

**MEMORANDUM**

DATE: August 24, 2020  
RE: Recent Employment Laws

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Below are a number of developments involving the pandemic and other workplace laws:

**COVID-19 Update**

Protected Leave

With school approaching employers are once again facing the prospect of employees who are unable to work or telework due to school and day care closures, and employees who have contracted or are caring for individuals who have contracted the virus. As a reminder, the FFCRA provides protected leave to employees who are unable to work or telework for the following reasons through December 31, 2020:

- The employee is subject to a Federal, State or local quarantine or isolation order;
- The employee has been advised by a health care provider to self-quarantine because the employee has COVID-19, may have COVID-19 or is particularly vulnerable to COVID-19;
- The employee is experiencing COVID-19 symptoms (e.g., fever, dry cough, shortness of breath) and is seeking a medical diagnosis;
- The employee is caring for an individual who is subject to a Federal, State or local quarantine or isolation order, or because the individual has been advised by a health care provider to self-quarantine for COVID-19-related reasons;
- The employee needs to care for the employee's son or daughter whose school or place of care has closed, or whose child care provider is unavailable due to COVID-19-related reasons; or
- The employee is experiencing a substantially similar condition as specified by the Secretary of HHS or DOL.

In addition, employees may have similar protections under OFLA and FMLA, depending on the circumstances.

### Mask Mandates

As you know, as part of the Governor's initiative to re-open Oregon for business earlier this summer, the State of Oregon adopted a wide range of guidelines applicable to places of employment. Nevertheless, the number of COVID cases continues to increase. Accordingly, on August 13, 2020, the Oregon Health Authority issued new guidelines requiring offices and businesses that are open to the public to require employees, contractors, visitors and customers to wear face coverings. That guidance can be found [here](#).

### OR-OSHA's Temporary COVID-19 Standard

Until now, neither state nor federal OSHA had established a workplace safety standard relating to COVID-19. However, on August 17, 2020, OR-OSHA issued a proposed COVID-19 safety standard for all businesses, including workplaces with heightened risks to COVID-19 (such as health care settings, salons, tattoo businesses, etc.) The proposed rule, found [here](#), is open for public comment until September 7, and the final rule will be issued soon after. Because this rule will establish the minimum standard of care applicable to Oregon businesses, all employers should review the rule carefully and be prepared to adopt its requirements.

### **New Employment Laws**

#### The Workplace Fairness Act

**On October 1, 2020**, a portion of Oregon's Workplace Fairness Act goes into effect that requires all Oregon employers to have a written policy that clearly prohibits discrimination, harassment and sexual assault. This written policy must also include the following:

- A process for an employee to report prohibited conduct;
- Identification of the individual responsible for receiving reports of prohibited conduct and at least one alternative;
- The applicable statute of limitations for an employee to allege unlawful conduct;
- An explanation that: (a) the employer cannot require or coerce an employee to enter into a nondisclosure or nondisparagement agreement, including definitions of those terms; and (b) an employee may voluntarily request to enter into such an agreement so long as the employee has seven days to revoke the agreement; and
- A statement advising employers and employees to document any incidents involving prohibited conduct.

Employers must make the written policy available to employees within the workplace (think bulletin board posting) as well as provide a copy of the policy to all employees upon hiring. Employers must also provide a copy of the written policy to any employee who lodges a complaint of prohibited conduct **at the time the complaint is made**.

### Non-Competition Agreements

Those employers who use non-competition agreements with their employees are now required to provide a copy of the signed agreement to the employee no later than 30 days after the employee's last day of employment. We suggest that you provide a copy with the final paycheck to make it clear that you intend to enforce that agreement.

### Pregnancy Accommodations

Pursuant to Oregon's recent law requiring employers to provide reasonable accommodation for pregnancy-related conditions, employers are required to post a notice (template located [here](#)) informing employees of their protections under this law (another notice for the bulletin board). Employers must also provide written notice of these protections to new employees at time of hire and to an employee within 10 days after learning that the employee is pregnant.

For more information, please contact our Labor and Employment attorneys, Amanda Walkup, Andy Lewis and Mario Conte.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*