

## Compliance Reminder

### *California Family Rights Act*

As we reported in our September issue, significant amendments to the California Family Rights Act (CFRA) take effect on January 1. Most notably, **CFRA will apply to employers with five or more employees.**

CFRA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain reasons, such as baby bonding. Your HR partner is available to assist with ensuring your company's compliance with the new legislation.



### *Pay Data Reporting*

Beginning next year, **employers with 100 or more employees will need to report pay data annually to the Department of Fair Employment and Housing (DFEH).** The first deadline is March 31, 2021. The DFEH has created an extensive FAQ that is available [here](#), and additional guidance will be provided by regulations released in the new year.



## COVID-19 Vaccine and the Employers' Role

On December 18, The Food and Drug Administration approved Moderna's coronavirus vaccine for emergency use. The vaccine — the second approved for use in the U.S. behind Pfizer and BioNTech's — bolsters the U.S. supply of doses and raises questions regarding employers' rights and responsibilities.

Employers can require workers to get a Covid-19 vaccine and bar them from the workplace if they refuse, the federal government said in guidelines issued this week. Public health experts see employers as playing an important role in vaccinating enough people to reach herd immunity and get a handle on a pandemic that has killed more than 300,000 Americans. Widespread coronavirus vaccinations would keep people from dying, restart the economy and usher a return to some form of normalcy, experts say.

Guidance from the U.S. Equal Employment Opportunity Commission, the agency that enforces laws against workplace discrimination, has been highly anticipated because requiring employees be tested for the coronavirus touches on thorny medical and privacy issues covered by the Americans With Disabilities Act of 1990 (ADA). The guidance, issued on Wednesday, confirmed what employment lawyers had expected. Businesses and employers are uniquely positioned to require large numbers of Americans who otherwise would not receive a vaccination to do so because their employment depends on it.

The ADA limits employers' ability to require medical examinations like blood tests, breath analyses and blood-pressure screening. These are procedures or tests, often given in a medical setting, that seek information about an employee's physical or mental conditions. The administration of a Covid-19 vaccine to a worker by an employer doesn't fit that definition, the commission said. "If a vaccine is administered to an employee by an employer for protection against contracting Covid-19, the employer is not



seeking information about an individual's impairments or current health status," it stated, "and, therefore, it is not a medical examination." On its website, the commission said that requiring an employee to show proof of having gotten a Covid-19 vaccination would not amount to a disability-related inquiry. "There are many reasons that may explain why an employee has not been vaccinated, which may or may not be disability-related," the commission said. However, employers should be careful about how they handle the process. Prescreening vaccination questions could violate an A.D.A. provision on disability-related inquiries. Employers administering vaccines, the guidance said, must show that prescreening questions are "job related and consistent with business necessity."

If you plan to require your employees to get a COVID-19 vaccine, we recommend developing a written policy. In addition to legally protected reasons, employees may have general objections to receiving a COVID-19 vaccination that do not require a reasonable accommodation which could create issues for employers. If a significant portion of the workforce refuses to comply, the employer will be put in the very difficult position of either adhering to the mandate and terminating all of these employees, or deviating from the mandate for certain employees, potentially increasing the risk of discrimination claims. Rather than implementing mandates that could lead to such difficult decisions, employers may wish to focus on steps they can take to encourage and incentivize employees to get vaccinated.

1. Patel, V. (2020, December) Employers Can Require Workers to Get Covid-19 Vaccine, U.S. Says. Retrieved from <https://www.nytimes.com/2020/12/18/us/eoc-employers-coronavirus-mandate.html>  
2. Nagale-Piazza, L. (2020, December) What Employers Can Do If Workers Refuse a COVID-19 Vaccination. Retrieved from <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/if-workers-refuse-a-covid-19-vaccination.aspx>

# 4 Steps to Improve Financial Resiliency in Tough Times

The end of the longest economic expansion in U.S. history has exposed just how fragile many American families are financially. Millions of Americans experience financial insecurity. Nearly 40 percent of U.S. workers live paycheck to paycheck, according to a 2019 survey by Willis Towers Watson. Many worry about covering unexpected bills and saving for retirement. The coronavirus pandemic has exacerbated the situation, and it's becoming clear that the public health crisis is likely to persist and many of the jobs that have been lost will not return soon. In a survey from NerdWallet, 7 out of 10 Americans said their household income has been negatively affected by the coronavirus. Increasingly, employers are expanding employee benefits offerings and creating wellness programs that comprehensively and systematically address employees' financial fitness. The task is formidable but focusing on the following four objectives should help.

## 1. Keep Workers Working

Some companies say their most important role, particularly in a COVID-19 environment, is to keep their employees on the payroll. They recognize the importance of jobs to financial wellness and want to avoid laying off employees unnecessarily in down cycles.

