When Employees Are Out of Work: Disability Leave, Workers Compensation Leave and Family Leave

Solving the Puzzle

A Risk Management Webinar

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When Employees are Out of Work: Disability Leave, Workers Compensation Leave and Family Leave

During this Webinar we will tackle the puzzle of determining what to do when an employee is out of work for any length of time that is not addressed by simple sick leave. Looking at three case studies, we will identify important elements of a nonprofit’s policies on leaves of absence and also answer the question: When is it appropriate to accommodate an employee with a leave of absence and preserve the employee’s job? Alternatively, when is it appropriate to terminate an employee who is out on leave and unable to perform her former job?

What laws apply when an employee is “out on leave?”

1.) **The Family and Medical Leave Act (FMLA)** (applies to workplaces with 50 or more employees) [http://www.dol.gov/esa/regs/statutes/whd/fmla.htm](http://www.dol.gov/esa/regs/statutes/whd/fmla.htm)

- Comprehensive information about compliance with the federal FMLA may be found at the Department of Labor (DOL) website: [http://www.dol.gov/esa/whd/fmla/index.htm](http://www.dol.gov/esa/whd/fmla/index.htm)

⇒ 11 states have laws that mirror the FMLA (California, very similar to federal law although more generous regarding pregnancy benefits); Connecticut, (applies to employers with 75 or more employees; provides up to 16 weeks of leave in a 24 month period) Hawaii, (applies to workplaces with 100+ employees; provides leave to care for parent-in-laws; does not apply to employee’s own serious health condition); Maine, (applies to employers with 15+ employees; provides 10 weeks’ leave in a 2 year period) Minnesota, (applies to employers with 21+ employees; provides for birth and adoption leave only) New Jersey, (applies to employers with 50+ employees; provides for up to 12 wks leave but not for the employee’s own serious health condition) Oregon, (applies to employers with 25+ employees; provides up to 12 weeks leave and 12 weeks additional leave for childbirth) Rhode Island, (applies to employers with 50+ employees; provides 13 weeks leave in two consecutive calendar years) Vermont, (applies to employers with 10+ employees; provides for 12 weeks plus additional time off for child health care emergencies) Washington, (applies to employers with 100+ employees; FMLA is in addition to the 12 weeks provided by the state law for child birth or illness during pregnancy) and Wisconsin (applies to employers with 50+ employees; provides for no more than 8 weeks) and the District of Columbia (applies to all employers; provides for up to 16 weeks for childbirth/placement or caring for a family member, and 16 weeks for the employee’s own serious health condition; more expansive definition of “family member” than federal law).

2.) **The Americans with Disabilities Act** (ADA) (applies to workplaces with 15 or more employees) [http://www.dol.gov/odep/pubs/misc/summada.htm](http://www.dol.gov/odep/pubs/misc/summada.htm).

- The ADA requires employers to make reasonable accommodations for qualified individuals with a disability. “Qualified” means that the worker is able to perform the essential functions of his job, with or without an accommodation. A leave of absence is often the appropriate accommodation. The ADA does not prescribe how long a leave is required – the standard is whatever is “reasonable” under the circumstances.
3.) **State Temporary Disability and Workers Compensation laws:** State workers compensation and temporary disability insurance payments provide compensation (income replacement) when workers are unable to work due to work-related illness and injury (workers compensation) and non-work-related illness and injury (disability) BUT do not provide any job security or ensure that the employee’s health insurance benefits will be maintained during the time the employee is out of work.

Note that it is a violation of law to retaliate against any employee for filing a workers compensation claim or a claim for disability. If adverse action is taken against an employee who has filed for disability or workers compensation, make sure that there is documentation of the reason for the action that will discredit any claim of retaliation.

