

To:

The HR Specialist

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Reopen
safely:
The Back-to-Work
Checklist — see p. 5

From: Business Management Daily

Subject: Practical HR strategies to boost your career

In The News ...

Don't relax on the new leave law.

The ink was barely dry on the Families First Coronavirus Response Act when the U.S. Department of Labor handed down its first enforcement against an Arizona electrical firm for failing to provide paid sick leave under the new law. Settlements and fines against other employers have followed. Learn about the FFCRA criteria and documentation at www.theHRSpecialist.com/corona.

After five months, errors on the new W-4 are still common.

Biggest mistake: Employees who want less taxes withheld are filing W-4 forms instructing payroll to actually withhold *more*. Some of these workers have asked payroll for tax refunds, which you can't do. You can tell them to refile their W-4s. For tips on how to help employees withhold correctly, go to www.theHRSpecialist.com/W4tips.

Going remote: Workers are split.

America's great WFH experiment the past few months has yielded many converts. (Twitter says its employees can now work from home *permanently* if they want.) What do employees want? A survey by Clutch, a B2B ratings firm, found that 39% of professional employees would rather work in an office, while 40% would rather work remotely and 21% had no preference. Many companies are looking at a hybrid approach.

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Testing for coronavirus: Know the legal steps

With coronavirus testing becoming a more accessible option, some organizations are considering making it part of their screening requirements.

The EEOC recently gave employers the green light to administer COVID-19 tests to employees. As with temperature checks (*see page 2*), such testing would normally be disallowed by the ADA but is legal now because the coronavirus is a "direct threat."

The EEOC says employers should ensure their tests are accurate and reliable within FDA and CDC guidelines. If you're considering testing, attorney Nicholas Reiter of the Venable firm suggests you consider these legal risks:

Discrimination. Are all employees who will have contact with co-workers or customers subject to mandatory COVID testing? If not, what is your business basis for testing only some?

If an employee refuses to be tested for COVID-19,

refuses to have his or her temperature taken or refuses to answer questions about symptoms, the EEOC says your organization has the right to bar the employee from the workplace. Ask the reason for his or her refusal in order to provide reassurance and data.

What about religious objections? Attorneys say the direct threat of coronavirus will likely allow you to disregard religious objections to refuse the test, but you may need to alter the manner or location.

Make sure any testing is applied in a consistent, nondiscriminatory manner. If some employees are treated differently, you could face discrimination claims under the ADA or state laws.

Continued on page 2

Return to work: Revise policies, procedures

As states lift their shutdown orders, employees are returning to the workplace. But you can't just swing your doors open.

Organizations are rethinking every process because each step carries potential safety and legal risks. Distancing, testing and cleaning will be your focus for the coming months.

Some key issues to consider:

Remote work. Continue to allow it when possible. If you don't yet have a telework policy that clarifies eligibility, hours, communication, expenses, etc., write one. (*See page 7 for a customizable telework agreement.*)

Staffing. Stagger shift start- and end-times to prevent employees from

congregating. Reduce the number of employees in the office at a time.

(*Example being used:* Workers with last names A–M work in the office certain days, and N–Z work there other days.)

Facility. Set capacity limits on meeting rooms. Mark the ground to identify six-foot lengths while in lines or work areas. Make clear that the six-foot rule (when possible)

is a company policy, not a suggestion. Identify high-touch areas and consider ways to reduce contact. *Example:* New time clocks are voice controlled and include temperature scanners.

Testing. While COVID testing is ramping up, temperature screenings

Continued on page 2



Coronavirus testing

(Cont. from page 1)

Confidentiality. Testers should share the results with a designated individual at the employer, who can then communicate the information to managers (and the employee) on a need-to-know basis. The employee's name should not be communicated unless necessary.

Also, the ADA requires that you keep employees' medical information *separate* from their personnel file in a confidential and secure medical file.

Wage-and-hour issues. As with temperature checks, hourly employees may be due wages for time that they spend taking the test and waiting. Establish testing policies that minimize employees' waiting time and ask your attorney about state wage law.

Telecommuting. In the event of a positive test result, telecommuting may provide a temporary solution. If you haven't already, draft a telecommuting policy that establishes clear ground rules for working from home.

Return to work

(Cont. from page 1)

are the most common tool, as 26% of employers say they're doing this, according to a Mercer consulting survey. Follow the tips on page 1 and 2.

