



ASK THE HR ADVISORS

**Families First Coronavirus Response Act
Coronavirus Aid, Relief & Economic Security Act
What You Need to Know**

03.30.2020



Today's Agenda

- > Introduce HR Advisors
- > Review the Families First Coronavirus Response Act (FFCRA)
- > Define the reasons and pay options in the Emergency Paid Sick Leave portion of the Act
- > Explore the Family Medical Leave Act Expansion within the Act
- > Update on FFCRA tax credit opportunities
- > Learn about the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- > Provide practical considerations



Compass drives organizational performance with proven human resource and business strategies.

Our services through HR Advisors, a members-only benefit offered by the Greater Pittsburgh Arts Council with funding from RAD, encompass all aspects of the employee experience.

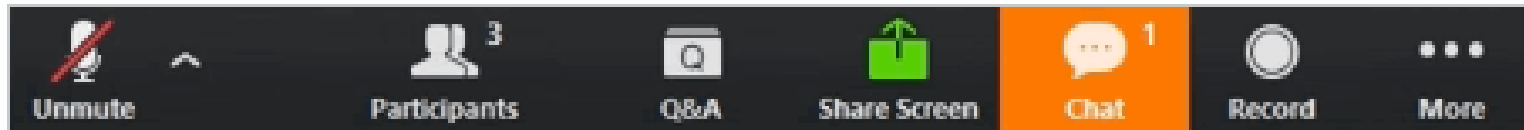


Tell Us About Your Organization

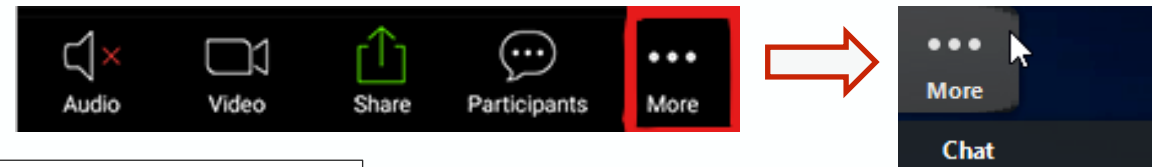
Do you have:

- > More than 500 Employees (A)
- > Fewer than 500 employees (B)
- > Fewer than 50 employees (C)

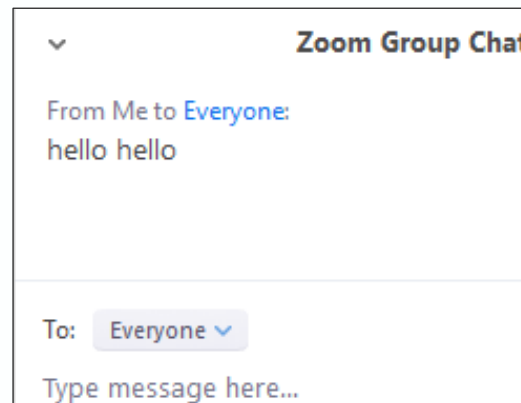
1. Go to your control panel (top or bottom of screen)



2. Click on Chat or More to show Chat



3. Type your response: A, B, or C



FFCRA At A Glance

- > Families First Coronavirus Response Act (FFCRA)
- > Public Law No: 116-127
- > Enacted March 18, 2020
- > Effective **April 1, 2020**
- > Expires December 31, 2020



DoL No-Enforcement Announcement

“*The Department will observe a temporary period of non-enforcement for the first 30 days after the Act takes effect, so long as the employer has acted reasonably and in good faith to comply with the Act. For purposes of this non-enforcement position, “good faith” exists when violations are remedied and the employee is made whole as soon as practicable by the employer, the violations were not willful, and the Department receives a written commitment from the employer to comply with the Act in the future.*”



Included in the Act

1. Appropriations
2. Nutrition Waivers
3. **Emergency Family and Medical Leave Expansion Act (“FMLA+”)**
4. Emergency Unemployment Insurance Stabilization and Access Act of 2020
5. **Emergency Paid Sick Leave Act (“EPSL”)**
6. Health Provisions
7. **Tax Credits for Paid Sick and Paid Family and Medical Leave**
8. Budgetary Effects

