE BEEN DISMISSED FROM SCHOOL OR CHILD CARE. HOWEVER, GIVEN THE POTENTIAL FOR SIGNIFICANT ILLNESS UNDER SOME PANDEMIC INFLUENZA SCENARIOS, EMPLOYERS SHOULD REVIEW THEIR LEAVE POLICIES TO CONSIDER PROVIDING INCREASED FLEXIBILITY TO THEIR EMPLOYEES AND THEIR FAMILIES. REMEMBER THAT FEDERAL LAW MANDATES THAT ANY FLEXIBLE LEAVE POLICIES MUST BE ADMINISTERED IN A MANNER THAT DOES NOT DISCRIMINATE AGAINST EMPLOYEES BECAUSE OF RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE (40 AND OVER), DISABILITY, OR VETERAN STATUS.

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FMLA-RELATED FAQs

- **IS AN EMPLOYER REQUIRED BY LAW TO PROVIDE PAID SICK LEAVE TO EMPLOYEES WHO ARE OUT OF WORK BECAUSE THEY HAVE PANDEMIC INFLUENZA, HAVE BEEN EXPOSED TO A FAMILY MEMBER WITH INFLUENZA, OR ARE CARING FOR A FAMILY MEMBER WITH INFLUENZA?**
- FEDERAL LAW GENERALLY DOES NOT REQUIRE EMPLOYERS TO PROVIDE **PAID LEAVE** TO EMPLOYEES WHO ARE ABSENT FROM WORK BECAUSE THEY ARE SICK WITH PANDEMIC FLU, HAVE BEEN EXPOSED TO SOMEONE WITH THE FLU OR ARE CARING FOR SOMEONE WITH THE FLU. **BUT SEE NEXT FAQ.** CERTAIN STATE OR LOCAL LAWS MAY HAVE DIFFERENT REQUIREMENTS, WHICH SHOULD BE INDEPENDENTLY CONSIDERED BY EMPLOYERS WHEN DETERMINING THEIR OBLIGATION TO PROVIDE PAID SICK LEAVE.
- IF THE LEAVE QUALIFIES AS FMLA-PROTECTED LEAVE, THE STATUTE ALLOWS THE EMPLOYEE TO ELECT OR THE EMPLOYER TO REQUIRE THE SUBSTITUTION OF PAID SICK AND PAID VACATION/PERSONAL LEAVE IN SOME CIRCUMSTANCES. EMPLOYERS SHOULD ENCOURAGE EMPLOYEES THAT ARE ILL WITH PANDEMIC INFLUENZA TO STAY HOME AND SHOULD CONSIDER FLEXIBLE LEAVE POLICIES FOR THEIR EMPLOYEES.

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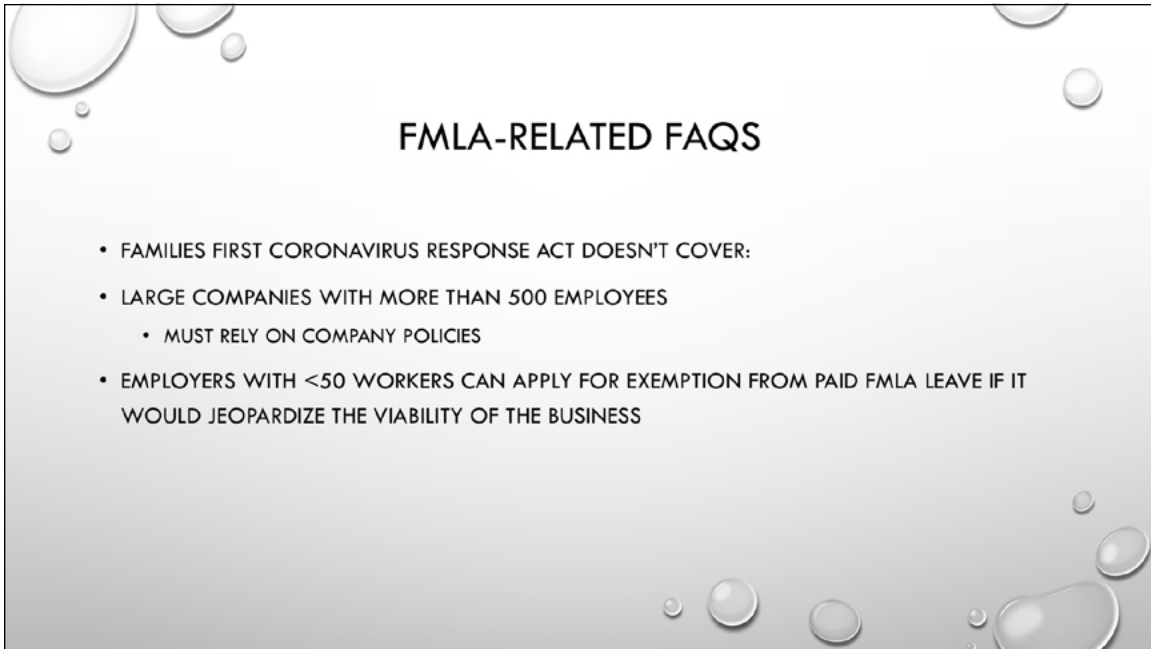
FMLA-RELATED FAQs

- WHAT ABOUT THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT?
- PASSED THE HOUSE ON MARCH 14TH.
- GRANTS 2 WEEKS PAID SICK LEAVE AT 100% OF PERSONS NORMAL SALARY, UP TO \$511/DAY CAP.
- PROVIDES UP TO 12 WEEKS PAID FMLA LEAVE AT 67% NORMAL PAY, UP TO \$200/DAY CAP.
- DOESN'T COVER EVERYONE.