4.) **Uniformed Services Employment and Reemployment Rights Act (USERRA)** (applies to all employers) [http://www.dol.gov/vets/usc/vpl/usc38.htm](http://www.dol.gov/vets/usc/vpl/usc38.htm)

- Requires that employees be given credit for any months and hours of service the employee would have been employed but for his or her military service when determining eligibility for FMLA leave. A special memo was recently issued by the DOL providing guidance for employers on this topic: [http://www.dol.gov/esa/whd/fmla/userra.htm](http://www.dol.gov/esa/whd/fmla/userra.htm)

5.) **Various State laws require employers to provide unpaid leave to employees in certain circumstances and prohibit employers from retaliating against employees for exercising their rights to such leave:**

   - Military Leave
   - Witness Leave
   - Jury Duty leave
   - Crime Victim Leave
   - Leave for adoptive parents
   - Leave for attendance at school activities
   - Leave for organ or blood marrow donors

6.) **Also: an employee may be eligible for a Leave of Absence made available through a nonprofit’s policies:**

   - Family and/or medical leave for employees who are not eligible for FMLA/state family leave
   - Bereavement Leave
   - Leave for education and professional development
   - Administrative Leave (provided at the discretion of the nonprofit)
   - Others

What are the Risks Inherent in Administering Leave Policies?

- Violating laws that require the employer to provide leave generally give the employee back pay, reinstatement and often penalties can be imposed. Example: Criminal penalties are not uncommon for violation of jury leave laws.

**Case Study #1:**
Sally has worked at the nonprofit for 3 years. She is a much beloved employee. She was in a car accident three weeks ago. After a brief hospitalization, she went home and started physical therapy. She has used all her available sick leave during this period. Yesterday she called the nonprofit to ask that the executive director fill out and submit the state disability insurance form so that she can start collecting disability payments. She also told the executive director that her physical therapist thinks that it will be at least 6 weeks until she can sit comfortably without pain for long stretches of time, so she’s not planning to come back to work for a while.

The following are going through the executive director’s head:

- How are we going to get all our work done if we are a person short? Can we hire a temporary worker to handle Sally’s tasks?
- Now that Sally’s sick pay has run out, how will her group health insurance premiums be paid for? Maybe we should drop Sally from the group health insurance plan.
- Does Sally continue to earn vacation and sick leave credit during the next 6 weeks that she is out of work?
- When Sally comes back, will she be able to do her job at full throttle, like the rest of us? What if she re-injures her back?

The executive director is also thinking – ‘Hmmm. I wonder if Sally will be able to come back at all? She was only a marginal worker... I’d really like to hire someone good to take her place if she doesn’t come back. I wonder if I can?’

Policy issues raised by this scenario:

1. **When an employee is “out on leave” is the nonprofit required to maintain the employee’s position?**
   
   The answer depends on what type of leave the employee is eligible for and what the employer’s policies say about reinstatement. (See Case Studies #2 and #3 for further exploration of this issue).

2. **Can the group health insurance coverage of an employee on leave be terminated? What happens if the employee doesn’t pay the premium payments?**

   For compliance with the federal FMLA and some state family/medical leave laws, the employer is required to maintain group health insurance coverage for an employee on leave on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some cases the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

   If the employee is not eligible for state or federal family leave, then this issue will be determined by the nonprofit’s own policies.

   For FMLA compliance, notice must be provided to employees if their health insurance is going to be dropped. This is good policy even where the FMLA does not apply: Under the FMLA, if an employee's premium payment is more than 30 days late, absent other company policies, the employer may drop the employee from coverage of the
group health benefit plan. Before doing so, however, the employer must provide the employee with at least 15 days written notice before the date coverage is to cease. See FMLA Regulations, 29 CFR Part 825.212(a)(1).

3. **Will the employee on leave continue to accrue paid leave (vacation, sick and personal days) while s/he is on leave?**
   
   ⇒ The answer will depend on the employer’s policies. The FMLA and state laws generally make it the employer’s choice whether or not employees may accrue other paid leave during the time that they are out on family/medical leave. To clarify, put this in your policy. Treat all employees on leave consistently.

4. **Can the employer prevent the employee from returning to work where the employee’s own health or the health of others would be at risk?**
   
   ⇒ Under the FMLA, the employer may make reinstatement contingent upon receipt of a certification from the employee’s health care provider that the employee is “fit to return to work.” See this DOL fact sheet concerning DOL regulations on this issue: http://www.dol.gov/dol/allcfr/esa/Title_29/Part_825/29CFR825.310.htm
   
   ⇒ Notice that a “fitness to return to work” certificate is required should be included in the nonprofit’s written policy; employees should be informed of this fact prior to, and while they are on leave; all employees returning from leave should be treated consistently in this regard, assuming that the leave is for their own serious health condition.
   