Masks/PPE. You need to decide whether (and where) to require employees and customers to wear face masks. Nearly two-thirds (63%) of the survey respondents said they will provide masks to their employees.

Call outs. Nearly half of employers in the Mercer survey with essential workers had employees not wanting to return to work because they're afraid to get sick. That's why it's important to explain all your cleaning efforts and new policies to staff.

Also, know which workers have not yet exhausted their extra leave under the new Families First law. And know when it's legal to terminate workers who refuse to come back (*see page 4*).

Final tips: Appoint a Chief COVID Officer to ensure your health and safety policies comply and are being followed by employees. Consider requiring staff to sign an acknowledgement form saying they understand your new policies.

Taking temperatures: 6 steps to doing it legally

For many employers, a key part in restarting the workplace is taking employees' temperatures each day before they enter the workplace.

In ordinary times, the ADA would strictly limit any such medical tests on workers. But the EEOC has said checking temperatures during a pandemic is absolutely valid. The action, however, still carries legal risks.

Here are six tips from the Foley & Lardner law firm on the best practices, for safety and legal reasons:

1. Who takes the temperature?

Unless you have a trained nurse or medical personnel on site, designate one or more management-level staff. The person should be trained and the training should be documented.

2. What equipment/PPE? Use a temperature gauge that requires no direct contact with the employee. Handheld forehead-scanner guns are ideal. It's best to have the temp-taker equipped with adequate personal protective equipment (gloves, mask, goggles).

3. What's a "fever"? The CDC says a fever for COVID-19 purposes is any temperature at 100.4 degrees or higher. Check to see if your state and local guidelines say the same thing—some are lower.

4. A positive: Now what? Use the fever guidelines from the CDC or

local authority to discreetly notify the employee he or she won't be able to enter the workplace. The worker should begin quarantine and not return for 14 days and only, if by then, the person has been fever-free and symptom-free at least three days.

5. How to keep records? If the temperature information is recorded, it must be maintained confidentially under the ADA and only provided to those who have a need for the information. You can simply record "yes" or "no" regarding the temperature. Either way, the information should be treated as a confidential medical document and not be placed in the employee's personnel file.

6. Is temp time compensable? Most likely, yes. Best practice is to pay for that time now, especially if a legal authority requires such checks. Also, federal law prohibits pausing compensable time once a workday begins (aside from unpaid lunch breaks). So if the day starts with a paid temperature check, all subsequent pre-shift activities will likely be considered "paid time."

Final tips: Remember that temperature-taking isn't a silver bullet. Continue to enforce social distancing, remote work, frequent hand washing and physical partitions between staff and your co-workers/customers.



Remind managers: Don't punish safety complainers

In only the first month of the coronavirus crisis, U.S. employees had filed more than 3,000 complaints with OSHA alleging that they had been exposed to the virus at work in violation of the law.

Regardless of the merits of their complaints, all those workers are protected against retaliation for complaining. Various federal and state laws protect employees and could give rise to employer liability in the event of a termination or other adverse action on the heels of complaints (or other protected activity).

Case in point: Oil pipeline giant Kinder Morgan learned this lesson the hard way last year. After an employee voiced concern that the company was violating federal safety rules, the company asked him to retract his claim. He didn't and was fired.

OSHA investigators called that a clear case of whistleblower retaliation and hit the company with more than \$323,552 in fines and damages.

The bottom line: OSHA and state safety agencies are on high alert for coronavirus-related retaliation. Consult your attorney before disciplining anyone who has reported alleged safety violations. And instead of punishing complainers, take their concerns seriously and communicate to them the efforts you are taking to keep them safe and healthy.

Follow EEOC guidance on COVID-19 hiring, inquiries, privacy, accommodations

With the coronavirus touching all aspects of the workplace, the EEOC recently issued guidance to clarify how HR should respond to these key issues:

Hiring. You can screen job applicants for COVID-19 symptoms after making a conditional job offer, as long as you do so for all entering employees in the same type of job. Also, you can delay a new hire's start date or rescind a job offer if he or she has COVID-19 symptoms.

However, it's *not* permissible to delay a start date or pull a job offer because a new hire falls into certain at-risk COVID-19 populations, such as older, pregnant or disabled people. That remains an ADA violation.