Changes in Employment Status

Hours/Salary Reduction

Consider FLSA requirements for exempt employees

Review CBA and contractual obligations

Maintains eligibility for FFCRA benefits

Furlough

Unemployment option

Contact broker for guidance on continued benefits coverage

May be eligible for FFCRA benefits

WARN Act applies if longer than six months

Layoff

Unemployment option

Required to pay out accrued leave benefits

Not eligible for FFCRA benefits

WARN may apply

Unemployment

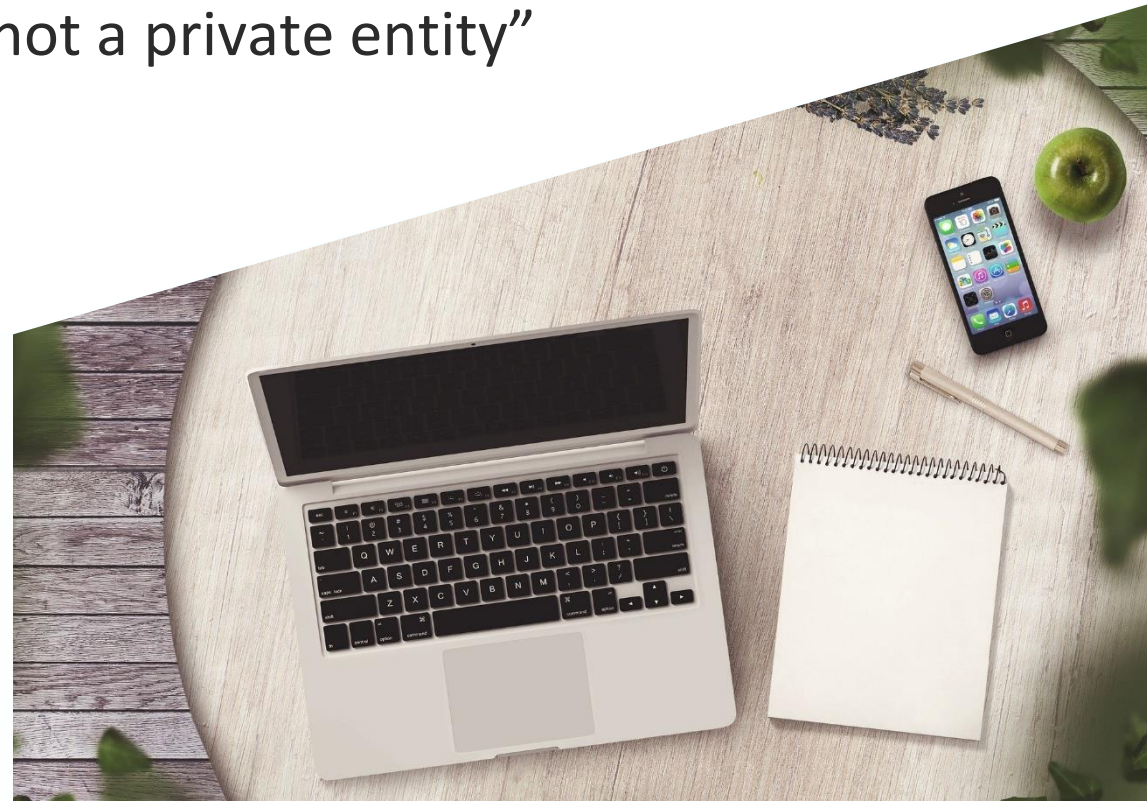
Unprecedented claims and system strain – file ASAP and online

Check state-specific requirements

Notify any employee with status change of options

Emergency Paid Sick Leave (EPSL)

- > Private employers with *fewer* than 500 employees must offer EPSL
- > Public agencies and “any other entity that is not a private entity” also must offer EPSL
- > Employers with less than 50 employees plus those with health care providers and emergency responders may be eligible for an exemption
- > Document time off in accordance with your attendance policies



Organizations should utilize current FLSA status and organization structures (and the status to be in effect after the act expires)

Reasons an Employee May Take EPSL

Personal/Self Care:

1. Employee subject to a mandated quarantine or isolation order related to COVID-19
2. Employee advised by a health care provider to self-quarantine because of COVID-19
3. Employee experiencing symptoms of COVID-19 and seeking medical care

Leave for the Care of Others:

4. The employee is caring for an individual mandated or advised to quarantine or isolation
5. The employee is caring for child (under 18) whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precaution
6. The employee is experiencing similar conditions as specified by the Secretaries of Health and Human Services, Labor, and/or Treasury

EPSL – Personal/Self Care

Eligibility Requirements	All active full-time and part-time employees as of April 1, 2020 Eligible day one of employment (no waiting period)
Length of Leave	Full-Time Employees: 80 hours (10 days) Part-Time Employees: Based on the average number of hours in a typical two-week period
Pay	100% of pay, up to \$511/day; \$5,110 total
Other Facts	Does not rollover at year end and is not paid out upon separation Act expires December 31, 2020 Leave is in addition to other sick or PTO time per existing company policy