   ⇒ Under the ADA, the employer may prevent an employee from returning to work if doing so would pose a direct threat\(^1\) to self or others at the workplace. The term direct threat means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

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Let’s look at some case studies and apply the framework below to determine how to handle each situation:

**Case Study #2**

“We are a small nonprofit with 12 employees. We have a senior project manager who has been employed for seven months. She injured her back at work and now needs back surgery. She has

\(^1\) See 29 C.F.R. § 1630.2(r)

“...The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence.

In determining whether an individual would pose a direct threat, the factors to be considered include:

(1) The duration of the risk;
(2) The nature and severity of the potential harm;
(3) The likelihood that the potential harm will occur; and
(4) The imminence of the potential harm.”
asked for a six-week medical leave. Our leave policy is based on the Family and Medical Leave Act (FMLA) and only provides leaves to FMLA-eligible employees. Since she’s not eligible for family leave, she’ll be out on workers comp, but what happens if she needs to be out longer than six weeks and then can’t perform her job duties after the surgery?”

**Case Study #3**

“We had an employee who left work early last Tuesday after learning that an elderly relative, who is not an immediate family member, had suffered a heart attack. We haven’t heard from her since except that she told her supervisor on her way out the door that she wanted to use her vacation for any days she would be out. Our family leave policy doesn’t apply unless we have a certification of serious health condition, (which we don’t have here) and employees can’t use vacation unless they give us a request in writing at least two weeks in advance. We’re inclined to terminate this employee for job abandonment. Can we?”

**First Determine: Why is the Employee “out on leave?”**

- **Practice Tip:** Supervisors, who most often are aware when an employee is “out sick” or “out on leave” need to be aware that the nonprofit may be at risk of violating leave laws if the nonprofit does not identify the particular leave status applicable to the employee who is out on leave. Supervisors need to find out why someone is out of work and pass that information up the line, all the while being conscious of the employee’s expectation that personal information will be held in confidence. If the nonprofit does not identify the leave status and communicate the designation to the employee, the nonprofit is placing itself at risk of violation of any applicable leave laws or violation of the nonprofit’s own leave policies.

- **Policy Tip:** A nonprofit’s policy on sick leave should require the employee to contact his or her supervisor to communicate that she will not be at work. The nonprofit’s policy should also require documentation when the employee is out of work for longer than 3 days because it is possible that the reason for the employee being “out” is a serious health condition for which the employee should be placed on family/medical or some other special leave.²

**Second: What Leave Applies here?**

**A. FMLA? – If no, skip to question B:**
- Is the workplace a covered workplace?
- Is the particular employee eligible?
- Is the reason for the employee’s leave a reason covered by the FMLA? State law also?
  - If the FMLA applies, designate the leave in writing as FMLA qualifying and put the employee on notice of all expectations during and after leave.
  - If state law also applies, the law that is most generous to the employee should be followed. Sometimes an employee will be eligible under both state and federal laws and thus the leaves will run concurrently.

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² An employee will be eligible for FMLA if he or she has a serious health condition, and is under the care of a health care professional, and is incapacitated for more than 3 consecutive calendar days.
B. If the FMLA does not apply, evaluate whether the ADA requires a leave of absence as an accommodation: Does the employee have a disability that requires accommodation through a leave? If no, skip to question C.

⇒ Assume that the workplace is covered because state laws apply with even one employee; assume that the condition requiring back surgery affects a ‘major life activity’ – so assume that the ADA or a similar state law prohibiting discrimination against persons with disabilities applies.

• Is it reasonable to provide a leave of absence as an accommodation?
• How long of a leave is reasonable and feasible?
• Will the employee require any particular accommodations when s/he returns to work? Are those accommodations reasonable and feasible?
⇒ If the ADA applies, and an accommodation can be made, meet with the employee to negotiate and discuss the accommodation. Designate the leave in writing as an ADA accommodation. Put the employee on notice of all expectations during and after leave.

C. If neither the FMLA or the ADA applies, is there a leave of absence defined by a state law that this employee would be eligible for? Is there any other leave policy of the nonprofit that would afford this employee a leave of absence, requiring the nonprofit to keep his/her job open for a specific length of time, or require reinstatement of the employee at the conclusion of the leave?

❖ If not, then there is no particular roadmap for this employee’s leave. The nonprofit is free to implement a leave policy that balances the employee’s personal needs with the business needs of the nonprofit. Document the decision, and remember that similarly situated employees should be treated equitably.

