

COVID-19 and the Utility Response: Maintaining Critical Infrastructure & Services

March 17, 2020

COVID-19 and the Utility Response: Maintaining Critical Infrastructure & Services

Introductions by



David T. McGimpsey
Partner, Dentons
D +1 812 771 4413
david.mcgimpsey@dentons.com



Clinton Vince
Partner, Dentons
D +1 202-408-8004
clinton.vince@dentons.com

Speakers



Fred Bonewell
Chief Security, Safety &
Gas Solutions Officer,
CPS Energy



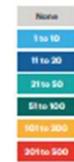
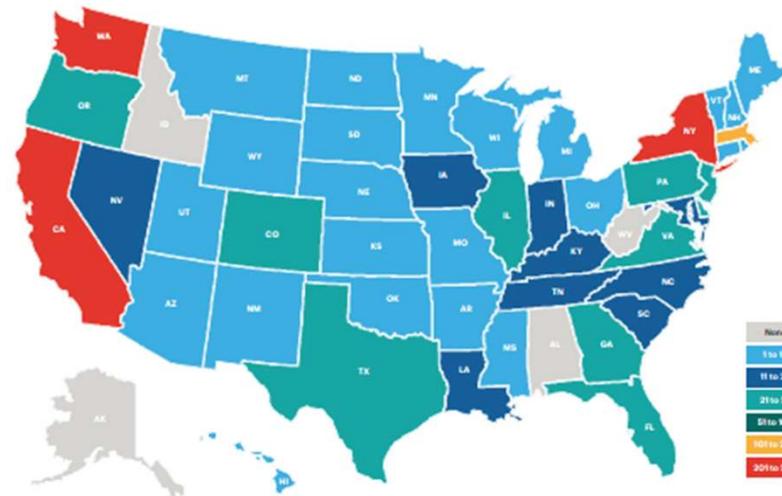
Louise Ing
Partner, Dentons
D +1 808 524 1800
liouise.ing@dentons.com



David Quam
Counsel, Dentons D +1
202 496 7220
david.quam@dentons.com

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Coronavirus Disease (COVID-19) in the US



Total cases: 1,629
 Total deaths: 41
 Jurisdictions reporting cases: 47
 (46 states and Washington DC)

States with confirmed and presumptive positive cases of COVID-19:

- | | | | | | |
|-----------------|---------------|-----------------|-----------------|------------------|-------------------|
| None | • Delaware | • Nebraska | • Vermont | • Louisiana | • Georgia |
| • Alabama | • Hawaii | • New Hampshire | • Washington DC | • Maryland | • Illinois |
| • Alaska | • Kansas | • New Mexico | • Wisconsin | • Nevada | • New Jersey |
| • Idaho | • Maine | • North Dakota | • Wyoming | • North Carolina | • Oregon |
| • West Virginia | • Michigan | • Ohio | | • South Carolina | • Pennsylvania |
| | • Minnesota | • Oklahoma | 11 to 20 | • Tennessee | • Texas |
| | • Missouri | • Rhode Island | • Indiana | | • Virginia |
| | • Mississippi | • South Dakota | • Iowa | 21 to 50 | 51 to 100 |
| | • Montana | • Utah | • Kentucky | • Colorado | |
| | | | | • Florida | |
| | | | | | 101 to 200 |
| | | | | | • Massachusetts |
| | | | | | 201 to 500 |
| | | | | | • California |
| | | | | | • New York |
| | | | | | • Washington |

Date updated: March 13, 2020

Source: CDC, www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html

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State* Mitigation Strategies

Action	Number	State
Activated National Guard	20	Arkansas, California, Colorado, Connecticut, Florida, Georgia, Iowa, Kansas, Louisiana, Maryland, Mississippi, Montana, New Jersey, New Mexico, New York, Rhode Island, Tennessee, Vermont, Washington, Wisconsin
Declared State of Emergency	51	
Restricted out-of-state travel for state employees	21	Alaska, Arkansas, Connecticut, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Washington, West Virginia, Wisconsin
Closed schools	40	Alaska, Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Michigan, Minnesota, Montana, Nevada, North Carolina, North Dakota, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, South Carolina, South Dakota, Vermont, Virginia, Utah, Washington, Washington DC, Wisconsin, West Virginia
Closed non-essential businesses	2	Pennsylvania, Washington
Closed bars and/or restaurants	19	California, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, Vermont, Washington DC
Prohibited gatherings greater than: 25	3	Massachusetts, Oregon, Rhode Island
50	14	Colorado, Connecticut, Delaware, Illinois, Indiana, Maryland, Michigan, New Hampshire, New Jersey, New York, Ohio, Tennessee, Washington, Wisconsin
100	1	New Mexico
250	5	California, Indiana, Louisiana, Vermont, Washington DC
No public state-wide action or little public guidance	5	Idaho, Missouri, Nebraska, Texas, Wyoming

