



FOLEY & FOLEY ^{PC}
ATTORNEYS AT LAW

COVID-19-Related Human Capital Risk Management Menu of Fixed Fee Services

HELP IS ON THE WAY: Returning to work and working during this pandemic will be an uphill compliance battle for employers across the nation, as all of us try to comply with new federal and state directives related to health, safety, leaves of absence, reductions in force, nondiscrimination, among a wide range of other issues.

There is currently no liability shield to protect employers trying to manage and operate their business while following the new COVID-19 mandates.

We know that our clients from coast-to-coast are short on time, we know other priorities consume their resources, and we know all of them need a comprehensive HR-Related Risk Management solution as they reopen. We also know that employers throughout the country are concerned about the vulnerabilities they feel and the anxiety their employees feel as they continue to expand business and bring employees back into their workplace. That is precisely what led us to develop a comprehensive Menu of COVID-19 HR-Related Risk Management solutions for employers.

Each of the fixed fee services addressed within this Menu will allow your team to identify and address the changed compliance obligations and best practices that have developed in response to this pandemic. Every workplace is different, so these services include a variety of templates that your team can easily tailor to fit your business and workplace. We provide these services under an attorney/client protected relationship and our work product is indemnified by our national Professional Liability Insurance.

These services can be purchased a la carte or all can be purchased for an aggregate fixed fee.

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<p>COVID-19 Infectious Disease Response Toolkit – With the rapidly spreading COVID-19 virus and increased flu rates, we know organizations want to stay ahead of these issues and their effect on the workplace. Recognizing that strict policies may not be sufficient to mitigate the risk of spreading infectious diseases, we have developed a framework for a comprehensive response plan that can be tailored to fit your organization’s unique needs. Our Infectious Disease Toolkit includes the following:</p> <ol style="list-style-type: none"> 1. Comprehensive outline for a sick leave strategy incorporating the FFCRA <ul style="list-style-type: none"> ▪ <i>Covers Risk Assessment, Administrative Controls, Recommendations from the CDC, How to count leave under the new FFCRA, and how to manage employees who test positive for COVID-19 along with a comprehensive checklist.</i> 2. Sample Notice from Leadership with Human Resources Talking points <ul style="list-style-type: none"> ▪ <i>General notice of COVID-19 response with HR updates including: contracting COVID-19, taking care of a family member, travel policy, remote work arrangements, company meeting policies, and how to avoid sickness.</i> 3. Sample Notice from Leadership confirming a case of COVID-19 <ul style="list-style-type: none"> ▪ <i>What happens if you feel the symptoms, the disinfection process, closure procedures if necessary, and those uncomfortable returning to work.</i> 4. Written COVID-19 Response Plan <ul style="list-style-type: none"> ▪ <i>How to prevent the illness, tips on staying calm amid COVID-19 anxiety, telework procedure, leave of absences, those with an increased risk level, and what to do when illness happens.</i> 5. Guidance Recommendations for Slowing the Spread of COVID-19 <ul style="list-style-type: none"> ▪ <i>Respiratory etiquette, handwashing techniques, proper disinfection, and social distancing guidelines.</i> 6. Recommended Posters and Infographics on good hygiene and other risks <ul style="list-style-type: none"> ▪ <i>Official CDC posters regarding germs, stay at home recommendations, and handwashing guidelines.</i> 7. Sample Medical Certification for a fitness for duty return to work <ul style="list-style-type: none"> ▪ <i>Form to be filled out by a health care provider in order to return to work.</i> 8. Frequently Asked Questions – F&F <ul style="list-style-type: none"> ▪ <i>Compilation of our most frequently asked question on the COVID-19.</i> 9. Remote Working Survey and Remote Working Expectations Agreement <ul style="list-style-type: none"> ▪ <i>Helps employers determine which positions can work remotely and an agreement outlining the obligations of the employee while working remotely.</i> <p>Coronavirus is a pressing and potentially complicated workplace issue. We believe this Toolkit will be a valuable foundation for your organization to address these issues. We also update the contents from time to time as needed with no additional cost.</p>	Please contact us
<p>Families First Coronavirus Response Act Compliance Package – The new Families First Coronavirus Response Act (FFCRA) has placed many additional compliance burdens on employers not seen before. With the rapidly increasing rate of COVID-19 patients in the United States, organizations need to stay ahead of these compliance obligations to avoid violations. In response to the sweeping federal changes, we have developed a Compliance Package to that addresses the requirements under the Act that includes:</p> <ol style="list-style-type: none"> 1. Sample Employee Verification of Use Form for Paid Sick Leave <ul style="list-style-type: none"> ▪ <i>The DOL has not currently issued these forms and likely will not. Our forms provide a clear, succinct, and consistent method with verifying leave under these new laws.</i> 2. Sample Employee Verification of Use Form for Emergency Family and Medical Leave <ul style="list-style-type: none"> ▪ <i>The DOL has not currently issued these forms and likely will not. Our forms provide a clear, succinct, and consistent method with verifying leave under these new laws.</i> 3. Emergency Family and Sick Leave Policy <ul style="list-style-type: none"> ▪ <i>Outlines the parameters of the leave and what is allowable under the law. Includes expanded definitions with the most updated DOL guidance.</i> 4. Emergency Paid Sick Leave Policy <ul style="list-style-type: none"> ▪ <i>Outlines employee and employer rights under the law and expanded definitions.</i> 5. A chart that details the eligibility, leave and pay obligations under the FFCRA. <ul style="list-style-type: none"> ▪ <i>Provides a clear roadmap for compliance</i> 6. Notice to employees <ul style="list-style-type: none"> ▪ <i>DOL’s most recent notice required to be posted by employers.</i> 7. Recent DOL Guidance <ul style="list-style-type: none"> ▪ <i>DOL’s answers to the most frequently asked questions.</i> 8. FAQs on the FFCRA – Federal DOL <ul style="list-style-type: none"> ▪ <i>Compilation of our most frequent questions on the new leave laws.</i> <p>Addressing the requirements under this law demands an organized response. We believe this Compliance Package is a valuable foundation for your organization. We also update the contents from time to time as needed with no additional cost.</p>	Please contact us