At global management consultancy PricewaterhouseCoopers (PwC), that means reducing executive compensation. "PwC is committed to protecting our people's jobs and livelihoods by reducing discretionary costs and having our partners shoulder the financial burden" during downtimes, a company spokesperson says. "Our partners have reduced their income in order to minimize the impact to the rest of the employees and prioritize our long-term strategy in order to take care of our people. We have committed to layoffs as a last resort."

To free up resources to compensate and retain top employees, PwC partners will continue to receive reduced income through 2021. Meanwhile, the company is still awarding promotions on schedule and providing performance-based bonuses.

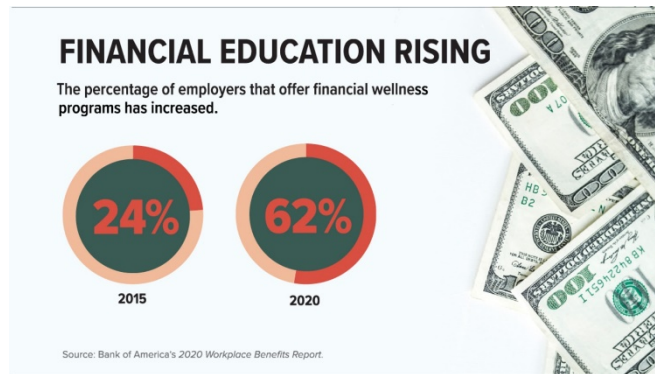
## 2. Help Workers Prepare for the Unexpected

Some companies are offering incentives, rainy day accounts and income-advance programs to help employees prepare for financial challenges. For example, Truist Financial Corp. (which was created when SunTrust and BB&T merged last year) offers a \$750 incentive to workers who complete a financial education program, says Brian Nelson Ford, head of financial wellness at the Charlotte, N.C.-based company. These programs are appreciated by participating workers and help improve retention.

## 3. Provide Financial Education

Fair pay and good benefits are vital to financial health and stability. But they aren't likely to translate into financial security unless employees have basic knowledge and skills regarding investments, budgeting, debt management and saving.

The workplace is one of the most effective places to administer financial wellness training, because most people receive their main source of income through their workplace and are encouraged to utilize their company's retirement programs.



## 4. Promote Retirement Plan Best Practices

For many employers, retirement plans represent the best-developed financial wellness benefit they offer. Being thoughtful about plan design can dramatically improve employees' chances of accumulating wealth and achieving a secure retirement.

"What I have seen over a few decades, and something that has accelerated over the past five years, is plan sponsors adopting smart plan designs that feature automatic default components in plans," says Dave Stinnett, head of the Vanguard strategic retirement consulting team that offers plan design and participant experience advice to plan sponsors. Stinnett, based in the Philadelphia area, says these components include:

- Auto-enrolling employees in plans.
- Setting automatic payroll deductions.
- Automatically escalating employee contributions over time.
- Adopting automatic asset-allocation features, such as placing employees in target-date funds that feature low-cost, diversified assets and a risk profile appropriate to their age.

Stinnett says those actions have addressed three big fiduciary problems that plagued defined contribution retirement plans for years: "First, how do we get people to participate in plans? Second, how do we get them to save enough? And finally, how do we get them to invest appropriately for their age?"

For HR leaders, employee needs, and the extraordinary circumstances brought about by the coronavirus pandemic present unique challenges. But with some imagination and a focus on providing meaningful resources and services, they can help employees become more financially resilient and secure.

Tobenkin, D. (2020, December). 4 Steps to Improve Financial Resiliency in Tough Times. Retrieved from <https://www.shrm.org/hr-today/news/hr-magazine/winter2020/Pages/4-steps-to-improve-financial-resiliency-in-tough-times.aspx>

## Exempt Salary Threshold for California 2021

For individuals to qualify as exempt employees, California requires that; they perform exempt duties more than 50 percent of their work time and; exempt executive, administrative, and professional employees earn a salary of no less than two times the state minimum wage for full-time employment. The minimum annual salary is based on the current state minimum wage, calculated as follows: (minimum wage x 2) x 2,080 hours.

Effective January 1, 2021, the minimum salary threshold for these exemptions is as follows:

- **\$58,240 per year (or \$1,120 per week) for employers of 26 or more employees.**
- **\$54,080 per year (or \$1,040 per week) for employers of 25 or fewer employees.**



# IRS Announces FSA, DCA, and other 2021 Limits

## Health FSA--\$2,750

The health FSA contribution limit, originally imposed by the Affordable Care Act (ACA), adjusts in \$50 increments based on a complex cost-of-living calculation for the preceding calendar year, that measure was not sufficient in 2020 to increase by at least \$50 given the provision's requirement to round down to the next lowest multiple of \$50. Therefore, the limit for 2021 remains at **\$2,750**.