EPSL – Care of Others

Eligibility Requirements	All active full-time and part-time employees as of April 1, 2020 Eligible day one of employment (no waiting period)
Length of Leave	Full-Time Employees: 80 hours (10 days) Part-Time Employees: Based on the average number of hours in a typical two-week period
Pay	2/3 of pay, up to \$200/day; \$2,000 total
Other Facts	Does not rollover at year end and is not paid out upon separation Act expires December 31, 2020 Leave is in addition to other sick or PTO time per existing company policy

Emergency Family Medical Leave Expansion Act (FMLA+)

- > **Does not change current FMLA requirements** – only expands and changes those areas that are *expressly* detailed in FMLA+
- > Notable changes and expansions:
 - Applies to private employers with *fewer than 500 employees* and public agencies including employers with *fewer than 50 employees*
 - All full-time or part-time employees **on payroll for 30 calendar days are eligible**
 - New regulations take effect **April 1, 2020** and are not retroactive
 - **Expires** December 31, 2020
- > Employers have a **duty to notify employees** of this new, paid leave
- > Documentation necessary for FMLA+ and may include school and government notices
- > **Exemptions** for employers with fewer than 50 employees

Qualifying Event for FMLA+

- > Employee can take a leave for “a qualifying need related to a public health emergency”
- > The employee is unable to work or telework
- > There is one qualifying need:

an employee must care for a minor child if the child’s school or place/source of child care has been closed due COVID-19

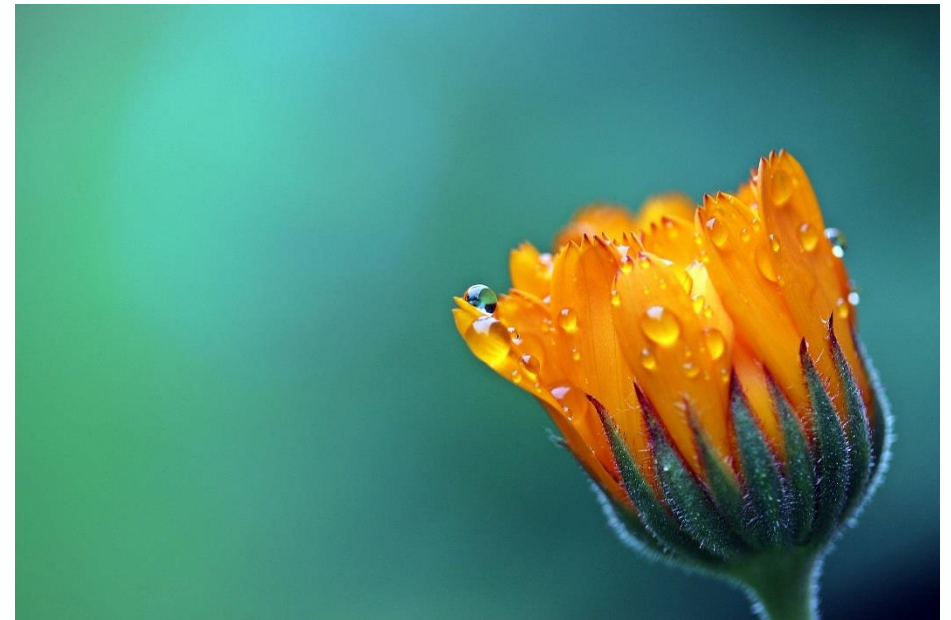
FMLA+ Length and Payment

- > FMLA+ leave is still **12 weeks**
- > The **first two weeks (80 hours) are unpaid**, but are eligible for EPSL
- > The remaining 10 weeks are paid at **2/3 of the employee's regular rate**
- > Maximum payment **capped at \$200/day and \$10,000 total** per employee



FMLA+ Return to Work

- > Employers with **more than 25 employees** must return employee to **equivalent position** at conclusion of leave
- > Employers with **fewer than 25 employees** have an exception
 - If the position *no longer exists due to operational changes* caused by a public health emergency
 - Must make reasonable effort to contact displaced employee for *up to one year after leave* if an *equivalent position* becomes available



Tax Credit for FFCRA Leave Costs

- > 100% is refundable as a tax credit against quarterly Social Security and Medicare payroll taxes.
- > The U.S. Treasury may develop a mechanism for more accelerated reimbursement to small businesses.
- > Many large payroll vendors anticipate being ready for this act by April 1, 2020.
- > Tax credits available for self-employed individuals related to FFCRA-related EPSL or FMLA+.