❖❖ Danger! Don’t wait for the employee to ask for a particular leave and don’t assume that the type of leave the employee requests is the right leave for the situation. As soon as the nonprofit realizes that that an employee is “out on leave,” the nonprofit needs to identify what type of leave(s) apply and identify the rights and obligations of both employer and employee.

Tip: If the employee is eligible, it is in the employee’s and the nonprofit’s best interest to assign the time “out on leave” as protected leave (such as FMLA) because:

• The employee’s job will be protected for the entire time that the employee is on family and medical leave, if the leave is either state or federal leave or job protection is an aspect of the nonprofit’s policy on family/medical leave.
• The nonprofit will have certainty as to WHEN it is possible to terminate an employee (at the conclusion of leave period, if the employee does not return to work).

Discussion of Case Study #2:
Even though the employee may not technically qualify for family leave under this nonprofit’s policy (because the nonprofit does not have 50 employees and because the employee has been employed for a short period of time) a leave may be required under state laws that protect individuals with disabilities (serious back injuries are often disabling). The ADA only applies to workplaces with 15 or more employees so state law will govern whether accommodating this
employee is required. Most often employees who are “on workers comp” are suffering from a serious medical condition and under the care of a physician, so generally they qualify for family leave and/or are disabled and therefore may be owed a reasonable accommodation. A leave of absence is generally considered to be a reasonable accommodation. Therefore this nonprofit needs to determine whether (a) a state law requires the nonprofit to provide a leave of absence as an accommodation to an employee who suffers from a serious back injury; and (b) how long the leave of absence should be in order to be “reasonable”. The employee’s time out of work “on workers comp” should run concurrently with any official leave of absence that is granted by the nonprofit.

Discussion of Case Study #3:
In this example, the employee also does not technically qualify for family leave since the person who is sick is not an “immediate family member.” (Some nonprofits define “family member” more broadly, including parents-in-law or persons who acted as surrogate parents to an employee if the employee is the sole caregiver for that person.) While this employee could be terminated for job abandonment, this is a harsh result, especially where the employee seems to be under the impression that she is entitled to use her accrued vacation in this situation. Does the nonprofit have any leave policies that this employee would qualify for, even if she has not requested the right kind of leave (vacation) for the situation? The nonprofit should communicate with the employee, informing her that she is required to contact the nonprofit immediately to formally request a leave of absence / use of her vacation. Meanwhile, the nonprofit should place the employee on unpaid “administrative leave” status while seeking information on why the employee is out of work and when she can return. The nonprofit can establish a timeframe within which it expects the employee to return, and if the nonprofit still has not heard from the employee, or the employee has not returned to work, the nonprofit should terminate the employee.

Compliance With the Federal Family and Medical Leave Act
When an employee is eligible for FMLA, the employer should provide the employee with written notice of his/her rights under the FMLA (and applicable state law) that includes the following 8 items:

1. Whether the leave will be counted against the employee’s FMLA leave entitlement;
2. Requirements for furnishing medical certification (Form WH-380) for a serious health condition and the consequences for failing to do so;
3. The employee’s right to substitute paid leave and whether the employer will require the substitution of paid leave;
4. Requirements for making any health benefit premium payments; consequences for failing to make timely payments; and, circumstances under which coverage might lapse;
5. Requirements to submit a fitness-for-duty certificate to be restored to employment;
6. Whether the employee is a "key" employee (and if so, that reinstatement may not be automatic);
7. The employee’s right to reinstatement when the leave is completed; and
8. The employee’s potential liability if the employer makes the employee’s health insurance premium payments while the employee is on unpaid FMLA leave if the employee fails to return to work.

⇒ This written Prototype Notice (Form DOL WH-381) should be provided to the employee within a reasonable time after the employee gives notice of the need for FMLA leave, (or the employer learns of the employee’s need for leave) or within one or two business days, if feasible.

The FMLA Requires A Policy Statement in any Employee Manual:
If an employer provides an employee handbook to all employees that describes the employer's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employer's policies regarding FMLA.


The FMLA Requires Employees to Provide Advance Notice of the Request for Leave, Where Foreseeable:
Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

Employers may also require employees to provide:

- Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member.
  
  o If the employee is already out on leave, the nonprofit may designate the employee’s leave as FMLA eligible but make it contingent upon receipt of a Certification of Serious Health Condition. If the Certification is not provided or fails to support a finding of Serious Health Condition, then the employee will not have the protections of the FMLA.