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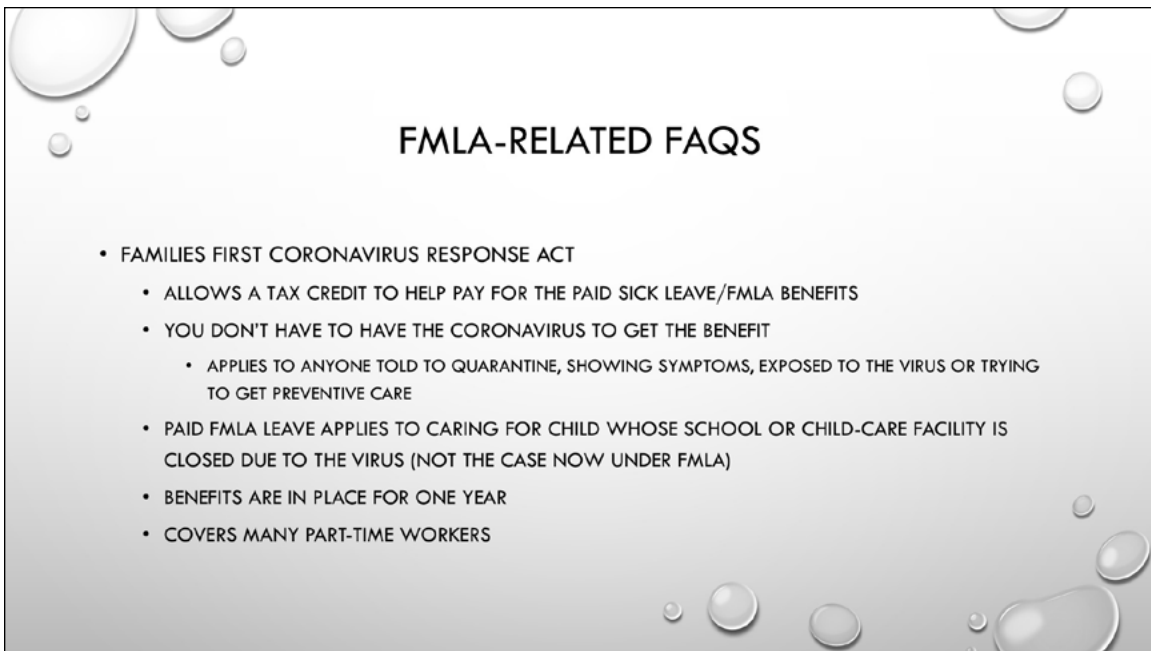
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FMLA-RELATED FAQs

- FAMILIES FIRST CORONAVIRUS RESPONSE ACT DOESN'T COVER:
 - LARGE COMPANIES WITH MORE THAN 500 EMPLOYEES
 - MUST RELY ON COMPANY POLICIES
- EMPLOYERS WITH <50 WORKERS CAN APPLY FOR EXEMPTION FROM PAID FMLA LEAVE IF IT WOULD JEOPARDIZE THE VIABILITY OF THE BUSINESS

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FMLA-RELATED FAQs

- FAMILIES FIRST CORONAVIRUS RESPONSE ACT
 - ALLOWS A TAX CREDIT TO HELP PAY FOR THE PAID SICK LEAVE/FMLA BENEFITS
 - YOU DON'T HAVE TO HAVE THE CORONAVIRUS TO GET THE BENEFIT
 - APPLIES TO ANYONE TOLD TO QUARANTINE, SHOWING SYMPTOMS, EXPOSED TO THE VIRUS OR TRYING TO GET PREVENTIVE CARE
 - PAID FMLA LEAVE APPLIES TO CARING FOR CHILD WHOSE SCHOOL OR CHILD-CARE FACILITY IS CLOSED DUE TO THE VIRUS (NOT THE CASE NOW UNDER FMLA)
- BENEFITS ARE IN PLACE FOR ONE YEAR
- COVERS MANY PART-TIME WORKERS

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FMLA-RELATED FAQs

- **MAY EMPLOYERS SEND EMPLOYEES HOME IF THEY SHOW SYMPTOMS OF PANDEMIC INFLUENZA? CAN THE EMPLOYEES BE REQUIRED TO TAKE SICK LEAVE? DO THEY HAVE TO BE PAID? MAY EMPLOYERS PREVENT EMPLOYEES FROM COMING TO WORK?**
- YOUR COMPANY POLICIES ON SICK LEAVE, AND ANY APPLICABLE EMPLOYMENT CONTRACTS OR COLLECTIVE BARGAINING AGREEMENTS WOULD DETERMINE WHETHER YOU SHOULD PROVIDE PAID LEAVE TO EMPLOYEES WHO ARE NOT AT WORK. IF THE LEAVE QUALIFIES AS FMLA-PROTECTED LEAVE, THE STATUTE ALLOWS THE EMPLOYEE TO ELECT OR THE EMPLOYER TO REQUIRE THE SUBSTITUTION OF PAID SICK AND PAID VACATION/PERSONAL LEAVE IN SOME CIRCUMSTANCES. (SEE THE U.S. DEPARTMENT OF LABOR [WAGE AND HOUR DIVISION](#) FOR ADDITIONAL INFORMATION OR CALL 1-866-487-9243 IF YOU HAVE ANY QUESTIONS.)
- REMEMBER WHEN MAKING THESE DECISIONS TO EXCLUDE EMPLOYEES FROM THE WORKPLACE, YOU CANNOT DISCRIMINATE ON THE BASIS OF RACE, SEX, AGE (40 AND OVER), COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, UNION MEMBERSHIP OR VETERAN STATUS. HOWEVER, YOU MAY EXCLUDE AN EMPLOYEE WITH A DISABILITY FROM THE WORKPLACE IF YOU:
- OBTAIN OBJECTIVE EVIDENCE THAT THE EMPLOYEE POSES A DIRECT THREAT (I.E. SIGNIFICANT RISK OF SUBSTANTIAL HARM); AND
- DETERMINE THAT THERE IS NO AVAILABLE REASONABLE ACCOMMODATION (THAT WOULD NOT POSE AN UNDUE HARDHIP) TO ELIMINATE THE DIRECT THREAT.