Medical inquiries. During the pandemic, employers can ask questions to determine if applicants or employees pose a health danger at work. The EEOC clarified that taking an employee's temperature and testing for COVID-19 is permissible (*see pages 1 and 2*). If employees show symptoms at work, you can send them home to ensure co-worker safety.

Confidentiality. Employers should store all medical information related

to COVID-19 in existing medical files, which the ADA requires storing separately from other HR files. Employers may disclose to health authorities the names of employees who test positive for COVID-19.

Accommodations. The EEOC suggests several easy accommodations that can help protect vulnerable employees from infection, including one-way aisles and using plexiglass to ensure distance from customers.

Temporary restructuring of job duties, transfers to different positions or modified work schedules may permit disabled individuals to reduce exposure to others.

The EEOC guidance offers a nod to expediency during this crisis, noting that "some employers may choose to forgo or shorten the exchange of information between an employer and employee known as the interactive process." The EEOC acknowledges that temporary accommodations may be required until the full ADA process can be completed.

Online resource You can read the full EEOC guidance at www.tinyurl.com/EEOCCOVID-19-assistance.

Employers broaden health, wellness efforts

Employees' well-being—both physical and emotional—has taken on added importance during the coronavirus crisis, and that has led more employers to expand their health and wellness offerings.

Increasing access to virtual medical care is an obvious start, with 86% of employers promoting use of telemedicine or a nurse hotline, according to a survey by the Willis Towers Watson consulting firm.

Fifty-eight percent are increasing access to tele-behavioral health, and an additional 14% plan to do so.

For those employees who contract

the virus, 41% of organizations report they will waive out-of-pocket costs for treatment.

To encourage access to prescription drugs during the pandemic, 37% are relaxing supply limitations for nonspecialty drugs—for example, allowing 90-day supplies of medicines that otherwise are dispensed 30 days at a time. Another 7% plan to do so.

Eighty-eight percent of employers reported they have a business continuity plan in place. Only 39% reported they had already instituted supervisor training specific to COVID-19.



Litigation is next big COVID threat to employers

First came the virus ... then came the lawyers.

As *The Washington Post* recently noted, "Hundreds of lawsuits stemming from the coronavirus pandemic are rapidly amassing in state and federal courts ... Complaints reach across industries and state lines, with some seeking significant monetary damages." Virus-related claims are related to workplace safety, wages, leave, accommodations and more.

One key question: Could employers be held liable if employees contract coronavirus while performing their jobs (and how can that be proved)?

The issue has launched a battle in Congress. Republicans are pushing a bill to protect employers from lawsuits brought by employees who say they were sickened at work. Democrats want to strengthen worker rights to sue over unsafe conditions.

Typically, work-related injuries are covered by no-fault workers' comp programs. Employers are insulated from liability unless conditions were so unsafe to be "grossly negligent." That's the fear if workplaces reopen before the virus can be contained.

Advice: Safe return-to-work actions and testing (*see pages 1 and 2*) will help defend such legal claims.

Training Attend our June 24 webinar, *The Coming Wave of Coronavirus Lawsuits: How to Stay Out of Court*. See www.theHRSpecialist.com/events.

FBI warns of employees faking COVID diagnosis

The FBI last month warned U.S. businesses that some employees may be using phony doctors' notes to fake a positive coronavirus diagnosis. The reason: a paid vacation, of course.

According to CNN, the FBI cited one example in which a manufacturer shut down operations after a worker submitted a fake positive test, resulting in \$175,000 in sanitizing costs and paid time off for other "exposed" workers.

Tip: Spot fakers by looking closely at doctors' notes for inconsistencies. When in doubt, contact the medical provider to authenticate the document (after first providing the employee the opportunity to authenticate).



COVID a 'reportable' illness? OSHA adjusts

When the pandemic began, OSHA said employers would have to record confirmed cases of COVID-19 on their OSHA 300 injury and illness logs if the employee's infection was caused by an exposure at work. But in April the agency softened its stance, acknowledging it's difficult now to determine if an infection is work-related. Thus, OSHA says it will generally *not* enforce those record-keeping regulations.

Exception: You must still record COVID-19 as a work-related illness if there is objective evidence, such as a large group of infections among close-working staff without an alternative reasoning.

Online resource Read OSHA's guidance on coronavirus reporting www.tinyurl.com/OSHAcorona.