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<p>COVID-19 Business Reopening Best Practices Workbook – The White House has introduced its plan to reopen business. Governors are convening to do the same. We know businesses want to get back to work and stay ahead of the new Federal Guidelines when doing so. With the rates of COVID-19 hopefully decreasing around the country, many businesses are looking for direction on how to bring back employees, while following OSHA and CDC guidelines.</p> <p>In response to federal guidance, we have developed a framework for a comprehensive reopening plan that can be tailored to fit your business’ unique needs. The Business Reopening Workbook includes:</p> <ul style="list-style-type: none"> • Policy on Temperature Checks and Symptom Monitoring; • Policy on Workplace Safety and COVID-19: Social Distancing, Protective Equipment, and Disinfection; • Policy on Business Travel; • Policy on Reasonable Accommodations for Vulnerable Workers; • Phased-in Workplace Reopening Plan: White House and CDC Guidelines; • Onboarding checklist for furloughed employees; • Sample letter to Employees to bring them back from furlough or temporary layoff; • Sample letter to Employees to increase hours and/or wages to pre-COVID-19 levels; • DOL Guidance and Resources surrounding COVID-19. <ul style="list-style-type: none"> ○ Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus; ○ U.S. DOL Issues Enforcement Guidance for Recording Cases of COVID-19; ○ Families First Coronavirus Response Act: Employer Paid Leave Requirements; ○ What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws; ○ U.S. DOL Reminds Employers That They Cannot Retaliate Against Workers Reporting Unsafe Conditions During Coronavirus Pandemic; and ○ OSHA Respirator Poster; ○ Notice to Employees Regarding Confirmed COVID-19 Case in the Workplace and Potential Exposure; ○ OSHA Considerations for Reopening. <p>The following additional information is for employers headquartered in Massachusetts:</p> <ul style="list-style-type: none"> • Massachusetts workplace reopening plan, including Commonwealth-specific requirements and CDC recommendations; • Massachusetts Guidance surrounding Reopening: <ul style="list-style-type: none"> ○ Required Compliance Attestation Poster; ○ Mandatory Safety Standards for Workplaces Posters Guidance; ○ Mandatory Safety Standards Posters for Employers and for Workers; ○ When Can My Business Reopen Guidance; ○ Finding Supply Vendors Guidance; and ○ COVID-19 Control Plan Template. <p>We are in uncharted territory, with a lot of misinformation floating around the COVID-19 guidelines. This Business Reopening Workbook is a valuable foundation for your organization to reboot and move ahead. We also update the contents in real time as needed at no additional cost.</p>	<p>Please contact us</p>