*Includes Washington DC

Information as of 3/17/2020: 7:00 a.m.



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Maryland Order Prohibiting Termination of Residential Services and Late Fees

1. No electric, gas, sewage disposal, telegraph, telephone, water, or cable television company, or internet service provider, or any company providing a combination of such services (a “Residential Service Company”), shall terminate the service of a customer if the service is used, in whole or in part, in a dwelling unit or residence.
2. A Residential Service Company shall not bill or collect on an account that serves a dwelling unit or residence any fee or charge imposed for a late or otherwise untimely payment that becomes due from the date of this Order.
3. This Order remains effective until the termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded, but in all events no later than May 1, 2020, except as may be rescinded, superseded, amended, or revised by additional orders.
4. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order is hereby suspended.

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Families First Coronavirus Response Act²⁶

Emergency Paid Sick Leave Act

- The Emergency Paid Sick Leave Act is part of the FFCRA. As currently drafted, the Emergency Paid Sick Leave Act only applies to employers with fewer than 500 employees.
- Paid sick time is to be paid at the employee's regular rate of pay.
- Paid sick time as proposed will be in addition to any paid sick time available to employees under existing employer policies and existing state and local paid leave laws.
- Employers will not be permitted to require employees to use other paid sick leave provided by the employer before using the paid sick time required by the statute.

Family and Medical Leave Act Amendments

- The FFCRA, if enacted, will also expand the requirements of the Family and Medical Leave Act (FMLA) for employers with less than 500 employees.
- Leave for one of these qualifying reasons will count toward the employee's 12 weeks of job-protected leave under the FMLA.
- The first 14 days of FMLA leave for a COVID-19-related reason may be unpaid.
- Employees may use accrued personal or sick leave for the first 14 days but cannot be required to do so.
- After the first 14 days of FMLA leave for one of the qualifying coronavirus reasons, covered employers must compensate employees during the leave in an amount that is not less than two-thirds (2/3rds) of the employee's regular rate.
- The COVID-19-related FMLA provisions will apply to employees who have been employed at least 30 calendar days (rather than 12 months as required for other types of FMLA leave).

Unemployment Compensation

- Most state unemployment compensation laws require employees who are laid off or separated from employment to serve a waiting week before benefits are triggered.
- The FFCRA will provide federal funds to states that waive the waiting week and job search requirements as well as employer experience rating.
- As an additional incentive for states to waive these requirements, the FFCRA provides additional funding to states for extended unemployment compensation benefits.
- As such, if the FFCRA is enacted, we expect most states will waive the work week and job search requirements for layoffs connected to COVID-19.

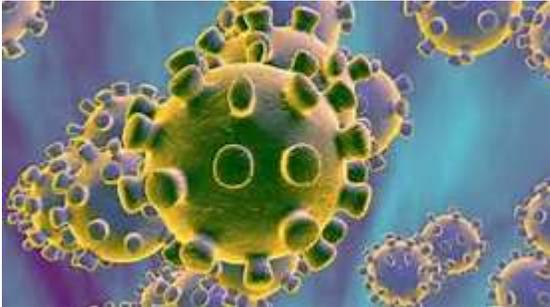
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Federal Stimulus Package -- Round 2 (Proposed)

- Address hospital and treatment capacity issues;
- Expand Unemployment Insurance and Increase Medicaid Funding;
- Ensure affordability of all COVID-19 treatment
- Provide Immediate Loan Payment Forbearance for ALL Federal Loans & Moratoriums on Evictions/Foreclosures;
- Deliver Immediate help to small businesses;
- Fund emergency child care, especially for health care workers and first responders;
- Help schools with remote learning;
- Ensure senior citizen medicine and food delivery;
- Provide assistance to keep public transportation running;
- Utilize the Defense Department to provide personnel, equipment, supplies, and critical response capabilities to support on the nationwide response;
- Address public health and economic needs in Indian Country