The FMLA Requires Reinstatement to the Same or an Equivalent Position:
- Upon return to work at the end of FMLA leave, the employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
- If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the Americans with Disabilities Act (ADA).
- Note the following exceptions to the FMLA requirement to reinstate an employee after leave: If the employee is a ‘key employee’ reinstatement may not be automatic; also when something happens that would have caused the termination of the employee whether or not s/he were on a leave of absence, reinstatement is not automatic.

The FMLA requires employers to document their compliance with the FMLA:
Employers should maintain a file, separate from the employee’s regular personnel file, where all documentation pertaining to leaves of absence is maintained. This file would contain all memos
about requests for leave, all correspondence between the employee and nonprofit about leaves of absence, and any memos that describe the nonprofit’s determination as to eligibility or ineligibility. See FMLA Regulations, 29 CFR 825.500 http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_825/29CFR825.500.htm

Best Practices and Risk Management Strategies:

Clear Communication With the Employee on Leave:
The nonprofit should document in writing to the employee on leave:
• the date that his/her leave commenced
• the date it concludes, and
• the fact that if the employee fails to return to work at the conclusion of the leave the nonprofit will have no obligation to maintain his/her employment.
Other details of the communication should address:
• What obligations the employee has to communicate with the employer during the leave of absence about his/her expected return to work date
  o The FMLA specifically permits the employer to require that the employee provide periodic reports during FMLA leave regarding the employee's status and intent to return to work.
• What obligations the employee has in connection with health insurance coverage, such as premium payments, that normally would be taken care of through payroll deductions.
• Whether the nonprofit will require the employee to provide a “Fitness to Return To Work” certification from a health care provider.

Summing Up

What can a nonprofit do to reduce the risk of violating various leave laws?
• Know which laws apply to your nonprofit
• Draft written policies that identify what leaves employees at the nonprofit are entitled to take advantage of
• Train supervisors on the policies
• Identify each time an employee is “out of work,” whether s/he is eligible for what kind of leave of absence
• Require employees who are on leave or seeking leave due to a serious health condition to provide verification of the health condition with written notice from a health care provider
  o DOL Form WH-380 is an optional form that may be used to obtain a medical certification from a health care provider.
• Inform the employee who is taking a leave, of all expectations in writing.
  o DOL Form WH-381 is an optional form that an employer may use to respond to an employee's request for leave (or to designate an employee’s absence from the workplace as FMLA eligible.) Alternatively the employer may customize the form but make sure to communicate the same information.
• Require a “Fitness to Return to Work” certification from the employee’s medical health professional. This policy must be uniformly applied to all employees returning from leave for their own serious health condition. See FMLA regulations Section 104 (a)(4).
http://www.dol.gov/esa/regs/statutes/whd/fmla.htm

- If there are major policy changes at the workplace while the employee is on leave, send the employee documentation of such changes and obtain proof of delivery.

**Review Your Policies!**

The suggestions offered here remind you about basic risk management principles to guide your implementation of leave policies. The section below suggests critical items for inclusion in the policies you develop. The details of policy implementation are up to you. A nonprofit’s leave policies should address:

1. Who is eligible.
2. Whether the leave is paid or unpaid.
3. How long a leave is permitted.
5. Whether employees must use any accrued paid leave prior to or during unpaid leaves of absence, or whether it is their choice to do so.
6. Whether employees may/must use any type of paid leave such as vacation, sick and personal during unpaid leave, or only vacation and personal, not sick leave (Some states restrict an employees use of sick leave during family leave, e.g., New Jersey and Minnesota.)
7. Whether there are any requirements prior to their return to work, such as a ‘fitness to return to duty’ letter from a doctor.
8. For leaves of absence due to medical reasons, whether the employee is required to provide a Certification of Serious Health Condition from a medical professional
9. For leaves of absence for other reasons, what documentation is required, if any
10. A statement that the nonprofit will not retaliate against any employee for exercising their rights to take a leave of absence
11. When reinstatement is provided and when it is not (such as in cases where an employee would be terminated whether or not the employee were on leave)
12. Whether employees may engage in paid work for another employer while on leave (most employers’ policies do not permit outside work during leave)
13. Whether the employee will be reinstated to the same position, same salary and same title.
14. Whether taking intermittent leave is permissible

**Basic Risk Management Principles to Reduce Liability for Violation of the Federal Family and Medical Leave Act and other State leave of absence laws:**

1. **Preparation:** Know in advance that leaves of absence raise a host of issues and try to address those issues through written policies, before you discover that an employee is “out on leave.”