Some WARN Act notification rules still apply

Typically, the Worker Adjustment and Retraining Notification (WARN) Act requires certain employers to provide at least 60 days' notice before a "mass layoff" or workplace closing. A clause in the law provides exceptions for national emergencies, which applies to the pandemic. But you're still expected to notify workers "as soon as practicable" under current

conditions. Also, some states and cities have "mini-WARN" laws that may affect employers more than the federal version. Read an FAQ on the WARN Act and coronavirus at www.dol.gov/agencies/eta/layoffs/warn.

EEOC postpones EEO-1 reports until 2021

Employers won't have to submit annual EEO-1 reports to the EEOC this year. Normally, employers with 100 or more workers must submit the report detailing employees' race, ethnicity and gender, sorted by job category. Due to the pandemic, employers have until March 2021 to file those reports. For details on your reporting requirements, see www.eeoc.gov/employers/eo-1-survey.

Health care: Deadlines extended for COBRA compliance and notices

Recognizing that paperwork associated with virus-related terminations may have slipped through the cracks this spring, the IRS and U.S. Department of Labor extended several deadlines for employers. Most notably, they extended any deadline for health plans covered by COBRA that occurred after March 1 to 60 days beyond the end of the national emergency.

Online resource Employers can point employees to the DOL's assistance site at www.askebsa.dol.gov.

HR Q&A: Coronavirus and the Law

The HR Specialist is hosting several webinars offering advice on workplace aspects of the pandemic (see page 8). Here are questions from a recent webinar on return-to-work issues, answered by attorney Lara de Leon of Constangy Brooks.

Worker doesn't feel safe returning: What to do?

Q. An employee said she wasn't comfortable returning to work initially, so we allowed her to stay away. But if we need to call her back to work and she's still not comfortable coming back, what can we do?

A. Assuming you are dealing with employee preference here—and not someone who is following medical advice not to come to work—you should first ask the employee why she is reluctant to return and try to reassure her of the steps you are taking to create a safe workplace (distancing, masks, temperature checks, etc.). If you're not taking these steps, you should!

If the employee is still not convinced, then you can decide whether to allow the employee to stay out, but require her to use available PTO/vacation balance. Or you can tell the employee that if she refuses to come to work, she will be considered to have resigned. You need not permit an employee to take time off unpaid in this instance. In any case, be mindful of the precedent being created, and be aware of discrimination concerns.

Can we require a fitness-for-duty letter?

Q. Can an employer require workers to provide a doctor confirmation upon return to work after a COVID leave?

A. Yes you can, either if the reason for the leave involved the employee needing to self-quarantine due to his/her medical situation, or the worker was experiencing symptoms of COVID-19 and seeking a medical diagnosis.

Should we designate leave as EFMLA?

Q. An employee is taking leave to care for a child because of a COVID-related school closure. Should we designate that as emergency FMLA leave even if the person didn't request emergency FMLA (similar to the way we'd designate regular FMLA)?

A. Yes, similar to leave under the FMLA, if you know the employee is taking leave that qualifies for EFMLA then you should designate the leave as such. For tax purposes, you will want to make sure that you obtain the necessary records that confirm the need for leave, such as proof of the school closure.

Do you have a question? If so, you can email it to The HR Specialist at HRSEditor@BusinessManagementDaily.com.

Back-to-work checklist: Steps to take in emerging from shutdown

As workplaces reopen after the coronavirus shutdown, here is a checklist from The Conference Board to help your HR department make these important safety, operational and legal decisions:

ASSESSMENT

- Review and reset business strategy and the implications for current/future staffing.
- Assess need to return to the physical workplace and, if so, what work can still be done virtually.
- Analyze effectiveness of remote work and infrastructure, including collaboration platforms and video-conferencing.
- Assess community readiness, including whether schools and health support facilities are open, allowing workers with children and elder-care issues to return.
- Review safety and reliability of public transit, plus employees' comfort with using it.
- Check into the viability of all vendors of HRIS systems, payroll services and others to deliver critical employee-related services.
- Assess availability of masks (espe-

HR policies to review

- Mandatory vs. voluntary return to work and reasonable accommodation, especially for those "at risk" or who may have a household member who is "at risk".
- Remote work guidelines including "professional" presence/dress, ergonomic environment, equipment, required service levels, working hour coverage, and reimbursement for internet, cell phones, supplies, etc.
- Split shifts, job sharing, staggered hours, staggered lunch/other breaks.
- PTO, sick leave and flex hours.
- Furloughs, pay cuts, "hazard" pay, raise/bonus freezes or cuts.
- 401(k) or 403(b) plan matches.
- Mental health benefits.
- Business travel.
- Tuition remission, educational support.

cially where mandated by law), gloves, thermal scanners, removable forehead strips, hand sanitizers, etc.