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FMLA-RELATED FAQs

- **MAY AN EMPLOYER REQUIRE AN EMPLOYEE WHO IS OUT SICK WITH PANDEMIC INFLUENZA TO PROVIDE A DOCTOR'S NOTE, SUBMIT TO A MEDICAL EXAM, OR REMAIN SYMPTOM-FREE FOR A SPECIFIED AMOUNT OF TIME BEFORE RETURNING TO WORK?**
- **YES.** HOWEVER, EMPLOYERS SHOULD CONSIDER THAT DURING A PANDEMIC, HEALTHCARE RESOURCES MAY BE OVERWHELMED AND IT MAY BE DIFFICULT FOR EMPLOYEES TO GET APPOINTMENTS WITH DOCTORS OR OTHER HEALTH CARE PROVIDERS TO VERIFY THEY ARE WELL OR NO LONGER CONTAGIOUS.

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FMLA-RELATED FAQs

- **MAY EMPLOYERS CHANGE THEIR PAID SICK LEAVE POLICY IF A NUMBER OF EMPLOYEES ARE OUT AND THEY CANNOT AFFORD TO PAY THEM ALL?**
- FEDERAL EQUAL EMPLOYMENT OPPORTUNITY LAWS DO NOT PROHIBIT EMPLOYERS FROM CHANGING THEIR PAID SICK LEAVE POLICY IF IT IS DONE IN A MANNER THAT DOES NOT DISCRIMINATE BETWEEN EMPLOYEES BECAUSE OF RACE, SEX, AGE (40 AND OVER), COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, OR VETERAN STATUS. BE SURE ALSO TO CONSULT STATE AND LOCAL LAWS.

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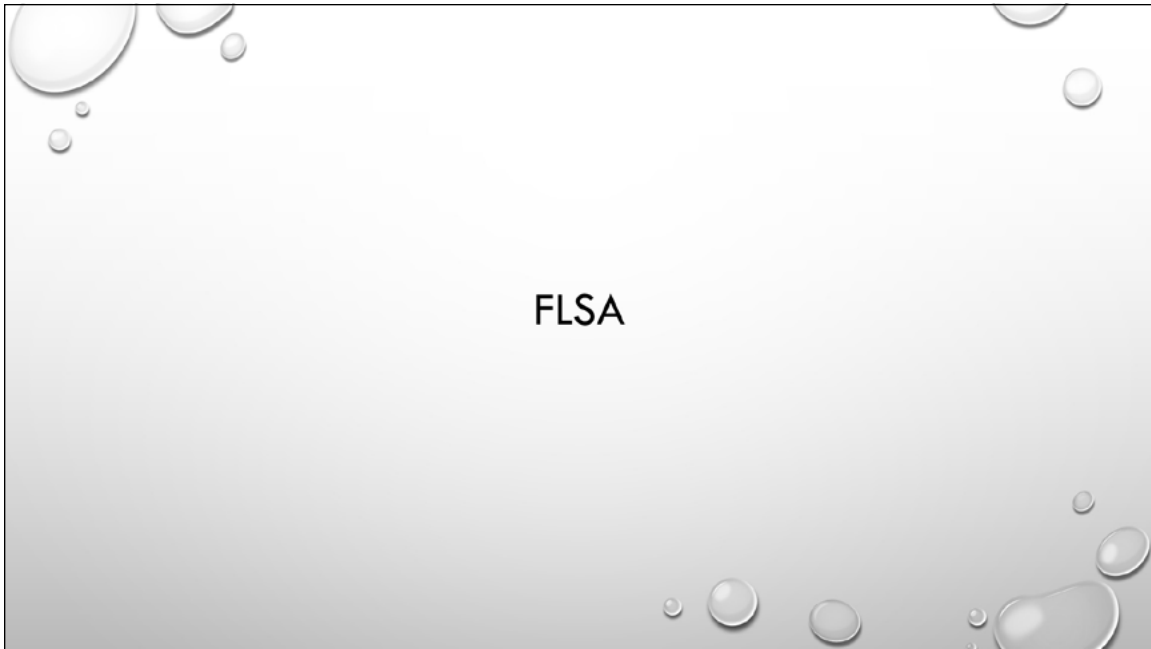
FMLA-RELATED FAQs

- **SOME EMPLOYEES MAY NOT BE ABLE TO COME TO WORK BECAUSE THEY HAVE TO TAKE CARE OF SICK FAMILY MEMBERS. MAY AN EMPLOYER LAY THEM OFF?**
- IT DEPENDS. IF AN EMPLOYEE IS **COVERED AND ELIGIBLE** UNDER THE FMLA AND IS NEEDED TO CARE FOR A SPOUSE, DAUGHTER, SON, OR PARENT WHO HAS A SERIOUS HEALTH CONDITION, THEN THE EMPLOYEE IS ENTITLED TO UP TO 12 WEEKS OF **JOB-PROTECTED, UNPAID LEAVE** DURING ANY 12-MONTH PERIOD. SOME STATES MAY HAVE SIMILAR [FAMILY LEAVE LAWS](#).

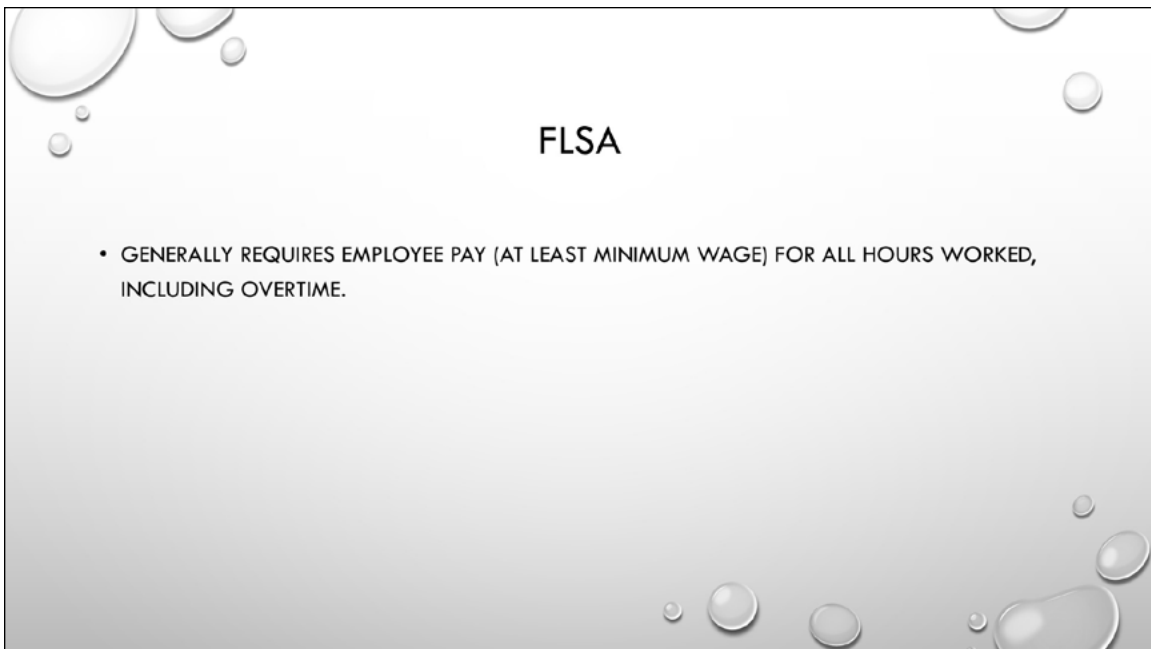
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FLSA-RELATED FAQs