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<p>COVID-19 Reasonable Accommodation Toolkit – We are lucky to have thousands of smart clients all over the country. Right now, they are asking the same question everyday: what are our duties and responsibilities related to employee concerns about returning to the workplace? Those same clients have observed that OSHA, the CDC, the EEOC, the DOL, and States’ Attorneys General have, in different ways, been encouraging employers to update their personnel policies to reflect the new regulatory guidance that governs their workplace and changes to the pertinent law. That observation leads to the next and very logical question: what do those regulatory agencies mean by that recommendation?</p> <p>In response to those pressing questions and with the regulatory agencies’ guidance in mind, we have developed a guide on how employers can effectively address employees’ concerns and navigate related risk as employers ramp up business during this pandemic.</p> <p>Complying with new OSHA and CDC guidelines to limit COVID-19 exposure is essential. Some employees may also require additional safeguards during the COVID-19 pandemic if they are at higher risk of severe illness from COVID-19. An ad hoc approach is not sustainable: employers need a comprehensive set of tools to run their operation smoothly and apply a steady approach to all employees, including higher risk individuals.</p> <p>The COVID-19 pandemic has changed so much of the workplace but it has not changed the ADA and the laws of many states on employee disability. Those mandates require that an employer provide reasonable accommodation to an employee with a disability, unless doing so would cause significant difficulty or expense for the employer. Handling reasonable accommodation issues proactively and consistently is not just the best legal practice but the smart business approach as well.</p> <p>The COVID-19 Reasonable Accommodation Toolkit includes:</p> <ul style="list-style-type: none"> • A Notice to employees regarding the employer’s ADA Open Door Policy; • A letter to the employee explaining the need for more information to start the interactive process; • An employee Informed Consent letter; • A letter to the Employee’s doctor; • An undue hardship analysis template; • Fact sheet on accommodations that can lower the risk of exposure to COVID-19; • Infographic on the interactive process; • PowerPoint and training module on navigating the interactive process; • Infectious Disease Response Plan; and • Employee Health and Safety Policy addressing OSHA guidelines. <p>Providing a safe environment for all workers is essential when it comes to operating during these unprecedented times. We believe this COVID-19 Reasonable Accommodation Toolkit is a valuable foundation for your organization in addressing employee concerns and complying with employer mandates. We provide all of the contents of our COVID-19 Reasonable Accommodation Toolkit for a fixed fee and update the contents in real-time, as needed, at no additional cost.</p>	<p>Please contact us</p>