- Consider your ability to provide ADA reasonable accommodations (PPE example: nonlatex gloves) or religious accommodations (example: face masks that allow for specific religious garb).
- Review employee readiness (those who are/were ill, displaced workers) and willingness to return.

PREPARATION

- Create a workplace sanitation and deep-cleaning regimen. Create procedures and training for employee assistance and hygiene.
- Restructure the work environment, which may include seating arrangements for greater social distancing, defensive plexiglass shields, rerouted employee movement flows (colored carpeting paths or rope lines) to minimize clusters at entry/exit points, crowded elevators and narrow hallways.
- Install "contactless" options: soap dispensers in the restrooms, hand sanitizer dispensers, alternatives to ID badge swiping, etc.
- Determine health status of those returning to work either through temperature scanning, daily self-assessment or a "fitness-for-duty" documentation from a medical professional certifying the worker doesn't have coronavirus.
- Review performance targets and possibly reset goals and metrics.
- Review and revise (if necessary) any HR decisions, policies and procedures that were adopted (or changed) during the crisis (*see box at left*).
- Create new HR policies regarding worker safety, work stoppage or alternative work arrangements in the event of a resurgent COVID-19 (or other disease) outbreak.
- Institute new HR policies regarding large in-person meetings, company events/celebrations, use of common areas and eating areas.



- Review recruiting and hiring processes, which may include decisions regarding hiring freezes, compensation, background checks, drug screenings and remote I-9 form documentation review.
- Distribute a communication plan to help workers prepare for a return to work, understand policy changes, and accept the conditions under which they will be expected to perform.
- Prepare for security, mental health and other professionals to receive workers in the early days of return.
- Set guidelines for allowing suppliers, visitors, clients, customers, and meeting attendees into the workplace and how they will be screened.

RETURN

- Distribute masks and required protective gear, plus instructions for use.
- Set up (and train staff on) new screening/health check entry stations and other safety procedures.
- Provide training or reskilling necessary for existing jobs or redeployment—and for any new technology.
- Remind staff of employee wellness programs, including physical, mental and financial elements.
- Create/revise efforts to measure (and take action on) the engagement level of your employees.
- Continually communicate to further rebuild the culture. Address past difficult decisions (effects of layoffs, lost colleagues, affected families, etc.). Communicate plans for company renewal. Celebrate milestones and, as they come, celebrations of "wins."

To: _____
From: _____

Date: June 2020
Re: Staying productive in stressful times

COVID-19 crisis To maintain productivity, help employees address worries

The side effects of the coronavirus crisis—stress, fear, anxiety—are all enemies of productivity.

Health, safety and financial security are weighing heavily on employees' minds. As a manager, you can't just ignore those concerns and take a "You're lucky to have a job" approach. To encourage productivity, it's important to provide employees with as much stability, comfort and security as possible.

Here are some ways managers can help employees cope:

Solicit input, truly listen

Workers forced to telecommute wonder if they are doing things right. Employees at all levels worry about the viability of the business and the reliability of their paychecks. Everyone seeks more information.

Frequent, transparent communication helps people feel more secure about what's going on, and it prevents rumors from circulating.

Soliciting input and truly listening to that input can help you identify and address obstacles to high performance.

For example, hearing employee concerns about workplace safety allows you to quickly trigger corrective action before it becomes big news (in the workplace and maybe the media). Even small steps can have outsized impact when the effort demonstrates that management takes employees seriously.

The increased stress has many workers in a "fight, flight or freeze" mode, which inhibits high-level thinking. Managers can help calm frazzled brains by spelling out priorities.

Provide clarity and routine

Employees' attention is pulled in many directions during this pandemic. The ramped-up stress and uncertainty has many people operating in a "fight, flight or freeze" mode. That means higher-level thinking may be inhibited.