- **IF YOUR BUSINESS HAS A SHORTAGE OF WORKERS AND IS LOOKING TO “VOLUNTEERS” TO HELP OUT, BE AWARE THAT THE [FAIR LABOR STANDARDS ACT](#) (FLSA) HAS STRINGENT REQUIREMENTS WITH RESPECT TO THE USE OF VOLUNTEERS. IN GENERAL, [COVERED, NONEXEMPT](#) WORKERS WORKING FOR PRIVATE, FOR-PROFIT EMPLOYERS HAVE TO BE PAID AT LEAST THE MINIMUM WAGE AND CANNOT VOLUNTEER THEIR SERVICES.**

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FLSA-RELATED FAQs

- **IF INDIVIDUALS VOLUNTEER TO A PRIVATE, NOT-FOR-PROFIT ORGANIZATION, ARE THEY ENTITLED TO COMPENSATION?**
- INDIVIDUALS WHO VOLUNTEER THEIR SERVICES IN AN EMERGENCY RELIEF CAPACITY TO PRIVATE NOT-FOR-PROFIT ORGANIZATIONS FOR CIVIC, RELIGIOUS OR HUMANITARIAN OBJECTIVES, WITHOUT CONTEMPLATION OR RECEIPT OF COMPENSATION, ARE NOT CONSIDERED EMPLOYEES DUE COMPENSATION UNDER THE FLSA. HOWEVER, EMPLOYEES OF SUCH ORGANIZATIONS MAY NOT VOLUNTEER TO PERFORM ON AN UNCOMPENSATED BASIS THE SAME SERVICES THEY ARE EMPLOYED TO PERFORM.

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FLSA-RELATED FAQS

- **HOW MANY HOURS IS AN EMPLOYER OBLIGATED TO PAY AN HOURLY-PAID EMPLOYEE WHO WORKS A PARTIAL WEEK BECAUSE THE EMPLOYER'S BUSINESS CLOSED?**
- THE FLSA GENERALLY APPLIES TO HOURS ACTUALLY WORKED. IT DOES NOT REQUIRE EMPLOYERS WHO ARE UNABLE TO PROVIDE WORK TO [NON-EXEMPT EMPLOYEES](#) TO PAY THEM FOR HOURS THE EMPLOYEES WOULD HAVE OTHERWISE WORKED.

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FLSA-RELATED FAQS

- **IF AN EMPLOYER DIRECTS SALARIED, EXEMPT EMPLOYEES TO TAKE VACATION (OR LEAVE BANK DEDUCTIONS) OR LEAVE WITHOUT PAY DURING OFFICE CLOSURES DUE TO INFLUENZA, PANDEMIC, OR OTHER PUBLIC HEALTH EMERGENCY, DOES THIS IMPACT THE EMPLOYEE'S EXEMPT STATUS?**
- EXEMPT, SALARIED EMPLOYEES GENERALLY MUST RECEIVE THEIR FULL SALARY IN ANY WEEK IN WHICH THEY PERFORM ANY WORK, SUBJECT TO CERTAIN VERY LIMITED EXCEPTIONS. THE FLSA DOES NOT REQUIRE EMPLOYER-PROVIDED VACATION TIME. WHERE AN EMPLOYER OFFERS A BONA FIDE BENEFITS PLAN OR VACATION TIME TO ITS EMPLOYEES, THERE IS NO PROHIBITION ON AN EMPLOYER REQUIRING THAT SUCH ACCRUED LEAVE OR VACATION TIME BE TAKEN ON A SPECIFIC DAY(S).
- THEREFORE, A PRIVATE EMPLOYER MAY DIRECT EXEMPT STAFF TO TAKE VACATION OR DEBIT THEIR LEAVE BANK ACCOUNT IN THE CASE OF AN OFFICE CLOSURE, WHETHER FOR A FULL OR PARTIAL DAY, PROVIDED THE EMPLOYEES RECEIVE IN PAYMENT AN AMOUNT EQUAL TO THEIR GUARANTEED SALARY. IN THE SAME SCENARIO, AN EXEMPT EMPLOYEE WHO HAS NO ACCRUED BENEFITS IN THE LEAVE BANK ACCOUNT, OR HAS LIMITED ACCRUED LEAVE AND THE REDUCTION WOULD RESULT IN A NEGATIVE BALANCE IN THE LEAVE BANK ACCOUNT, STILL MUST RECEIVE THE EMPLOYEE'S GUARANTEED SALARY FOR ANY ABSENCE(S) OCCASIONED BY THE OFFICE CLOSURE IN ORDER TO REMAIN EXEMPT. FOR MORE INFORMATION, SEE [WHD OPINION LETTER FLSA2005-41](#).