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<p>COVID-19-Related Insurance Coverage Analysis Service – A crucial part of any shield against civil liability and damages is insurance coverage: A comprehensive insurance program is critical for any business. COVID-19 presents new risks and challenges--some insurance policies may not be sufficient to cover all these new risks. If you want to understand what your company’s insurance covers and does not cover related to COVID-19, then your business will benefit from an insurance coverage analysis by Foley & Foley, PC.</p> <p>What if you have already received a claim or lawsuit related to COVID-19; is it too late to assess my coverage? No! Understanding your insurance coverage and its relation to the claims presented to your business is more important than ever.</p> <p>If you have received a claim from an employee or a former employee and want to know which insurance coverage is implicated by his/her claim, then your business will benefit from an insurance coverage analysis by Foley & Foley, PC.</p> <p>If your business has been sued for a COVID-19 related issue, and your insurance company is not helping you, then your business will benefit from an insurance coverage analysis by Foley & Foley, PC.</p> <p>If COVID-19 has you asking:</p> <ol style="list-style-type: none"> 1. Why is my worker’s compensation insurance company refusing to cover my employee’s COVID-19 illness? 2. Does my company have insurance for this claim by a former employee who alleges that we retaliated against her for taking FFCRA leave? 3. Will my insurance company defend my business against this wrongful death claim related to COVID-19? 4. Why have we received this reservation of rights letter from my insurance company? <p>If you have these or similar questions, then your business will benefit from an insurance coverage analysis by Foley & Foley, PC.</p> <p>COVID-19 injury and employment practices claims are on the rise. Employers need to minimize their risk of a costly lawsuit related to the virus. Many employers expect their insurance to protect their business. However, the Courts, insurance companies, lawyers and consumers are presently treading in new waters, where debate rages over what COVID-19 claims are covered or not covered by insurance. The issues are complicated, and often decided on a case by case basis.</p> <p>Insurance policies can be convoluted. They are never written in plain language, easy understand or clear. In these unprecedented times, it is essential to understand what your insurance policies say and mean. The experienced attorneys at Foley & Foley, PC can help.</p> <p>Our Coverage Analysis Service will provide guidance from subject matter experts regarding:</p> <ul style="list-style-type: none"> • Employment Practices Liability Insurance; • Workers Compensation Insurance; • Commercial General Liability Insurance; and • Business Interruption Insurance. <p>Through this service, we will analyze applicable insurance policies and any related complaints, claims or demand letters to inform the client of the limits of their coverage and any applicable exclusions. We can also explain who will receive protection under a policy and who will not. We will also inform a client if we think they are underinsured or need additional insurance coverage.</p> <p>This service will include an introductory phone call to obtain information necessary for the analysis. We will then review your insurance policy or policies and any claim documents. To follow up, we will have a call to walk through the coverage analysis and will submit a report of coverage issues along with our guidance. The coverage analysis will be performed for an agreed upon flat fee based upon the number of insurance issues present, the number of policies implicated and the scope of the complaint or claims presented by or against the client.</p>	<p>Please contact us</p>

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<p>Customized COVID-19 Liability Shield Overview - In spite of talk and speculation, the federal government and the vast majority of state governments have not enacted a COVID-19 liability shield for businesses. Now that COVID-19 has been with us for months, the lawsuits are starting. How can you protect your business from litigation? Foley and Foley, PC has the tools to help:</p> <p>Phase 1 – Implement a Comprehensive COVID-19 Safety Policy for your staff.</p> <ul style="list-style-type: none"> • Our COVID-19-Related Human Capital Risk Management Menu of Fixed Fee Services offers a range of policies and information to fit your workplace, many updated regularly at no charge. It is the easiest way to ensure your safety protocols are in compliance and your communication with the workforce is clear. <p>Phase 2 – Ensure that all necessary and proper insurances are in place.</p> <ul style="list-style-type: none"> • We offer our COVID-19-Related Insurance Coverage Analysis Service to assess your level of protection from lawsuits and a risk analysis. <p>Phase 3 – Have a qualified and dedicate litigation team at the ready.</p> <ul style="list-style-type: none"> • Foley and Foley, PC has experienced litigation attorneys at the ready to aggressively defend our clients in any litigation. We think it is unwise to take any action on a claim without consulting legal counsel. For more information, please see our Litigation Practice summary. 	<p>Please contact us</p>