Managers can help calm frazzled brains by spelling out priorities. Provide clear instructions so workers know exactly what they need to do. Create routines for team members that

build a sense of "sameness." Consider starting each day (or week) with a short staff meeting.

Be flexible and encouraging

Managers still must hold employees accountable for getting work done, but they also may need to adjust expectations and make goals more realistic.

Being flexible is critical during this time. Remind employees of their goals, but make it possible for your people to be productive on their own terms right now.

Think about ways to give employees more control over their work. Remote staff whose children are home from school may be more effective if they can shift their hours—perhaps delaying some tasks until the evening.

And while you're at it, be extra encouraging. Positive feedback builds confidence.

Remember to thank employees often for their contributions and recognize that this is an unusually stressful time. And they may need extra grace when they make mistakes.

5 meaningful ways to recognize remote employees' work

When employees work remotely, they often don't get the same kind of feedback and recognition from managers that in-house workers receive.

In fact, a recent survey says three-quarters of American workers sent home to work during the coronavirus crisis said they've felt less connected to their workplaces, and that's especially true with younger workers.

Here are five ways to recognize employees during this tough time:

1 **Brag about them.** When managers are proud of their teams or a particular team member, let com-



pany leaders know. Send an email of praise—and cc the employee. Working remotely makes it harder for frontline employees to be noticed by higher-ups. Direct, public recognition from their bosses can mean a lot to employees.

2 **Send a care package.** Are there popular office snacks employees miss? Or something that might make a home office more enjoyable, say a candle? It doesn't need to be expensive, but a physical gift as a thank you for not just surviving but thriving is sure to be a welcome gesture that eases some of the pain of isolation.

3 **Express appreciation daily.** A simple thank you can go far, and with the isolating nature of remote work, those words mean more than ever now. Find ways to regularly show appreciation, both verbally and face-to-face.

4 **Start a "remote worker of the week" award** and announce the winner during a team or companywide meeting. Highlight the person's extra efforts made during this tough time.

5 **Recognize that this is hard.** During one-on-one talks, acknowledge that what each employee is doing is hard. Ask what they need and how the organization can help. Then follow through.

Formalize your remote work with telecommuting agreements

Telecommuting was an ad hoc response to the coronavirus' onslaught. You may have sent everyone home to work without giving much thought to the process, except to keep your employees safe.

But now that employers have begun some sort of return to business, you may decide to continue remote arrangements for at least some of your employees. In fact, it may be necessary to continue to allow telecommuting due to employees' health conditions or to workplace reconfigurations arising from social distancing guidelines.

Now is the time to start bringing order to the telecommuting process.

Assess how it has gone so far

By now, you've had several weeks to see how telecommuting is working. If you haven't already, find answers to these key questions:

- For whom has telecommuting worked well in recent weeks?
- Who hasn't adjusted to working at home?
- Who really needs to be in the office and who doesn't?

The focus of telecommuting arrangements must be on results. You need to communicate in advance the positions for which telecommuting is appropriate, taking into considerations employees' preferences and the assessment

techniques used to measure employees' success in meeting performance standards.

Note: Employees with discipline problems may not make the best candidates for permanent telecommuting.

Agree on remote work basics

To provide structure to remote work arrangements, you should prepare a formal telecommuting agreement for employees and supervisors to sign. (*To access a customizable sample agreement, see box above.*)

Your telecommuting agreement should include provisions in which you and your remote workers agree on the following:

- The hours employees are expected to be working and/or reachable
- How employees can be contacted (e.g., dedicated phone lines, voicemail, email, video conference, etc.)
- Who owns and maintains required equipment and supplies
- Who pays for ongoing expenses, such as phone lines and data.

The agreement should include a statement that employees agree to provide a secure location for company-owned equipment and materials, and that they will not use or allow others to use the equipment

Free: Customizable agreement



HR Specialist attorneys have created a model telecommuting agreement to customize for your remote staff. Download it at www.theHRSpecialist.com/telecommuting-agreement.

for purposes other than company business. State that the company is entitled to reasonable access to its equipment and materials.

The agreement should also stipulate that management retains the right to modify the agreement as a result of business necessity.

Secure employee commitments

An important part of this agreement reaffirms basic expectations that apply no matter where the work is being performed. You can stipulate that employees are expected to:

- Remain accessible during normal business hours
- Protect confidential and intellectual property, including customer lists
- Regularly check in with supervisors to discuss work status
- Be available for teleconferences, scheduled on an as-needed basis
- Request supervisor approval in advance of working overtime
- Request supervisor approval to use vacation, sick or other leave.