## Increased Carryover Cap-\$550

IRS Notice 2020-33, issued on May 12 as part of COVID-19 relief, raised the amount of funds that health FSA plans can carry over for 2020 to \$550, up from \$500. For 2021, the maximum carryover amount remains **\$550**.

There are two options for FSA extensions; employers can adopt either or neither, but can't offer both:

- **Carryover.** If an FSA plan has the carryover feature, participants can roll over up to **\$550** of unused FSA dollars to the next year but will forfeit any excess over \$550 at year-end.
- **Grace period.** An optional grace period gives employees an **additional two-and-a-half months** to incur new expenses using prior-year FSA funds. At the end of the grace period in mid-March, all unspent funds must be forfeited.

Any amount that rolls over into the new plan year does not affect the maximum limit that employees can contribute.

## CARES Act Expands FSA-Eligible Purchases

As part of the Coronavirus Aid, Response and Economic Security (CARES) Act signed into law in March 2020, FSAs can now be used to pay for **over-the-counter medications without a prescription**—and the same expanded eligibility applies to HSAs and health reimbursement arrangements (HRAs). The coronavirus-related legislation also allows FSAs, HSAs and HRAs to pay for certain **menstrual care products, such as tampons and pads, as eligible medical expenses**. These are permanent changes and apply retroactively to purchases beginning Jan. 1, 2020.

## Dependent Care FSAs

The dependent care FSA maximum, which is set by statute and is not subject to inflation-related adjustments, is **\$5,000** a year for individuals or married couples filing jointly, or **\$2,500** for a married person filing separately. Married couples have a combined **\$5,000** limit, even if each has access to a separate dependent care FSA through his or her employer.

## Commuting Benefit Amounts

Employer-funded parking and mass-transit subsidies are tax-exempt for employees. The 2021 amounts remain the same as 2020 at **\$270** monthly for transit passes and van pool services and **\$270** for qualified parking.

## Health Savings Account (HAS) Limits

Contribution Limit: Self-Only: \$3,600, Family: \$7,200  
Catch-Up Contributions (age 55 or older): \$1,000

## FICA Limits

The Social Security Administration recently announced that the maximum earnings subject to Social Security tax will increase from \$137,700 in 2020 to \$142,800 in 2021. For 2021, the FICA tax rate for both employers and employees is 7.65% (6.2% for Social Security and 1.45% for Medicare).

# Mandated Reporter Training Requirements for California



Employees who supervise and directly interact with minors, as well as "HR employees," have been added to California's list of "mandated reporters." However, these employees are only mandated reporters if the organization has **five or more**

**employees and employs at least one minor.** Mandated reporters are obligated to report known or suspected child abuse and neglect, and/or sexual abuse, to any of several state or county agencies. Failure to report is a crime. HR employees are defined as the employee or employees designated by the employer to accept any complaints of misconduct. This means that if your harassment or complaint policy directs employees to report acts of discrimination or harassment to their manager or supervisor, the CEO, a Board member, or any other non-HR person, that person is now a mandated reporter under the law.

Employers of these newly mandated reporters must provide them with training on identifying and reporting child abuse and neglect. The state provides compliant online trainings [here](#). Time spent taking the training is considered hours worked and must be paid.

Employers must also collect a signed acknowledgment form related to these duties from each employee who is a mandated reporter. A template is available [here](#).

The law does not say when the training must be completed, but since the duty to report takes effect immediately on January 1 and failure to report can have significant penalties, we would recommend training current employees as soon as possible and including this training as part of any new onboarding.

## California Crime Victim Leave Law Expanded

Previously, employers of all sizes were required to provide job-protected leave to victims of stalking, domestic violence, and sexual assault. That law has now been amended to include victims of any crime that caused physical or mental injury or a threat of physical injury. The law entitles employees who are victims to take time off from work to "obtain any relief." This includes, but isn't limited to, taking steps to ensure their or their child's health, safety, or welfare, such as by trying to get a restraining order. Employees are also entitled to leave if their family member has died because of a crime. For purposes of this law, "family member" includes children, parents, spouses, and siblings as well as anyone who has an equivalent close association with the employee. See the laws page in the HR Support Center for a full list of family members.

As with the current crime victim leave law, employers may require reasonable advance notice of the need for leave, if notice is feasible, and if the employee isn't able to give advance notice, the employer can require documentation. However, the law now states that a signed statement from the employee that their absence was for a covered reason is acceptable documentation. Finally, employers with 25 or more employees are now required to provide leave to all crime victims for reasons similar to those previously required only for sexual assault and domestic abuse victims (e.g., medical attention, counseling, safety planning). Employers should update their policies to ensure these changes are incorporated.

