



Time off to Vote

One of the most common reasons people give for not voting is that they're too busy with the demands of work and life. To address this barrier and increase voter participation, many states now require employers to permit employees to take time during the day. The regulations vary state by state. For example, California allows workers up to two hours off, without a loss of pay, to vote if they do not have enough time to do so during their non-work hours. The law requires workers to notify their employers two working days before the election if they need to take time off to vote.

Some companies have taken further steps to encourage civic engagement, such as;

- Giving paid time off for employees to train as poll workers, as San Francisco-based denim company Levi Strauss & Co. is doing this year.
- Reducing store hours on Election Day to ensure that employees can vote in person, as Best Buy has pledged to do.
- Closing entirely on Election Day, a practice started by Patagonia in 2016 and now picked up by other employers.

You can access a state-by-state list of requirements for employers on voting day, [here](#).

Returning to the Workplace: Opportunities and Pitfalls for Employers

Tackling the Big Question

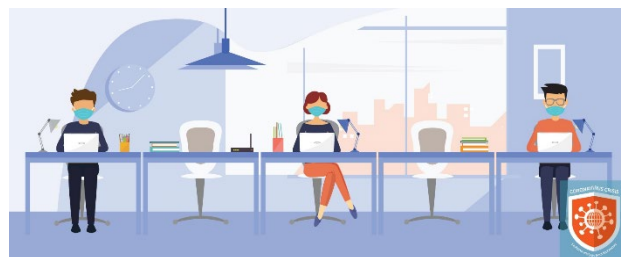
Navigating the current global health event is one of the biggest business challenges of our time. Today's employers bear the primary responsibility of figuring out how to adapt traditional ways of working to be good both for business and for people, helping define new approaches along the way. As government restrictions begin to ease, the most pressing of these is determining when and how—if at all—to start the complex task of returning to the workplace. If you're in this position, here are some key considerations and preparations to make.

The first area to consider is the nature of the work itself and whether that work is best done at home or at the office. Ask yourself, where do you get the most efficiency and scale? Having all or most of your workforce remote would have once been unthinkable for many employers, but now that systems and protocols are up and running, you may discover it's actually favorable for employees to continue on remotely.

As you think through the decision, it's a good idea to anonymously survey your employees to find out if they prefer to work from home, return to the office, or some combination of the two. This will allow you to understand the sentiment and conditions, such as concerns about transportation or shared spaces, that will help make people feel safe. You can then act on those learnings as you're mapping out how to modify workplace policies and the physical space of your office

Communicating your Decision

Once you come to a decision about how your company will move forward—whether all employees will return to the office or continue



to work from home or a hybrid of the two—be prepared to communicate that decision in a thoughtful and transparent way to eliminate misunderstandings and achieve buy-in from everyone. That means being able to explain the why to employees. For example, if you're going to have a hybrid workplace, explain why certain roles or teams will work better in the office versus virtually. If you're committing to an all-virtual workforce partly to reduce your real estate footprint, come out and say so. Make sure your explanations reinforce your company's mission and values.

When building a communications plan, consider that the timing of your message matters as well. As your company moves through the decision-making process, keep your employees updated. For example, when you're distributing the survey, you'll want to let workers know that you're trying to come to a decision about whether the physical office will reopen and how. If you are considering reopening sometime in the fall but don't know exactly when, let folks know that soon (e.g., at your next company-wide virtual meeting). You don't need a definitive answer or an exact date—you simply need to be transparent and communicate along the way, so that returning to the office isn't a total surprise, and people have some advance notice to make their own personal preparations and decisions about childcare, where to live and other matters. Being flexible will go a long way in retaining top talent.

One thing is certain: What comes next will involve a period of adjustment for everyone, and flexibility, creativity and transparency will make all the difference.

Unemployment Claim Benefit Payments Halted in California



Last week, it was reported that the Pandemic Unemployment Assistance (PUA), a federal government program that was part of a \$2.2 trillion relief package and designed to extend unemployment benefits to self-employed people, independent contractors, those engaged in the gig economy, part-time workers and others who were previously deemed ineligible for unemployment insurance, was plagued with allegations of fraud.

Investigations indicated that there was a growing problem with fraud and the PUA program was the target of scammers who, among other activities, stole people's identities to apply for benefits they weren't entitled to. The state of California has seen the largest surge of these questionable requests for PUA. "We do suspect that a big part of the unusual recent rise in PUA claims is linked to fraud," said Loree Levy, a spokesperson for the California Employment Development Department (EDD). She said the state was investigating "unscrupulous attacks" exploiting identity theft and vulnerabilities in the system.