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FLSA-RELATED FAQS

- **WHAT ARE AN EMPLOYER'S OBLIGATIONS TO AN EMPLOYEE WHO IS UNDER GOVERNMENT-IMPOSED QUARANTINE?**
- WHD ENCOURAGES EMPLOYERS TO BE ACCOMMODATING AND FLEXIBLE WITH WORKERS IMPACTED BY GOVERNMENT-IMPOSED QUARANTINES. EMPLOYERS MAY OFFER ALTERNATIVE WORK ARRANGEMENTS, SUCH AS TELEWORKING, AND ADDITIONAL PAID TIME OFF TO SUCH EMPLOYEES.

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FLSA-RELATED FAQS

- **HOW MANY HOURS PER DAY OR PER WEEK CAN AN EMPLOYEE WORK?**
- THE [FLSA](#) DOES NOT LIMIT THE NUMBER OF HOURS PER DAY OR PER WEEK THAT EMPLOYEES AGED 16 YEARS AND OLDER CAN BE REQUIRED TO WORK.

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FLSA-RELATED FAQS

- **CAN AN EMPLOYEE BE REQUIRED TO PERFORM WORK OUTSIDE OF THE EMPLOYEE'S JOB DESCRIPTION?**
- YES. THE FLSA DOES NOT LIMIT THE TYPES OF WORK EMPLOYEES AGE 18 AND OLDER MAY BE REQUIRED TO PERFORM. HOWEVER, THERE ARE [RESTRICTIONS ON WHAT WORK EMPLOYEES UNDER THE AGE OF 18](#) CAN DO. THIS IS TRUE WHETHER OR NOT THE WORK ASKED OF THE EMPLOYEE IS LISTED IN THE EMPLOYEE'S JOB DESCRIPTION.

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FLSA-RELATED FAQS

- **MAY AN EMPLOYER ENCOURAGE OR REQUIRE EMPLOYEES TO TELEWORK (I.E., WORK FROM AN ALTERNATIVE LOCATION SUCH AS HOME) AS AN INFECTION CONTROL STRATEGY?**
- YES. AN EMPLOYER MAY ENCOURAGE OR REQUIRE EMPLOYEES TO TELEWORK AS AN INFECTION-CONTROL OR PREVENTION STRATEGY, INCLUDING BASED ON TIMELY INFORMATION FROM PUBLIC HEALTH AUTHORITIES ABOUT PANDEMICS, PUBLIC HEALTH EMERGENCIES, OR OTHER SIMILAR CONDITIONS. TELEWORK ALSO MAY BE A REASONABLE ACCOMMODATION.
- OF COURSE, EMPLOYERS MUST NOT SINGLE OUT EMPLOYEES EITHER TO TELEWORK OR TO CONTINUE REPORTING TO THE WORKPLACE ON A BASIS PROHIBITED BY ANY OF THE EEO LAWS. (SEE THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S PUBLICATION, [WORK AT HOME/TELEWORK AS A REASONABLE ACCOMMODATION](#), FOR ADDITIONAL INFORMATION.)

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FLSA-RELATED FAQs

- **DO EMPLOYERS HAVE TO PAY EMPLOYEES THEIR SAME HOURLY RATE OR SALARY IF THEY WORK AT HOME?**
- IF TELEWORK IS BEING PROVIDED AS A REASONABLE ACCOMMODATION FOR A QUALIFIED INDIVIDUAL WITH A DISABILITY, OR IF REQUIRED BY A UNION OR EMPLOYMENT CONTRACT, THEN YOU MUST PAY THE SAME HOURLY RATE OR SALARY.
- IF THIS IS NOT THE CASE AND YOU DO NOT HAVE A UNION CONTRACT OR OTHER EMPLOYMENT CONTRACTS, UNDER THE FLSA EMPLOYERS GENERALLY HAVE TO PAY EMPLOYEES ONLY FOR THE HOURS THEY ACTUALLY WORK, WHETHER AT HOME OR AT THE EMPLOYER'S OFFICE. HOWEVER, THE FLSA REQUIRES EMPLOYERS TO PAY NON-EXEMPT WORKERS AT LEAST THE MINIMUM WAGE FOR ALL HOURS WORKED, AND AT LEAST TIME AND ONE HALF THE REGULAR RATE OF PAY FOR HOURS WORKED IN EXCESS OF 40 IN A WORKWEEK. SALARIED EXEMPT EMPLOYEES GENERALLY MUST RECEIVE THEIR FULL SALARY IN ANY WEEK IN WHICH THEY PERFORM ANY WORK, SUBJECT TO CERTAIN VERY LIMITED EXCEPTIONS.

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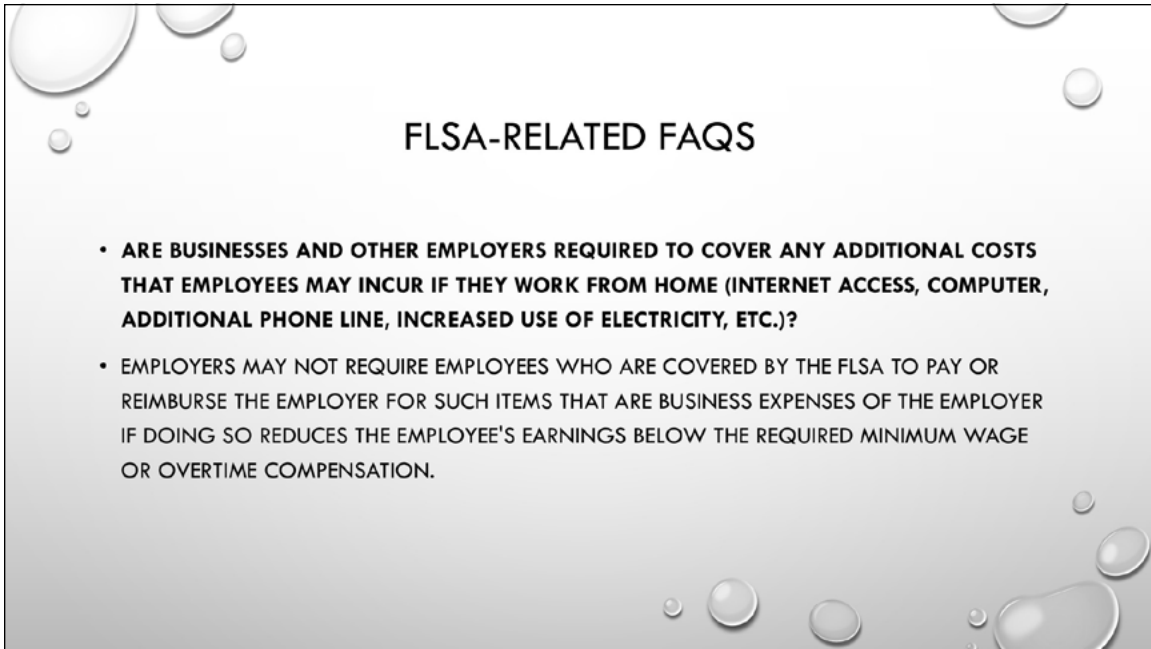
FLSA-RELATED FAQs

