

Updates on Covid-19 – Where Are We Now

Can You Imagine A Better Workplace?

Covid-19 Updates

Workers' Compensation

To receive WC benefits for Covid-19, an employee would need to establish: (1) a diagnosis of Covid-19; (2) that it was contracted in the course and scope of employment; and (3) the employment itself created a risk of contracting the virus in a greater degree due to the nature of the job. Claims will be determined on a case-by case basis and this may be a high standard to prove.

OSHA Investigations

OSHA initiated over 1,000 Covid-19 investigations. Employers have received citations for various reasons, including lacking a respiratory protection program, failing to assess the workplace to determine if hazards require PPE and providing PPE; failing to properly record Covid-19 illnesses; and violating OSHA's general duty clause.

Continued Layoffs

Unfortunately, we continue to see business shutdowns and layoffs. This can be legally risky if not handled properly. When conducting any type of layoff or downsizing, employers must be able to articulate a business-related rationale (i.e. economic downturn) and document objective criteria used to evaluate who would be subject to the layoff (to avoid discrimination claims).



COVID-19 VACCINE UPDATE

Gov. DeWine has announced that the coronavirus vaccine will be rolled out in phases, starting with health care workers. First shipments are anticipated to arrive in mid-Dec. The administration of the vaccine will be focused on reaching critical groups initially. It has not been determined when the general public will have the option to receive vaccines and it is not entirely clear if certain employers will mandate the vaccine (with legal exceptions of course).

Continued... Covid Concerns

Employers should continue to take precautions and address issues involving employee exposure and sickness. Recently, the CDC has offered two new options for quarantining – a 10-day option that does not require testing, provided there are no symptoms and a 7-day option with a negative test with no symptoms.

While the agency says a 14-day quarantine remains the safest option, it acknowledged this length placed difficult demands on people and caused potential economic hardship. The Ohio Department of Health, however, continues to recommend a 14-day quarantine.

Organizations are well-advised to continue to have a uniform policy regarding quarantine periods (whether 7, 10 or 14 days), applying the policy consistently with all employees.



Families First Coronavirus Response Act (FFCRA) EFFECTIVE APRIL 1, 2020 – DECEMBER 31, 2020

Employers should continue to provide emergency paid sick leave (EPSL) and expanded family medical leave (EFML) per the FFCRA until it expires at the end of the month. These leaves have specific eligibility requirements and, if employees meet them, they have a legal right to take this leave.

The EPSL provides up to 10 days of leave for six qualifying events (including having symptoms and seeking a medical diagnosis or caring for someone with Covid-19) and the EFML provides up to 10 weeks for leave related to childcare issues. Employees can combine both leaves for up to 12 weeks (if eligible).

Best practice suggests employers continue to provide employees with “time off” next year for Covid-related leave whether this law is extended by Congress or not (no definitive news on this yet). Although it may not be legally required, it may behoove employers to continue to implement their own standard leave policy from a safety and morale standpoint.

LEGAL ALERT – employers must be extra vigilant not to take adverse employment action against an employee who has taken FFCRA leave. Lawsuits are now being filed alleging “retaliation” when employees feel they were “punished” in some way for taking Covid-related leave per the FFCRA.

Ohio Passes Law Shielding Employers from Liability for Covid Lawsuits HOUSE BILL (H.B.) 606 SIGNED INTO LAW ON SEPTEMBER 14, 2020

This law provides Ohio employers with legal protections to stem the spread of Covid-19 lawsuits. Under this law, employers will have immunity from civil actions brought by employees, customers or others for damages/injury/illness resulting from the transmission or contraction of Covid-19.

The law’s immunity applies unless a plaintiff can show reckless, intentional, willful or wanton misconduct on the part of the employer. The law is retroactive to the declared state of emergency in Ohio on March 9, 2020 and is set to expire on September 30, 2021. The new law also bars claims against health care providers from liability in tort actions (unless they were acting recklessly or displaying intentional misconduct) and class actions based on allegations that a business, health care provider, government entity or person caused exposure to or contraction of Covid-19.

This immunity law is good overall for employers, but businesses should continue to remain diligent in providing safety measures and precautions.

DECEMBER WILL SEE CHANGES TO OHIO'S UNEMPLOYMENT BENEFITS

Ohio's unemployment rate dropped and is now below the definition of "high unemployment" – which means some unemployment benefits will end December 12th. Ohio's Department of Job and Family Services has stated that the "Federal-State Extended Benefits" program as well as the "Pandemic Unemployment Assistance" (PUA) program will be impacted by the federal mandate to limit benefits.

There may be action taken at the federal level that will continue to offer assistance for those who still need it due to continued layoffs and other circumstances putting people out of work. However, right now, Ohioans will see certain benefits end, including those who were eligible for up to 20 weeks of Extended Benefits (this benefit was offered after an individual exhausted the regular 26 weeks and the additional 13 weeks of PUA that was offered through the CARES Act). However, new claimants, approved to receive up to 13 weeks of Extended Benefits based on Ohio's lower unemployment rate, are not impacted at this time according to the ODJFS.

Unless action is taken at the federal level, only traditional unemployment benefits will remain in effect after December 26th. Self-employed workers, 1099 tax filers, part-time workers and others who have been receiving payments through the PUA program will not qualify for the seven additional weeks after December 12th.

Also, this month, new unemployment claimants are required to conduct work-search activities in order to apply for benefits on or after December 6th. This "work-search" requirement (which has been in effect in Ohio for decades) was waived when the pandemic hit (to make applying for unemployment easier for individuals during this Covid time) but is now being reinstated. There are exceptions for individuals who have been quarantined by a health care provider.