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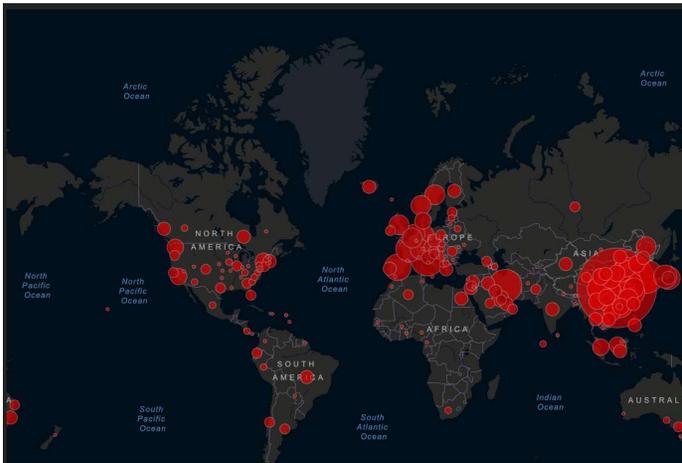
A health event emergency can impact our operations & how we serve our customers.



- CPS Energy is monitoring the current COVID-19 health emergency and taking steps to prepare for any potential impact to our service area.
- The safety and health of our employees and the public is our highest priority while we strive to ensure the continuous delivery of energy to our customers.

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Threat Monitoring and Analysis



- CPS Energy's health professionals continually monitor worldwide health information sources.
- This threat analysis, which includes security threats, is an ongoing part of CPS Energy's preparedness posture.

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Current Operations Status



- At this time, CPS Energy has not made any changes to our business activity or operations, except to develop specific entry procedures for working at sites that have been designated as quarantine areas by health authorities.

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Health Event Continuity of Operations Plan



Health Event Continuity of Operations Plan

Program Information	
Plan Name	Health Event Continuity of Operations Plan
Plan Owner	Fred Bonewell
Owner Title	Chief Safety and Security Officer
Document Author(s)	Joe Castaneda, Elba Garcia and Lauren Rodriguez-Thompson
Command and Control	Fred Bonewell or his designee

Working Document - Subject to Change

Revision: 2/10/2020

- CPS Energy has a Health Event Continuity of Operations Plan that is reviewed and updated annually.
- This plan is fully exercised at least every three years in a functional exercise that involves all critical areas of the enterprise.

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Initiation of Activity



- In January 2020, CPS Energy began internal discussions of the COVID-19 health emergency that was first reported from Wuhan, China.
- We initiated a Project Team to gather information and take actions going forward.

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Quarantine Area Operations

JBSA Lackland Evacuee Outage Response Contingency Plan Area I & II

Military Strategic Cooperation and Support received notice on February 1, 2020 that JBSA Lackland will be housing approximately 250 evacuees from China driven by the US State Department's directive related to the Coronavirus emergency. JBSA Lackland is one of four military installations within the United States identified to receive evacuees. The evacuees will be debriefed, tested and quarantined upon arrival at JBSA Lackland for at least 14 days.

This contingency plan applies to JBSA Lackland Area I & II only. There is no change to core business on all other areas of JBSA Lackland.

- Beginning in early February 2020, evacuees were quarantined at Lackland Airforce Base in San Antonio. Subsequent evacuees are brought to the base periodically as needed
- In order to protect our personnel, and maintain the quarantine protocols, CPS Energy developed specific communication and operations procedures for personnel working at this site.

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Awareness Campaign

March 3, 2020

[NEWSROOM](#)



City of San Antonio issues Public Health Emergency

San Antonio Mayor Ron Nirenberg and the City of San Antonio issued a [Public Health Emergency Declaration](#) yesterday to prevent the potential spread of the

- In order to keep employees and our contractors informed of the COVID-19 threat and our preparedness posture, CPS Energy initiated an internal awareness campaign.
- This campaign involves newsletters, webinars, and safety briefings to all personnel.