- **IN THE EVENT AN ORGANIZATION BARS EMPLOYEES FROM WORKING FROM THEIR CURRENT PLACE OF BUSINESS AND REQUIRES THEM TO WORK AT HOME, WILL EMPLOYERS HAVE TO PAY THOSE EMPLOYEES WHO ARE UNABLE TO WORK FROM HOME?**
- UNDER THE FLSA, EMPLOYERS GENERALLY ONLY HAVE TO PAY EMPLOYEES FOR THE HOURS THEY ACTUALLY WORK, WHETHER AT HOME OR AT THE EMPLOYER'S OFFICE. HOWEVER, EMPLOYERS MUST PAY AT LEAST THE MINIMUM WAGE FOR ALL HOURS WORKED, AND AT LEAST TIME AND ONE HALF THE REGULAR RATE OF PAY FOR HOURS WORKED IN EXCESS OF 40 IN A WORKWEEK. SALARIED EXEMPT EMPLOYEES MUST RECEIVE THEIR FULL SALARY IN ANY WEEK IN WHICH THEY PERFORM ANY WORK, SUBJECT TO CERTAIN VERY LIMITED EXCEPTIONS.
- WHEN NOT ALL EMPLOYEES CAN WORK FROM HOME, WE ENCOURAGE YOU TO CONSIDER ADDITIONAL OPTIONS TO PROMOTE SOCIAL DISTANCING, SUCH AS STAGGERED WORK SHIFTS.

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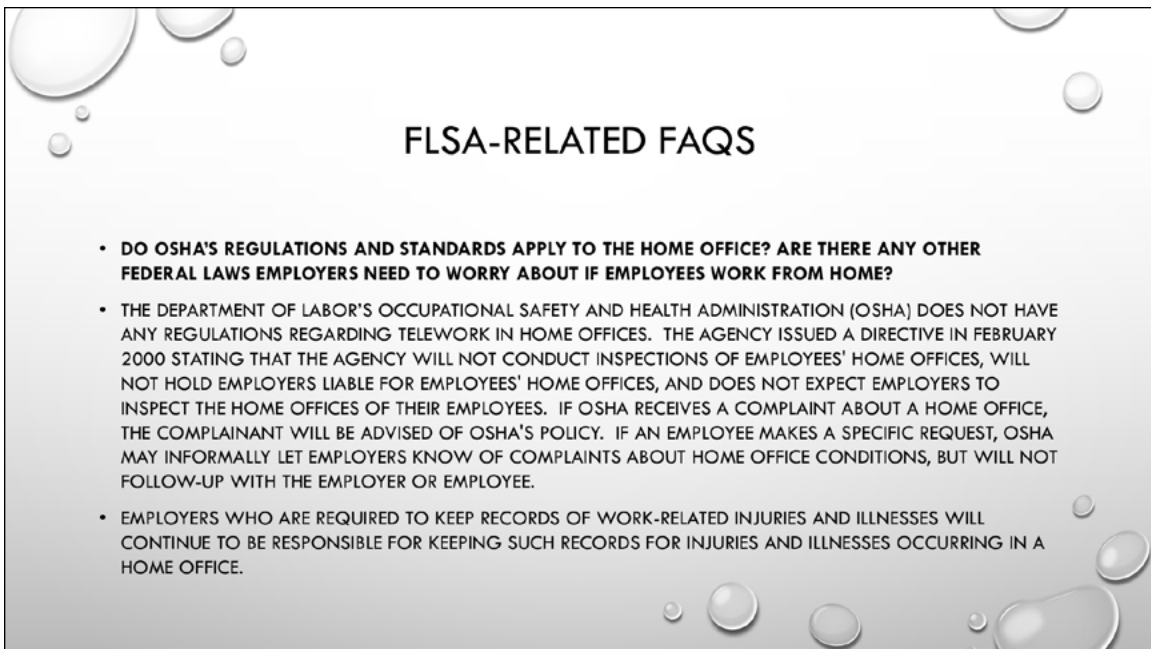
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FLSA-RELATED FAQs

- **ARE BUSINESSES AND OTHER EMPLOYERS REQUIRED TO COVER ANY ADDITIONAL COSTS THAT EMPLOYEES MAY INCUR IF THEY WORK FROM HOME (INTERNET ACCESS, COMPUTER, ADDITIONAL PHONE LINE, INCREASED USE OF ELECTRICITY, ETC.)?**
- EMPLOYERS MAY NOT REQUIRE EMPLOYEES WHO ARE COVERED BY THE FLSA TO PAY OR REIMBURSE THE EMPLOYER FOR SUCH ITEMS THAT ARE BUSINESS EXPENSES OF THE EMPLOYER IF DOING SO REDUCES THE EMPLOYEE'S EARNINGS BELOW THE REQUIRED MINIMUM WAGE OR OVERTIME COMPENSATION.