# 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.

## Essentials of Interviewing and Hiring: Conducting an Effective Interview



Proper preparation is crucial to ensure a good interview. But all your preparation will be useless if you don't follow some important guidelines when conducting the employment interview. Opening the interview properly and establishing a sound format are key. You must also be mindful of the functions of different question types and styles so you can use them effectively during an interview. Finally, you will want to close the interview on a positive note. This course describes how to proceed with a face-to-face to interview. It covers how to open an interview well, what types of questions to ask, and how to close the interview.

201 North Civic Drive. Suite 245  
Walnut Creek, CA 94596  
866-379-7054 – Toll Free  
925-280-6332 – Main  
[www.centricity-solutions.com](http://www.centricity-solutions.com)  
[support@centricity-solutions.com](mailto:support@centricity-solutions.com)

# Cal/OSHA Adopts COVID-19 Rules for Workplaces

The California Division of Occupational Safety and Health, known as Cal/OSHA, has issued mandatory COVID-19 emergency temporary standards effective as of November 30, 2020. The standards apply to all employers except the following:

- Workplaces where only one employee works if the employee does not interact in person with other people
- Employees working from home
- Employees who are covered by the Aerosol Transmissible Diseases regulation (generally essential in-person services)
- The emergency temporary standards require covered employers to:
  - Develop a written COVID-19 prevention program;
  - Communicate to employees regarding COVID-19;
  - Identify, evaluate, and correct COVID-19 hazards;
  - Implement physical distancing, face coverings, and other controls;
  - Train employees regarding COVID-19;
  - Investigate and respond to a COVID-19 case; and
  - Report and keep records regarding COVID-19 cases and exposures.

Each of the above bullet points has specific—and often extensive—requirements. For example, the written prevention program has specific protocols for excluding infected or exposed employees from work, including paying them if they would otherwise be able to work. In other words, if the employee is too sick to work because of COVID-19 symptoms, they would not need to be paid because their sickness would prevent them from working even if the employer didn't have a prevention program prohibiting the employee from returning to work. But if the employee is otherwise able to work but isn't allowed to because of the COVID-19 prevention program, then they would need to be paid while they're excluded from work. (However, the employer does not have to pay an employee if the employer can show that the employee's infection or exposure was not work related.)

In addition, employers who provide housing or transportation to employees have specific requirements for those settings.

Cal/OSHA provides further details in an FAQ [here](#) and COVID-19 trainings [here](#).

HRPros (2020, November) Cal/OSHA Adopts COVID-19 Rules for Workplaces. Retrieved from <https://centricity.myhrsupportcenter.com/app/landing/19/content/12011>

# Q&A Corner



An employee of ours had a brief coughing fit today, but she says she just had something caught in her throat. As far as we've seen, she hasn't experienced any symptoms associated with COVID-19 other than this one time. Do we need to send her home just in case?

No. If you've confirmed that she isn't experiencing symptoms of COVID-19, I would recommend treating this instance of coughing as a one-off event and not indicative of the virus. You can remind her and other employees to stay home if they are experiencing symptoms, but one instance of coughing could be due to any number of factors, and in this case the employee provided an alternate explanation. That said, if an employee were to have persistent coughing, then it would be advisable to send them home. If that employee were to claim their symptoms are from another cause (e.g., allergies, asthma, common cold), the most risk-averse response would be to send them home with pay until the symptoms resolve or they can provide evidence of the other source of the symptoms.

We also recommend that employees wear masks at work, even if not required by your state or locality. The potential risk that any employee poses to others goes down significantly if they are wearing a mask.

**Several of our employees have talked about having Christmas with large groups of extended family. What can we do to reduce the risk of COVID-19 spreading into our workplace?**



Assuming you don't want to make everyone quarantine or argue with employees about their Christmas plans, I'd follow the guidelines used for exposed healthcare workers. Everyone in the workplace should:

- Wear a mask at all times. Masks should be two layers and be worn correctly.
- Practice social distancing at all times.
- Wash hands frequently.
- Self-monitor for symptoms continuously.
- In addition, the company should check employees' temperatures and ask about symptoms when they arrive for work each day.

These are good practices regardless of whether any employees will be attending large indoor gatherings, but they are that much more important when employees are engaging in high risk activities. If you're not already requiring most or all of these things, I would encourage you to start now and continue throughout the duration of the pandemic.

HRPros (2020, December) Q&A Stream. Retrieved from <https://centricity.myhrsupportcenter.com/app/landing/20/show/list>