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Travel Risk



- Employee travel was identified as a potential risk early in the COVID-19 outbreak.
- CPS Energy provided our business travelers with medical travel packs, and gave them information on local health resources at their destination cities.
- Currently, all non-critical business travel out of the region has been restricted

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Customer Contact Risk

- To reduce potential risk from operations involving customers, CPS Energy developed procedures for:
 - Walk-in customer centers
 - Entering customer homes for gas service
 - Interacting with electric distribution customers
 - Interacting with office visitors
 - Contact with people off-site for business

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Supply Chain Risk

- The COVID-19 health emergency has impacted the global supply chain.
- CPS Energy has experienced a minor interruption in a non-critical material that was quickly resolved.
- CPS Energy procurement specialists continually monitor critical supplies of materials, equipment and services and identify alternate sources as needed to ensure continuation of operations.

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Workplace Infection Risk



- To protect our people, CPS Energy has developed workplace infection control measures, which include increased cleaning schedules, deployment of hand sanitizer, and social distancing protocols.

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Whole Community Approach

- CPS Energy maintains connections with city, county, state and federal emergency management organizations for information sharing and strategy development.
- We are members of regional and national energy industry mutual aid organizations.
- Through these connections, CPS Energy aligns its preparedness and response activities in coordination with public officials and the energy industry.

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- The CPS Energy electric generation, transmission and distribution system is robust and reliable, with many built-in redundancies and work-arounds.
- The natural gas distribution system has multiple transmission sources and is highly reliable.
- CPS Energy is planning to continue delivery of energy to our customers even in a worst-case health emergency scenario.

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Workforce Staffing



- CPS Energy's workforce is fully staffed and there are backups for all critical positions, with additional measures such as succession planning in place to maintain minimal staffing levels.
- If needed, CPS Energy can also utilize contractors and mutual aid support to augment our workforce.

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Response Goal



- Our goal during the COVID-19 health emergency is to continue to serve our customers with no loss of efficiency, and continue to conduct business as needed regardless of the potential health threat level.

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Contact Information

For more information from CPS Energy, contact:

William McCarson, MBCP
Business Continuity Program Manager
CPS Energy, 145 Navarro San Antonio, Texas 78205
wmccarson@cpsenergy.com

Office: 210.353.2260

COVID-19 & THE UTILITY RESPONSE:

Maintaining Critical Infrastructure & Services - Employment Issues

March 17, 2020

[Louise K.Y. Ing](#)

[Partner, Honolulu](#)

[D +1 808 524 1800](#)

[Email: louise.ing@dentons.com](mailto:louise.ing@dentons.com)

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What will we cover?

The President's Coronavirus Guidelines for America

CDC Updates: Interim Guidance for Businesses and
Employers

Hot issues:

- Social distancing/remote work or not?
- Privacy
- Employee well-being

How we can help

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The President's Coronavirus Guidelines for America

- https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf
- “Do Your Part to Prevent the Spread of the Coronavirus” highlights
 - Work or engage in schooling FROM HOME whenever possible
 - IF YOU WORK IN A CRITICAL INFRASTRUCTURE INDUSTRY...you have a special responsibility to maintain your normal work schedule. You and your employers should follow CDC guidance to protect your health at work.

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CDC's Interim Guidance for Businesses and Employers -
for employees who must be on jobsite:

- <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
- Actively encourage sick employees to stay home
- Separate sick employees
- Emphasize staying home when sick, respiratory etiquette and hand hygiene by all employees
- Perform routine environmental cleaning
- Advise employees before traveling to take certain steps
- Additional Measures in Response to Currently Occurring Sporadic Importations of the COVID-19

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Other measures to protect employees onsite

- Inform and educate employees about wellness and good hygiene policies and practices
 - CDC informational sheet
 - To minimize speculation and rumors, empower through self-care
- Social distancing at work
 - Flexible or staggered shifts
- Prepare for increased absences
 - Cross-train
 - Consider show-up bonus to encourage attendance
 - If pre-arranged, is included in regular rate of pay for nonexempt employees in order to determine overtime
 - If bonus is discretionary with employer, may be excluded from regular pay rate

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OSHA Guiding Principles for the Workplace

Overview

- OSHA's General Duty Clause
 - provide “employment and a place of employment which are free from recognized hazards that are causing or likely to cause the death or serious physical harm to ... employees.”
- March 9, 2020: Guidance on Preparing Workplaces for COVID-19, <https://www.osha.gov/Publications/OSHA3990.pdf>
 - Steps to reduce workers' exposure to SARS-CoV-2
 - Classifying worker exposure to SARS-CoV-2 (lower, medium, high, very high)
 - Workers living abroad or traveling internationally
- OSHA site about COVID-19: <https://www.osha.gov/SLTC/covid-19/>