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FLSA-RELATED FAQs

- **DO OSHA'S REGULATIONS AND STANDARDS APPLY TO THE HOME OFFICE? ARE THERE ANY OTHER FEDERAL LAWS EMPLOYERS NEED TO WORRY ABOUT IF EMPLOYEES WORK FROM HOME?**
- THE DEPARTMENT OF LABOR'S OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) DOES NOT HAVE ANY REGULATIONS REGARDING TELEWORK IN HOME OFFICES. THE AGENCY ISSUED A DIRECTIVE IN FEBRUARY 2000 STATING THAT THE AGENCY WILL NOT CONDUCT INSPECTIONS OF EMPLOYEES' HOME OFFICES, WILL NOT HOLD EMPLOYERS LIABLE FOR EMPLOYEES' HOME OFFICES, AND DOES NOT EXPECT EMPLOYERS TO INSPECT THE HOME OFFICES OF THEIR EMPLOYEES. IF OSHA RECEIVES A COMPLAINT ABOUT A HOME OFFICE, THE COMPLAINANT WILL BE ADVISED OF OSHA'S POLICY. IF AN EMPLOYEE MAKES A SPECIFIC REQUEST, OSHA MAY INFORMALLY LET EMPLOYERS KNOW OF COMPLAINTS ABOUT HOME OFFICE CONDITIONS, BUT WILL NOT FOLLOW-UP WITH THE EMPLOYER OR EMPLOYEE.
- EMPLOYERS WHO ARE REQUIRED TO KEEP RECORDS OF WORK-RELATED INJURIES AND ILLNESSES WILL CONTINUE TO BE RESPONSIBLE FOR KEEPING SUCH RECORDS FOR INJURIES AND ILLNESSES OCCURRING IN A HOME OFFICE.

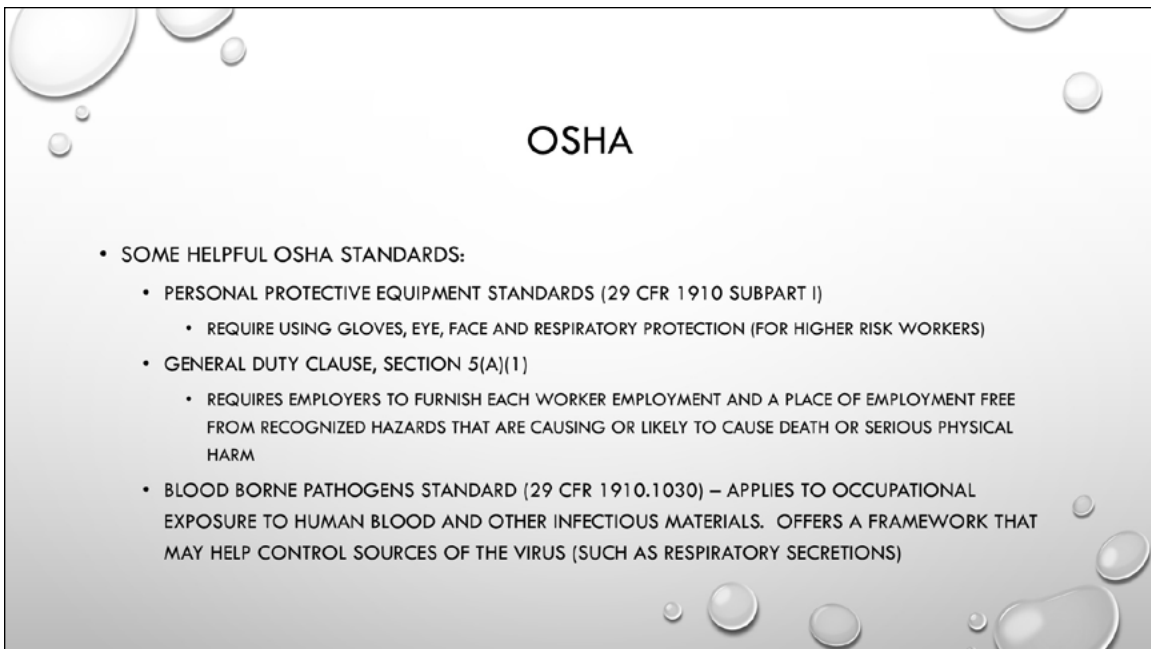
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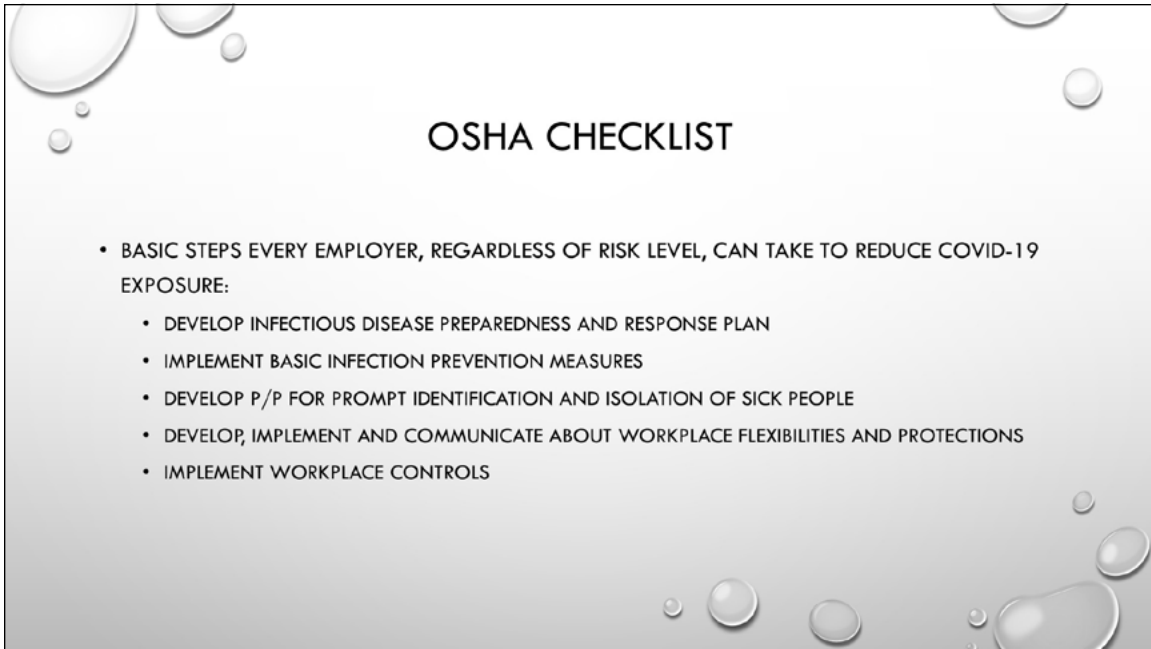
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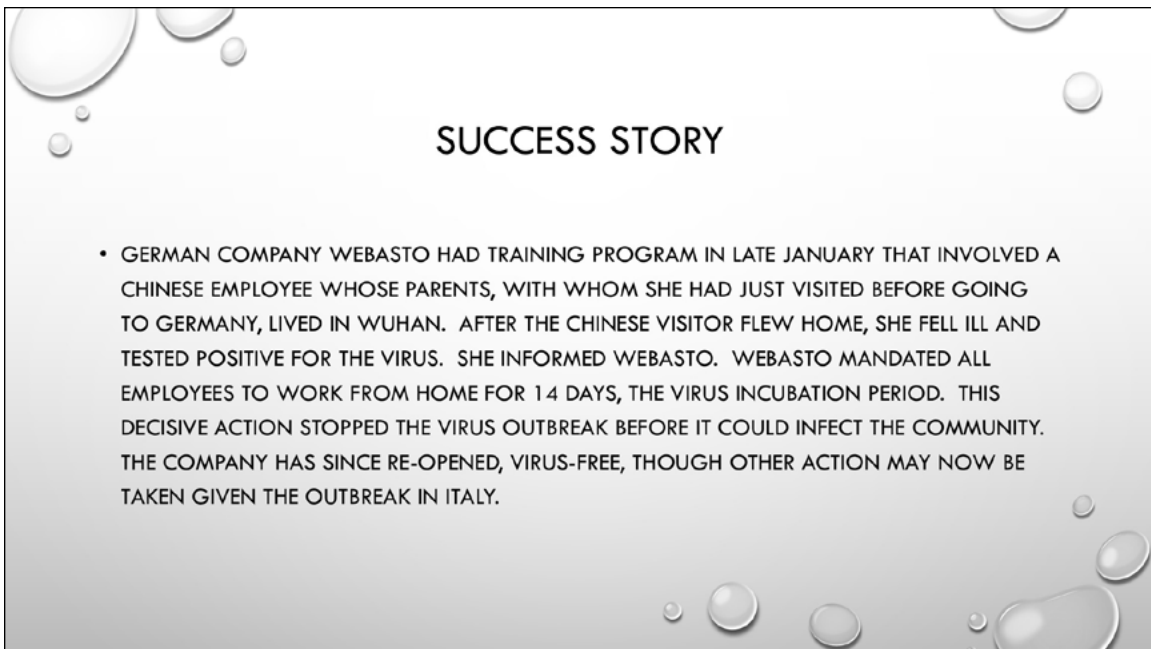
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OSHA CHECKLIST