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Employers worried about PPE cost and access

More than three-quarters (77%) of employers say they're concerned about their ability to acquire enough personal protective equipment (face masks, etc.) and disinfectants to open and run their offices safely this summer, according to a new survey by outsourcing firm OperationsInc. In addition, 62% of employers say they're concerned about the cost of these supplies. Employers in the survey also noted that access to shared spaces (specifically kitchens and break rooms) are their highest safety concern and many companies are unsure of how to manage access to those areas.

Coronavirus could actually cut employer health costs

A new study is questioning initial reports that the coronavirus crisis will cause employer health costs and premiums to spike. In fact, COVID-19 may actually *reduce* health care costs by as much as 4% in 2020, according to a Willis Towers Watson study of large, self-funded employers. Just a month ago, the consulting firm projected that employer costs could rise 7% this year. The reason for the lower estimate: Noninfected employees are delaying many of their other kinds of non-emergency medical care.

Remote workers want real rewards, not virtual perks

Your company's leaders may have read that virtual luncheons and happy hours can keep spirits up in the era of remote work. But a new study by Blackhawk Network, a provider of e-pay services, found that monetary rewards—for example, gift cards and spot bonuses—were the “thanks” preferred by 74% of employees.

Make it easy for remote staff to order office supplies

If you still have a good number of employees working from home, they may be running out of printer ink, paper and other office supplies. Make it easier for them to order supplies by giving them the account number

Beware legal risk of tracking productivity

Keystroke-tracking software ... always-on webcams ... web-monitoring tools.

The work-from-home surge has more companies turning to so-called “tattleware” to keep an electronic eye on employees' remote productivity. Several employee-monitoring companies like ActivTrak, Time Doctor and Hubstaff say their revenues have soared since the start of the pandemic.



However, some employees are uneasy, and they're reaching out to lawyers to sue, citing invasion of privacy and even discrimination if protected characteristics are revealed.

While these monitoring programs may be appropriate for some jobs, they may not account for phone calls or time spent reading or working offline. Employees may forget to turn them off when they use the laptop for personal reason.

Advice: Unless you are prepared to revise many of your supervision policies, think twice about installing productivity-tracking software. Instead, evaluate remote employees as you always have—on the basis of results. As the lines blur between work and home, remind supervisors to respect employees' privacy.

to your vendor. Sure, require supervisor approval for purchases over, say, \$50. Otherwise, don't nickel and dime them.

Job losses, safety concerns spark union interest

After decades of declining membership, labor unions are getting renewed interest amid mounting job losses and virus-related complaints about unsafe working conditions. The spike in activism is being fueled by social media and features walkouts and sick-outs at several companies including Amazon and Trader Joe's. For advice on how far your organization can legally go to publicly oppose a union organizing campaign, go to www.theHRSpecialist.com/unions.

DOL rule OKs bonuses for fluctuating workweek staff

The U.S. Department of Labor issued a final ruling last month that clarifies how employers can offer bonuses and other incentive pay to nonexempt workers whose hours vary each week (the so-called “fluctuating workweek” method of compensation). Example: 50 hours one week, 25 the next and 40 after that. The difficulty has always been determining the regular hourly rate of pay for overtime purposes, a task complicated by bonus payments. This rule says variable pay such as bonuses must be included when calculating the regular rate. For details, see www.dol.gov/agencies/whd/overtime/fwv.

UPCOMING WEBINARS FOR HR

- June 4:** Mapping out Mental Health Policies
- June 5:** Pregnancy and Parenting the Workplace
- June 11:** The Coming Wave of Coronavirus Lawsuits
- June 12:** The Termination Workshop
- June 18:** Return-to-Work Policies and Practices
- June 24:** Open for Business: Navigating an Employer's Legal and Safety Obligations
- June 25:** Electronic HR & Business Records: Compliance Workshop

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- **Fringe benefits: taxable or non-taxable?** How to reward fringe benefits to employees without crossing swords with the IRS
- **W-2s, W-3s, 1099s and more: What errors will land you in the IRS hot seat?** We'll tell you how to avoid them
- **What's the law in your state?** Check out the appendixes for the requirements in your state.

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