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CDC interim guidance for risk assessment and public health management for persons with potential exposure

- For communities without sustained community transmission
 - No risk: “Interactions with a person with symptomatic laboratory-confirmed COVID-19 infection that do not meet any of the high-, medium- or low-risk conditions. . . , such as walking by the person or being briefly in the same room.”
 - Low risk: “Being in the same indoor environment (e.g., a classroom, a hospital waiting room) as a person with symptomatic laboratory-confirmed COVID-19 for a prolonged period of time but not meeting the definition of close contact” (within 6’ for a prolonged time with or direct contact with infectious secretions of a COVID-19 case)
 - <https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>
- With more available testing, more positive test results and sustained community transmission expected

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Social distancing - the new norm

- 3/15/2020: Consider cancelling or postponing mass gatherings (50 or more).
<https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>
 - “This recommendation does not apply to the day to day operation of organizations such as schools, institutes of higher learning, or businesses. This recommendation is made in an attempt to reduce introduction of the virus into new communities and to slow the spread of infection in communities already affected by the virus. This recommendation is not intended to supersede the advice of local public health officials.”
- 3/16/2020: “AVOID SOCIAL GATHERINGS in groups of more than 10 people” (The President’s Coronavirus Guidelines)
- 3/16/2020: more restrictive State & County directives: non-essential business closings, shelter in place to avoid community spread

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Remote work or not?

- Factors to consider
 - Preventive power of social distancing to minimize contagion
 - Needs of the workplace: can employee perform essential functions remotely?
 - Whether employee should be quarantined after travel or exposure
 - Is there a legitimate, nondiscriminatory reason to allow some employees to work from home and others not? Apply standards are consistently and without discrimination based on race, national origin, etc.
 - Does employee have a risky health condition for which a reasonable accommodation would be to work remotely?
 - To avoid precedent-setting, make clear remote work is tied to the extraordinary circumstances presented by COVID-19 crisis

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- Fair Labor Standards Act and regulations
- **Nonexempt employee** entitled to pay for time actually worked while quarantined
 - But may be entitled to pay for return travel home
 - If quarantined during business travel
 - And travel is during normal work hours
- **Exempt employee** entitled to weekly salary in any workweek during which she performs work while quarantined, even if only worked a partial week
 - Not entitled to salary if performed no work during a week in quarantine
- CDC guidance: be flexible even if no obligation to pay during business-related quarantine required after business travel
 - Continue pay or apply paid sick leave, paid time off or other paid leave if consistent with employer policies
 - Or implement special policy of paid leave for COVID-19 related leave

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Families First Coronavirus Response Act Pending in the US Senate - key provisions

- Div. C: Emergency Family and Medical Leave Expansion Act
 - Applies to employers of under 500 employees and government employers
 - Eligible employees: on the job for at least thirty (30) days
 - Up to 12 weeks of job-protected leave under FMLA
 - For coronavirus-related quarantine, care for at-risk family member in quarantine, care for one's child if school closure or unavailable childcare
 - 2 weeks paid leave, then at least 2/3 of employee's usual pay
 - Covers employees under multiemployer collective agreement whose employers pay into multiemployer plan

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Families First Coronavirus Response Act

Key provisions

- Div. D: Emergency Unemployment Insurance Stabilization and Access Act of 2020.
 - provides financial assistance to states for activities related to processing and paying unemployment insurance benefits under certain conditions.
- Div. E: Emergency Paid Sick Leave Act
 - Upon declaration of a public emergency
 - Same employer/employee eligibility requirements as above
 - 2 wk paid sick leave at regular rate to quarantine or seek diagnosis or preventive care for COVID-19
 - 2 wk paid leave at 2/3 rate to care for family member for such purposes or care for child due to school closure or unavailable childcare

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Families First Coronavirus Response Act