Coronavirus Aid, Relief and Economic Security Act (CARES Act)

Provides economic relief to non-profit organizations plus their employees and independent contractors

> Loans to small businesses

- Applies to employers with fewer than 500 employees including non-profit organizations, self employed individuals, and independent contractors
- Loan amount is 2.5 times average monthly payroll in the past year
- Used to retain workers and make payroll plus pay mortgage, rent, and utilities; cannot be used to pay payroll costs for those making >\$100,000
- Loan can be forgiven to the extent the organization can establish it complies with the foregoing standards
- Eligibility requires organization to certify that loan is needed due to uncertain economic times, the funds will be used for the purposes stated above, and only one loan is permitted

Coronavirus Aid, Relief and Economic Security Act (CARES Act)

> Additional Provisions

- Bigger non-profits are eligible for bank loans guaranteed by the government, which cannot be more than 2%, with no repayment for six months
 - Must retain 90% of workforce through September 30, 2020 (among other labor protections)
- Businesses can contribute up to 25% of taxable earnings to non-profits (up from 10%)
- There is ability to defer payment of employer share of FICA, with half due at the end of 2021 and the other half due at the end of 2022
- Employers can provide up to \$5,250 to employees on a tax-free basis for employees to pay off student loans, as well as other education assistance

Coronavirus Aid, Relief and Economic Security Act (CARES Act)

- > Extension of unemployment compensation benefits
 - Extends eligibility self-employed individuals, people seeking part-time work, and those without sufficient work history
 - Employees who cannot work due to COVID-19 related issues are also eligible
 - An extra \$600 is paid to eligible claimants through July 31, 2020
 - Maximum benefit period is extended from 26 to 39 weeks
 - Extra benefits paid by the federal government
 - One week waiting period is eliminated
- > 401(k)/457(b) plans receive penalty free distributions and loans up to \$100,000

Changes to Unemployment Compensation (UC)

- > Employers required to tell employees upon separation about their rights to UC and how to apply
- > One week waiting period is waived during the period of the emergency declared by the Governor (“the Emergency”)
- > Job search and registration requirements waived during the Emergency
- > Relief from charges during the Emergency



PENNSYLVANIA UNEMPLOYMENT COMPENSATION FILING MATERIALS CHECKLIST

Use this checklist to gather the information you need to file your UC claim with no delays.

CLAIMANT INFORMATION:

- Social Security number*
- Home address, mailing address (if different from your home address)
- Telephone number and valid email address
- If you are not a U.S. citizen or U.S. national: Alien registration number
- If you were on active duty in the U.S. military during the past 18 months: DD Form 214, Member 4
Also, send a copy to: **Federal Programs Unit, 651 Boas St., Harrisburg, PA 17121**
- If you worked for the federal government in the past 18 months, Standard Form 8; Standard Form 50

MOST RECENT EMPLOYER INFORMATION:

- Name of the employer where you are no longer working or for whom you are working reduced hours
- The employer's complete mailing address, phone and fax number, email address, and employer UC account number, if known
- First and last dates you worked for this employer
- Gross earnings during your last week of employment, if available
- Reason you left or, if still working, the reason you are working fewer hours
- If you are being recalled to this employer: date of recall
- If you worked for a college, university or school: your return date following a break and original terms of contract
- If receiving severance pay: amount of severance
- Other states where you have worked in the past 18 months

EMPLOYMENT HISTORY:

- Names and addresses of all your employers where you worked in the past 18 months
- First and last dates worked for these employers

DIRECT DEPOSIT INFORMATION:

(Direct deposit not required to be eligible for, or to receive, UC benefits)

- Bank name and address
- Bank telephone number
- Bank account number and Bank account routing number

*The department cannot process your claim without your Social Security number. UC is a taxable benefit, and the law requires the department to report the amount you have received to the United States Internal Revenue Service (IRS). The department also shares information with other states to prevent identity theft and to fight fraud. Your Social Security number and personal information will not be shared with anyone outside state government unemployment compensation systems and the federal government's tax system.

PRIVACY ACT STATEMENT

Because you are being asked to provide your Social Security number, federal law requires the department to provide you with the following notice, pursuant to the Privacy Act of 1974 (Section 7 of P.L. 93-579, 5 U.S.C. § 552a note). Disclosure of your Social Security number is mandatory for UC purposes. If you decline to give your Social Security number, your UC application and claims will not be processed.

- The department is authorized to solicit your Social Security number pursuant to the Internal Revenue Code (26 U.S.C. §§ 6050B and 6109) and the Social Security Act (42 U.S.C. § 1320b-7).
- Your Social Security number will be used to identify and administer your application and claims, determine your eligibility for UC, verify your eligibility for other government benefits, for statistical purposes, and to report the amount of UC you receive to the Internal Revenue Service for federal income tax purposes and for other purposes consistent with federal and state law.