2. **Documentation:** The FMLA documentation requirements provide guidance for best practices: Document: (i) whenever requests for leave and accommodations are considered and discussed with an employee; (ii) an employee’s eligibility for leave, outlining his or her rights and obligations to comply with the nonprofit’s leave policies. If the nonprofit has an employee manual, include policies that address leaves of absence. When adverse decisions are made affecting an employee who is on leave, document why the action is necessary from a business perspective.
3. **Consistency**: Be consistent in how leave of absences are administered. Inconsistent treatment feels unfair! A feeling of being treated unfairly is the basis of almost all employment litigation.

4. **Compassionate Communication**: Verbally inform the employee(s) as soon as possible whether the employee’s reason for being out of work is covered by any special leave of absence policy of the nonprofit or state or federal law or a combination thereof. When an employee is distracted by health or family concerns, the employee will not be searching through an employee manual for policy guidance. Provide the employee with a carefully worded letter telling him or her exactly when the leave starts, when it ends and what his/her responsibilities are during the leave of absence. Be especially clear about how the leave impacts the employee’s right to reinstatement and to receive benefits, such as insurance.

5. **Remain Receptive to Complaints and Concerns**. When an employee is out of work for health or family reasons, the employee will be especially sensitive to the loss of a job or of benefits. If the employer nonprofit makes a decision that is unpopular with the employee and his family, be receptive to the concerns. Try to answer questions and resolve concerns early, rather than holding your breath to see if a lawsuit is filed.

6. **Do Not Retaliate (or appear to retaliate!)** Taking an adverse employment action against an employee because s/he requested family leave is prohibited as a violation of the FMLA and of many state’s public policies. When an adverse action, such as a termination, is necessary, protect the nonprofit with adequate documentation of the reason for the action, emphasizing the business needs of the nonprofit that justify the action.

**How Can I Protect My Nonprofit from Liability?** In addition to the principles listed above, use this checklist:

- **Follow closely any internal policies and procedures in the organization’s handbook.** Before taking any significant step that will negatively impact an employee’s situation, always consult your organization’s personnel policies or employee handbook to determine whether the situation is covered. If so, *follow your established procedures.* If the procedures really don’t make sense for the situation at hand, consult with legal counsel.

- **Consult with legal counsel, experienced in employment matters.** Leaves of absence and compliance with the ADA an get very complicated. In advance of a crisis, identify legal resources in your community where you can receive advice from an employment lawyer; ideally one who has worked with other clients in the nonprofit sector.

- **Review your organization’s Directors and Officers Liability Insurance** or consult with your insurance broker/agent to confirm that your organization has coverage for Employment Practices Liability (“EPL”) claims. Typical coverage will cover the costs of defending an organization when a violation of law is claimed. If you do not understand the coverage for employment practices claims after reading your policy, contact your agent/broker and request their help. Describe your circumstances and ask their opinion about whether there would be
coverage in the event that one of the affected employees brought a future legal claim against
the organization. Ask your agent/broker to respond in writing. Armed with that information
you can make a business decision about the potential financial costs/risks of the planned action.

*The presenters for this Web Seminar welcome your comments and questions about the topics
covered in this program or other employment-related concerns affecting your nonprofit. The
presenters can be reached by email as follows:*

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RECOMMENDED RESOURCES

1800 Duke Street
Alexandria, VA 22314
Phone: (800) 283-SHRM

P.O. Box 7033
Lawrence, Kansas 66044
Phone: (800) 669-4000

  • Resources on the ADA from the DOL website:
    http://www.dol.gov/dol/topic/disability/ADA.htm
  • Resources on Accommodating Disabled Workers in the Workplace:
    http://www.jan.wvu.edu/portals/private_er.htm
  • Resources for employers on compliance with the FMLA:
  • Frequently Asked Questions about the FMLA: http://www.dol.gov/elaws/fmla.htm
  • A FMLA poster in English and Spanish may be obtained from the DOL website::

Workforce Management --Website www.workforce.com