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<p>COVID-19 Business Reopening Diagnostic Compliance Audit – Returning to work will be an uphill compliance battle for employers across the nation, as employers try to comply with new federal and state directives related to health, safety, leaves of absence, reductions in force, and non-discrimination. There is currently no liability shield to protect employers trying to follow the new COVID-19 mandates while reopening their business. In the face of this increased risk of litigation, this Audit will guide your team on the best steps to take when reopening your business.</p> <p>Under the protections of the Attorney/Client privilege, this Audit will allow your team to identify and address the changed compliance obligations and best practices that have developed in response to this pandemic. Every workplace is different, and we will provide templates that your team can tailor to fit your business and workplace. This Compliance Audit includes our legal opinion assessing your team’s compliance with pertinent administrative agency guidance, workplace regulations and laws.</p> <p>This Audit will review compliance obligations on the following topics, among the other issues addressed within our Audit Checklist:</p> <ol style="list-style-type: none"> 1. COBRA Elections/Payments and WARN Notice Guidelines; 2. On-Boarding New and Best Practices and the I-9 Virtual Verification; 3. OSHA Risk Categories and New Enforcement Directives; 4. Managing Human Capital Risks Associated with COVID-19; 5. Workers’ Compensation Issues and Leaves of Absence; 6. Anti-Discrimination/Anti-Harassment Issues Related to Employee Fears and Apprehension; 7. Employee Temperature Testing and Health Screenings; 8. EEOC Guidance Related to Test Results and ADA-Compliance Practices; 9. Employee Work Location Spacing/Distancing; and 10. Adjusting to Remote Working Arrangements and Optimizing Employee Productivity <p>Our COVID-19 Business Reopening Diagnostic Compliance Audit Checklist of Topics will serve as the roadmap as we conduct this Attorney/Client protected Audit. We provide the Checklist to initiate this Audit and will conduct the Audit via email exchange of information and a telephone conference.</p> <p>To conclude, this Audit we will share our recommendations, a comprehensive template for an Infectious Disease Preparedness and Response Plan, and a comprehensive template for an OSHA Health and Safety Protection Plan.</p>	Please contact us
<p>Complete Turnkey COVID-19-Related Human Capital Risk Management Service Package – The contents of the:</p> <ul style="list-style-type: none"> • Families First Coronavirus Response Act Compliance Package; • COVID-19 Infectious Disease Response Toolkit; • COVID-19 Business Reopening Best Practices Workbox; • COVID-19 Reasonable Accommodation Toolkit; and • COVID-19 Business Reopening Diagnostic Compliance Audit Service. <p>This is the Iron Dome of protection related to COVID-19 preparedness, response, compliance and best practices.</p>	Please contact us

**All of these services can be purchased for an aggregate fixed fee.
Payment for any one of these services is due in full when the service commences.**

COVID-19 Business Reopening Diagnostic Compliance Audit Service Flow Chart

Introductory Call

Audits can be overwhelming. Our Audits are designed to let you tell us your practices, show us your documents, and let us do the heavy lifting.

We guide you through the Audit Checklist, outlining steps for completion.

We will set dates for return of the completed Checklist and follow up Audit call/meeting (usually 1-3 weeks out).

Your Actions Items

Fill in responses to the Audit Checklist in Word.

Attach all documents referenced in your Checklist responses.

Email or call us with questions. No question is too small.

Return the completed Checklist and documents to us prior to the Audit call/meeting.

Foley & Foley Review of Checklist and Documents

We review your responses and documents, and note follow up questions and/or concerns.

Audit Telephone Conference

(Generally 1-2 weeks after our initial introductory call)

Together, we walk through each Checklist question and response.

We request clarification and additional information as needed.

You ask questions and we provide answers.

All protected by the Attorney/Client privilege.

Our Recommendations Will Conclude The Audit

(Generally within 1-2 weeks of Audit Call/Meeting)

We submit to you a report of compliance issues requiring attention, along with best practice recommendations for future consideration.

We add comments "in-line" to each Checklist response you submitted. These comments alert you to compliance issues, our recommended changes, and best practices.