Feel free to contact me to discuss any Covid-related questions you may have. We've developed a Covid-19 toolkit that we continue to update and can provide clients with sample forms, policies, checklists and communications.

SPOTLIGHT ON...

JANA VANADIA

Freelance Graphic Designer at JV Vision Creative and Marketing Expert Extraordinaire!

In 2015, after nearly two decades of providing creative products to ad agencies and companies, Jana Vanadia started her own graphic design and marketing agency – JV Vision Creative. Jana delivers the highest quality brand design, marketing collateral and strategy. Her offerings range from website and logo design, creation of marketing brochures to directing video and photo shoots. Her keen eye for detail, high-end design aesthetics and deep understanding of her client's "vision" makes her a rare and wonderful asset to any business looking to enhance their image.

As any business knows, having a brand that excites potential clients and customers and reflects the essence of the company is key to a successful marketing strategy. Jana has an uncanny



ability to understand what is needed and how to visionally captivate the attention of the audience.

Just as many organizations are taking this time to reflect on their operations, it may also be a great time to refresh and "reimagine" your brand for 2021. This pandemic has thrown everyone for a loop, and many businesses have had to adjust and pivot by offering different services and products – it will be important to make sure these are incorporated into your website and collateral.

I have personally worked with Jana and cannot say enough about her creative talents! She's responsible for this amazing newsletter and my new brochure. She is highly intuitive and knows exactly how to take a vision and turn it into a marketing masterpiece. She just "gets it" and is simply a joy to work with.

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Visit jvvisioncreative.com to view Jana's work examples and read her client's testimonials.

FREE Virtual Workplace Coffee Talk

DECEMBER 9th, 9-10am

How an Organizational Health Assessment Will Help You Reach Your Company's Potential in 2021 and Beyond

The end of the year and beginning of a new year always seem to be a time of reflection. And this is true of organizations, as they seek ways to improve their overall work environment and transform their culture. There is no better time than the present to set goals and make changes that will have a lasting and profound impact on the success of your organization.

Many companies Jill, Cindy and I work with often recognize they need to make improvements or sit with a lingering feeling that they are not quite optimizing performance or getting the most out of their people and processes. Business leaders tell us they "don't know what they don't know" (other than that things could be running more efficiently) and, therefore, are not entirely sure where to start.

Well, we have the answer to the age-old question of "where do we start?" – **An Organizational Health Assessment**. This is a powerful tool and an ideal starting point. It provides clarity around the current state vs. the future desired state; what the company is doing now and how things are functioning overall compared to where the company could be if they implemented key practices.

The organizational health assessment is the combination of our areas of expertise – Jill's focus on leadership and culture and my focus on employment laws and HR best practices. Cindy offers us context and insight into the common struggles small businesses face. With our combined insights and expertise, we are able to assist organizations to meet their goals, grow and prosper.

So, how do we do this and what does the organizational health assessment entail? After several weeks meeting with executive and management teams and discussing in-depth their organizational "pain points" and workplace challenges, we synthesize the information gathered and benchmark it against proven theories and best practices used by some of the most successful companies and business leaders around the globe. We then provide a "roadmap" of recommendations and how to proceed month-by-month to begin to move the needle.



WORKPLACE COFFEE talk with jill stella & cindy
A one-of-a-kind workplace training experience
December 9th • 9 am - 10 am EST

Conducting an Organizational Health Assessment to Improve Your Business and Bottom Line

When was the last time your organization had a "check-up"? The single greatest advantage any company can achieve is organizational health. Having the right balance of strategy and people processes makes for a smart and healthy organization. *One size fits all is not a good approach* – take the time to do an overall diagnosis so you can match the right strategy!

Join us as we share an organization assessment approach that will provide you with the information necessary to decide what areas to focus on for improvement and what practices to keep in place to reinforce your culture, hit your goals and create an environment where your employees flourish, your customers are thrilled and your bottom line is healthy! *You can spot problem areas early and take action to avoid or mitigate risks.*

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If an organization is tolerant of everything, it will stand for nothing.
– Patrick Lencioni

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Whether it's because of the current pandemic or the fact that the pandemic has brought to light internal issues that were historically overlooked, many companies are starting to recognize the need to enhance or refine their employment policies; that they may need to altogether start from scratch on many of their workplace practices. Low morale, struggling productivity, high turnover, or an overall sense that things could be handled different or better often leads business leaders to take a step back and reevaluate how work is getting done.

When leaders start to ask questions like the following, they generally know it's time for a deep dive: Are we casting a wide enough net and optimizing our recruitment efforts? Are we engaging and rewarding our employees in a

way that will motivate them to stay? How can we manage employee relations issues by holding people accountable but not ruling with an iron fist? Are we investing enough in training and development? Is there untapped potential or missed opportunities within our organization that we are inadvertently overlooking? Are we up-to-speed on all employment laws and legal compliance? Are we handling employee complaints properly to reduce potential litigation claims? What are the barriers getting in the way of creating a positive and effective culture?

Bottom line – organizational health is an organization's ability to function effectively, work collaboratively and produce great results. The assessment provides an objective review that ultimately brings to light organizational strengths and gaps positively or negatively impacting performance. Once we know the hindrances and impediments, we can correct problems and create a more engaging and productive environment.

Join us this Wednesday for more on this topic!

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Thank you for taking the time to read my newsletter. I will continue to share important information on relevant workplace topics and spotlight businesses and consultants here in Northeast Ohio making a difference. Feel free to reach out anytime at stella@imaginehrconsulting.com or 440.897.1991 for more information.

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