Key provisions

- Div. E: Emergency Paid Sick Leave Act (cont'd)
 - Full-time employees entitled to two weeks (80 hours)
 - Part-time employees entitled to the typical number of hours that they work in a typical 2-week period.
 - Covers employees who work under a multiemployer collective agreement and whose employers pay into a multiemployer plan are provided with leave.
 - Expires December 31, 2020
- Div. G: Tax Credits for Paid Sick and Paid Family and Medical Leave
 - refundable tax credit of 100% of qualified paid sick leave wages paid by an employer for each calendar quarter, with several limitations.
 - Qualified sick leave wages: those wages required to be paid by the Emergency Paid Sick Leave Act
 - Amended and corrected: 3/16/2020 (under study)

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- Guiding principle: collect only absolutely necessary information for task at hand (**data minimization**)
- Employee who tests positive: in communications to workforce, be nonspecific, no name, but provide useful information to coworkers about protecting health
- Keep health information secure and separate
- Ensure remote IT connections are secure
- Cybersecurity risk: phishing emails with fake news about COVID-19

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Employee well-being awareness

- To address stress and sense of isolation
- Two examples of resources
 - The Leader's Guide to Managing COVID-19 Panic,
<https://www.forbes.com/sites/janbruce/2020/03/05/the-leaders-guide-to-managing-covid-19-panic/#258d4f6b59ea>
 - Tips for Social Distancing, Quarantine, and Isolation During an Infectious Disease Outbreak,
<https://store.samhsa.gov/system/files/sma14-4894.pdf>

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How Employment & Labor Group can help

- Advise on specific situations (e.g., paid vs unpaid leave, enhanced screening, quarantines, travel restrictions, permissible inquiries)
- Advise on legal compliance (e.g., OSHA, ADA, privacy, non-discrimination, protected health information)
- Prepare or review infectious disease outbreak plans and policies for legal compliance
- Develop communication pieces (e.g., positive test results, temporary closure, FAQ's, notice to visitors & guests)

Presented by:



Louise K. Y. Ing

Partner

Employment & Labor

D +1 800 441 6114

E louise.ing@dentons.com

Louise K.Y. Ing is a partner in Dentons' Honolulu office. Louise believes the better you know the community, the more you can help your client. Her deep connections to local businesses and nonprofits allow her to help the community prosper and make the most of relationships relevant to her clients' business.

Louise's practice focuses on helping businesses, nonprofits and individuals resolve disputes, and get back to work as well as prevent future conflict. Her litigation and dispute resolution experience includes contracts, commercial transactions, leases, employment, real estate, creditors' rights and bankruptcy law, proprietary information, non-competition and confidentiality agreements, and intellectual property matters.

To help strengthen Hawaii's communities, Louise has devoted considerable energy serving on the boards of nonprofits, such as the University of Hawai'i Foundation and the Child & Family Service, among others, and Hawai'i-based companies, such as Island Holdings. She also served as a past president of the Hawaii State Bar Association and the Hawaii State Bar Foundatio

Louise's awards and recognitions include Best Lawyers in America's® 2015 Hawai'i Lawyer of the Year for both Bankruptcy Litigation and Bet-the-Company Litigation; Benchmark Litigation's Top 250 Women in Litigation; Best Lawyers in America® in the categories of Commercial Litigation, Bet-the-Company Litigation, Bankruptcy Litigation, Labor and Employment Litigation, and Real Estate Litigation; Chambers USA™; Recognized Practitioner in Employment; Martindale-Hubbell AV rating; Super Lawyers. Leadership awards from Hawai'i State Bar Association, Hawai'i Women Lawyers, Pacific Business News (Career Achievement), YWCA of O'ahu, Girls Scouts of Hawai'i, Patsy T. Mink PAC, and Planned Parenthood of Hawai'i.

Born in Honolulu, Louise earned her JD from UC Berkeley School of Law, and her BA, magna cum laude, in American studies, from Yale University. She is married with two children—a daughter pursuing dance in New York City and a son who is a proud employee of the Boston Red Sox.

COVID-19 and the Utility Response: Maintaining Critical Infrastructure & Services

Q&A

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Contact Information



David T. McGimpsey
Partner, Dentons
D +1 812 771 4413
david.mcgimpsey@dentons.com



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Partner, Dentons
D +1 202-408-8004
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Fred Bonewell
Chief Security, Safety &
Gas Solutions Officer,
CPS Energy



Louise Ing
Partner, Dentons
D +1 808 524 1800
liouise.ing@dentons.com



David Quam
Counsel, Dentons
D +1 202 496 7220
david.quam@dentons.com

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