In response to this situation, after already paying billions in claims, California will not accept new unemployment claims for the next two weeks. The state announced on Saturday that it will use this time to work on procedures and systems in place to prevent fraud, calling it a "reset period that will help expedite new claimant payments, reduce fraud and tackle backlog issues moving forward."

Reporting False Claims

If one of your employees believes a claim has been fraudulently filed using their information, they can follow the below process to report the false claim.

The best way to report false claims is to submit a Fraud Reporting Form online. You can also fax 1-866-340-5484 or call the EDD Fraud Hotline at 1-800-229-6297.

When reporting fraud:

- Provide all relevant information about the issue. Include your name and phone number if you don't want to remain anonymous. You will not receive a call from the EDD unless more information is needed.
- Send any fraudulent documents or mail to EDD PO Box 826880, MIC 43, Sacramento, CA 94280-0225. You can also write "Return to Sender" on the envelope and provide it to your mail carrier.
- If you need to provide more information after reporting fraud, contact the EDD again. Include the reference number provided when you first reported the issue.

California Expands State Family and Medical Leave

California Gov. Gavin Newsom signed SB-1383 into law Sept. 17, a move which attorneys at Jackson Lewis said, "significantly expands employee entitlement to family and medical leave." Newsom's office estimated that nearly six million additional workers in the state now have access to job-protected leave. The law requires that employers of five or more employees grant up to 12 weeks of unpaid, job-protected leave during any 12-month period for the purposes of: bonding with a new child and taking care for themselves or "a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as specified." The provision represents an expansion of both eligibility and the reasons for which an employee can take leave.

The bill defines an employee as someone who has "at least 1,250 hours of service" with the employer during the past year, and also protects leave for "a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States." The law takes effect Jan. 1, 2021.

If your company falls in the affected group your Centricity support team will be reaching out in the coming weeks to discuss appropriate updates to the employee handbook and procedures.



Notice Requirements for COVID-19 Exposure in the Workplace

Under the new law, Assembly Bill (AB) 685, employers are required to provide employees with written notification within one business day of receiving notice of "potential exposure" due to a positive COVID-19 test. Potential exposure means all employees and the employers of subcontracted employees "who were on the premises at the same worksite" as the infected individual.

The law also requires an employer with a positive case on its premises to notify all employees and subcontractors' employees of the disinfection and safety plan that the employer plans to implement, in compliance with federal CDC guidelines.

Finally, the law requires that an employer with an "outbreak," defined as three or more cases within a 14-day period, to report that outbreak to the local health department in the company's jurisdiction within 48 hours. This has been required under the state's guidance and is now state law.

Records of notifications must be kept for three years, and the law includes civil penalties for violations.

Department of Labor Revises FFCRA Leave Rules

In response to a court ruling in early August that invalidated certain regulations by the U.S. Department of Labor (DOL) related to leave under the Families First Coronavirus Response Act, the DOL has released revised regulations. The changes, or lack of changes, are outlined below. The revisions took effect today.



Definition of Health Care Provider

The definition of health care provider for purposes of whom an employer can deny leave to is revised to include physicians and others who make medical diagnoses (the same as under traditional FMLA); employees who provide diagnostic services, preventive services, treatment services, or other services necessary for patient care; and employees who provide services that, if not provided, would adversely affect patient care. **This definition is narrower than in the previous rule. For example, nurse assistants and laboratory technicians who process test results are considered health care providers, but IT workers at a hospital and medical billers are not.**

Documentation Prior to Leave

Employers may require that employees provide documentation to support their need for leave as soon as practicable. **The former rule said that employers could require documentation before the leave started, which isn't always practical.**

Leave During a Furlough or Business Closure

Emergency Paid Sick Leave (EPSL) and Emergency FMLA (EFMLA) are still available only if an employer has work available for the employee during the time that they need the leave. **This is the same rule as before; the DOL just explained its reasoning.**

Approval for Intermittent Leave for Childcare

Employees still must get approval from their employer to use intermittent leave. However, the DOL has made it clear that leave is not considered intermittent if a school or daycare is closed on certain days or half days. For example, if the employee's child's school has a hybrid schedule with in-person classes on Tuesdays and Thursdays, but remote learning on Mondays, Wednesdays, and Fridays, then the employee would need leave on Mondays, Wednesdays, and Fridays, with each day being a separate leave event. In other words, the employee is not requesting intermittent leave in this scenario, so they do not need their employer's consent. **This is the same rule as before; the DOL just explained its reasoning and provided some clarification.**

Supporting Employees Displaced by Natural Disaster



Hundreds of thousands of people have had to evacuate their homes due to the wildfires on the West coast, and dangerous ash and smoke have affected millions of others. In the Midwest and South, disaster relief efforts are underway after destructive storms. During these devastating times, organizations can be a big support to their employees. Here are some things you might consider doing:

- Reaching out to employees who have been affected, letting them know you're thinking about them and seeing if there's anything you or the organization can do to help.
- Offering paid leave to employees unable to work due to the fires.
- Establishing a PTO donation bank program so employees not affected by the disaster can donate their time for use by others. When 20 employees each chip in one day, it can make a huge difference in two employees' lives.
- Providing temporary shelter at local hotels for those displaced from their homes.
- Hosting a workplace donation drive for necessities that employees may have had to leave behind when evacuating.
- Encouraging use of the Employee Assistance Program (EAP), if you have one.
- Offering temporary employment to employees' family members who have been affected.
- Temporarily relocating employees to other offices with better air quality or proximity to their new housing, if they have evacuated their home.
- Donating money or providing employees with paid time off to volunteer at local relief organizations.
- Arranging for childcare support.

You'll also want to consider the tax consequences of any assistance you provide, whether in cash or as a benefit. Typically, any employer-paid item of value is taxable to the employee receiving it, but there are exceptions. Helping employees avoid unnecessary taxes certainly increases the value of the benefit or assistance. For instance, Internal Revenue Code § 139 permits tax-free employer payments for an employee's disaster-related expenses, including housing and living expenses.

For more information about the taxability of fringe benefits in general, see IRS Publication 15-B, [Employer's Tax Guide to Fringe Benefits](#) or work with your Centricity team.

Training of the Month

We offer a wide variety of web training courses through our training portal, ThinkHR. Courses vary in length and cover an array of topics including workplace safety, diversity, and harassment prevention. The full course catalog is available upon request. All courses are offered at a rate of \$10 per participant.

Below is one of our available courses. Please reach out to your Centricity team for more information on this or any courses that interest you.

Dealing with Common Meeting Problems

The human factor can introduce problems in meetings, despite your best preparation and planning endeavors. This course shows you how to measure the effectiveness of your meetings, and how to intervene appropriately during meetings to get back on track when specific problems arise. It explores numerous cases involving lack of civility and decorum, poor productivity, and unbalanced participation, and equips you with strategies for handling these problems. Finally, this course surveys the unique challenges of the virtual meeting format, and provides guidelines for getting the most out of your virtual meetings in spite of these challenges.

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Q&A Corner



Can I deny FFCRA leave to an employee who has high schoolers attending class remotely who are able to take care of themselves during the day?

No. Employees are entitled to emergency FMLA (EFMLA) when they are unable to work or telework because they need to care for a child because the child's school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19. However, if the child or children are 15 or older, you should require that the employee provide a statement or affirmation that there are special circumstances that cause the older child to need their care. They do not need to provide any further information beyond that statement (such as what the special circumstances are). If you feel it necessary, you can remind all employees that it is fraudulent to take FFCRA leave if they are not unable to work as a result of the care they will be providing.

Are we required to restore employees returning to work after a furlough to their original positions?



Unless an employee was out on job-protected leave, such as FMLA or EFMLA, you are not required to return them to their original position or to an equivalent one (or bring them back at all). Given the impact of COVID-19 on business operations across the country, it's not surprising that organizations may need to restructure their teams to stay afloat or remain competitive. That said, if employees who were furloughed or laid off are asked to come back to a job that feels to them like a demotion, they may be less inclined to accept the offer or may be less engaged in the new role than they were in their previous job.

If you need to restructure their position, it will be helpful to explain why that was necessary. People are generally much more accepting of change if they understand it, and less likely to claim discrimination if you've given them your business-related reason for the decision.

Are depression and anxiety considered disabilities?

They can be, yes. Under the Americans with Disabilities Act (ADA), an individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

The ADA prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

If an employee informs you that they have anxiety or depression and requests an accommodation, you should begin the interactive process. Basically, you and the employee determine what, if anything, can be done to accommodate them so that the essential functions of the job get done to your standards and the employee is able to continue to have the equal benefits and privileges of employment. As part of this conversation, you may request a doctor's note to substantiate the disability.



We're currently being inundated with unsolicited resumes. Do we need to keep all of them?

You can keep or discard unsolicited resumes, but your practice should be consistent. Keeping some while discarding others could open you up to discrimination claims if your hiring decisions were ever challenged.

If you're feeling overwhelmed by the number of unsolicited resumes you're receiving, you can try to discourage job seekers from sending them by posting on job advertisements and on your careers page that you don't accept unsolicited resumes. When you do receive them, don't review them—simply delete the file or email or shred the document.

If you opt to keep unsolicited resumes, we recommend you maintain them for the time you would keep solicited resumes, or at least one year (two if you're a federal contractor).