

Employment Law Corner

Monthly Report



FOLEY & FOLEY^{PC}
ATTORNEYS AT LAW

Volume 1

September Updates

1. Can you accommodate high risk employees?
2. Who We Are: Foley & Foley, PC
3. Hot Topics for Employers

What is the Employment Law Corner?

At [Foley & Foley, PC](#) protecting your business and reducing your exposure and risk is our endgame. We get it! We created this Employment Law Corner to keep you up to date on current topics. Each month we will provide an update by one of our seasoned lawyers that will help your team successfully navigate employment law compliance obligations and Human Capital Risk Management so that you can remain focused on what you do best – operating your business. We hope you enjoy the first monthly blast.

COVID-19: Can You Accommodate High Risk Employees?

Many employers are struggling with vague notes received from employee's doctors stating that the employee is at high risk of COVID-19 complications, and must be accommodated with teleworking or unpaid leave. These notes bring the Americans with Disabilities Act into play, and require the employer to provide a reasonable accommodation to a qualifying disabled employee, so long as it is not an undue hardship on the employer to do so. Employers may feel that they have no choice but to provide this one specific accommodation, without going through the interactive process to see if there is a better fit for the Company and for the employee.

What Happens if an Employee is At Risk?

Engage in the
Interactive
Process



Find a
Reasonable
Accommodation



Determine if
there is Undue
Hardship

When a disability is readily apparent or you have been made aware of a disability, begin documenting the disability and obtain suggestions from the employee's healthcare provider for reasonable accommodations. Asking for medical information and limitations related to the job is key to finding a solution to accommodate the employee. For high risk employees, get clear direction from the healthcare provider as to what they recommend in limiting exposure to COVID-19. There are some accommodations that the [EEOC](#) has advised can eliminate a direct threat to high risk employees, including:



Requiring additional or enhanced protective equipment



Physical barriers between the employee and other people



Increased space and social distancing



Elimination of marginal functions



Temporary modification of work schedules



Moving the location of where one performs work



Teleworking



Unpaid Leave of Absence



Additional Cleaning/Disinfection

The Americans with Disabilities Act became law 30 years ago and prohibits discrimination against individuals with disabilities in all areas of public life, including at work.

Hot Topics for Employers

1. [Back to School: FFCRA Leave Options](#)
2. [Workplace Changes for the Long Haul: COVID-19's Impact](#)
3. [Blame it on the CDC: The Mask Ask](#)
4. [How Can I Protect my Workplace from COVID-19 Lawsuits?](#)

What if the Accommodation Would Cause a Hardship on Your Business?

Employers can't always provide the requested accommodation if it would cause significant difficulty or expense on the business. You will need to individually analyze the proposed accommodations and consider the cost and nature of the accommodation, the financial and operational resources of your Company, and the impact of the proposed accommodation on your operations. If you walk through this analysis, you can determine what you can accommodate, and what accommodations you cannot. For more guidance on this process, we offer a [COVID-19 Reasonable Accommodation Toolkit](#) that contains resource documents to help navigate this process.

Who We Are

We want to [introduce ourselves](#) to those we have not met:

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That's easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business [here](#).

Our Services

Through our decades of representing employers in many industries and sizes, we have crafted fixed fee services to help employers through human resources issues and compliance headaches. This is just a small sampling of the services we offer:

1. [Proactive Employment Advice](#)
2. [Litigation of Employment Disputes](#)
3. [Employment Counsel On-Call](#)
4. [Handbook Preparation](#)
5. [COVID-19 Toolkits](#)

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Kaitlyn MacLeod

Meet our Associate Kaitlyn MacLeod who focuses her practice on protecting employers' interests by advising clients on day-to-day human resources issues and providing counsel on compliance with Federal, State, and local employment law. Kaitlyn prepares employer handbooks, settlement agreements, employment agreements, and other employer policies.