- BASIC STEPS EVERY EMPLOYER, REGARDLESS OF RISK LEVEL, CAN TAKE TO REDUCE COVID-19 EXPOSURE:
 - DEVELOP INFECTIOUS DISEASE PREPAREDNESS AND RESPONSE PLAN
 - IMPLEMENT BASIC INFECTION PREVENTION MEASURES
 - DEVELOP P/P FOR PROMPT IDENTIFICATION AND ISOLATION OF SICK PEOPLE
 - DEVELOP, IMPLEMENT AND COMMUNICATE ABOUT WORKPLACE FLEXIBILITIES AND PROTECTIONS
 - IMPLEMENT WORKPLACE CONTROLS

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SUCCESS STORY

- GERMAN COMPANY WEBASTO HAD TRAINING PROGRAM IN LATE JANUARY THAT INVOLVED A CHINESE EMPLOYEE WHOSE PARENTS, WITH WHOM SHE HAD JUST VISITED BEFORE GOING TO GERMANY, LIVED IN WUHAN. AFTER THE CHINESE VISITOR FLEW HOME, SHE FELL ILL AND TESTED POSITIVE FOR THE VIRUS. SHE INFORMED WEBASTO. WEBASTO MANDATED ALL EMPLOYEES TO WORK FROM HOME FOR 14 DAYS, THE VIRUS INCUBATION PERIOD. THIS DECISIVE ACTION STOPPED THE VIRUS OUTBREAK BEFORE IT COULD INFECT THE COMMUNITY. THE COMPANY HAS SINCE RE-OPENED, VIRUS-FREE, THOUGH OTHER ACTION MAY NOW BE TAKEN GIVEN THE OUTBREAK IN ITALY.

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HELPFUL LINKS

- [HTTPS://WWW.OSHA.GOV/PUBLICATIONS/OSHA3990.PDF](https://www.osha.gov/publications/osha3990.pdf)
- [HTTPS://WWW.EEOC.GOV/FACTS/PANDEMIC_FLU.HTML](https://www.eeoc.gov/facts/pandemic_flu.html)
- [HTTPS://WWW.CDC.GOV/CORONAVIRUS/2019-NCOV/COMMUNITY/GUIDANCE-BUSINESS-RESPONSE.HTML](https://www.cdc.gov/coronavirus/2019-nCoV/community/guidance-business-response.html)
- [HTTPS://WWW.DOL.GOV/AGENCIES/WHD/FLSA/PANDEMIC](https://www.dol.gov/agencies/whd/flsa/pandemic)
- [HTTPS://WWW.DOL.GOV/AGENCIES/WHD/FMLA/PANDEMIC](https://www.dol.gov/agencies/whd/fmla/pandemic)
- [HTTPS://WWW.CONGRESS.GOV/BILL/116TH-CONGRESS/HOUSE-BILL/6201](https://www.congress.gov/bills/116th-congress/house-bill/6201)

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Q&A REMINDER

The following Q&A session does NOT constitute legal advice and should not be used as such. It is for educational purposes only.

WELCOA Members should retain legal counsel
to obtain definitive answers.

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• FOR MORE INFORMATION, CONTACT:

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