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*

Watch for Additional Information

- > Exemption process for employers with less than 50 employees
- > Department of Labor anticipated to issue guidance and clarification around FFCRA
- > Additional tax credit processes for self-employed individuals and some small business owners
- > Congressional stimulus package through the CARES Act



Practical Considerations

1. Review and understand your responsibilities under FFCRA and opportunities under the CARES Act
2. Notify employees of FFCRA as of April 1, 2020
3. Consider cash flow and operational needs
4. Review your existing paid leave policies
5. Be cautious of any changes to policy or process that may violate new or existing compliance requirements
6. OSHA's General Clause - maintain safe work environments to minimize spread of COVID-19
7. How you respond now will define your future

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specific reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- 2/3 for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at 2/3 for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing another substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



WHY422 REV 03/20

Supplementary Resources: All Organizations

DoL FFCRA: Employee Paid Leave Rights:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

DoL FFCRA: Employer Paid Leave Requirements:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

DoL Required Posting FAQ:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>

DoL Required Posting:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

IRS Coronavirus Tax Relief Information:

<https://www.irs.gov/coronavirus>

Pennsylvania Unemployment Compensation Filing Materials Checklist

https://www.uc.pa.gov/Documents/UC_Forms/UC-23.pdf

Supplementary Resources: Arts Community

Updated List of COVID-19 Resources for the Arts Community:

<http://www.pittsburgharts council.org/covid19>

GPAC's Business and Legal Services:

<http://www.pittsburgharts council.org/programs/consulting-services>

Support the Emergency Fund for Artists with a Donation:

<https://www.pittsburgharts council.org/support-effa>

Sign up to Receive GPAC Updates:

<https://pittsburgharts council.secure.force.com/signup/?cfid=a05F0000004qrs8IAA>

HR Advisors:

<http://www.pittsburgharts council.org/hradvisors>



Contact HR ADVISORS, a members-only benefit offered through the Greater Pittsburgh Arts Council with funding from RAD

Phone: 412.404.6934

Email: HR_Advisors@compass-resources.com



HR Advisors will be available starting on April 6, 2020

Presenters



Alisa Spector Angelo
Founder and President
Compass Business Solutions, Inc.

Alisa Spector Angelo co-founded Compass Business Solutions, a boutique agency that drives organizational performance with proven human resource and business strategies. Alisa brings direct operations, corporate training, and executive coaching expertise to clients in a wide array of industries and organizational sizes ranging from start-ups to Fortune 500 companies. Prior to starting Compass in 2003, Ms. Angelo was the Director of Human Resources, Safety and Environmental for Shandon, Inc. as well as several subsidiaries of Life Sciences International. Alisa earned a B.A. from the University of Pittsburgh and an M.B.A. from the University of Massachusetts.

Presenters



Kelly T. Radomski
Vice President, Client Solutions
Compass Business Solutions, Inc.

Kelly Radomski's expertise with Compass in the field of human resources ranges from training, organizational development, coaching and implementing best practices to developing human resource tools and driving process improvement. Prior to joining Compass, Kelly worked for Giant Eagle facilitating their rewards and recognition programs for over 36,000 employees. She also has a background in the field of higher education working in student affairs at New York University, Yeshiva University and Fordham University before moving to Pittsburgh. Originally from Canfield, Ohio, Kelly holds a B.S. in Education from Baldwin-Wallace University and a M.A. from New York University.

Presenters



Moira A. Singer
Vice President, Client Solutions
Compass Business Solutions, Inc.

Moira Singer is an experienced human resources professional with expertise in a variety of industries. Moira brings direct operations and benefits experience to clients in diverse industries including education, energy, professional services, government, healthcare, manufacturing, retail, and technology. Prior to joining the Compass team in 2004, Moira served as a healthcare administrator at a large teaching hospital in Pittsburgh, a Senior Practice Manager with a national billing and practice management company and the Director of a non-profit community coalition with over 70 partner organizations. Ms. Singer graduated with a B.S. from Penn State University and an M.B.A. from Temple University.

Presenters



Peter Ennis, Esq.
Member
Cozen O'Connor

Peter J. Ennis represents employers before state and federal courts and agencies involving a wide variety of employment law claims. Peter's practice also includes counseling employers on personnel related issues. As general outside counsel to two non-profits and special counsel to numerous additional non-profits, Peter has been involved in a wide range of issues, including reviewing and revising corporate by-laws; training board members on fiduciary obligations; drafting and revising employee handbooks and numerous other policies relating to board members, staff and clients; succession planning; responding to government claims of misuse of funds and failure to comply with applicable regulations; real estate acquisition and development; obtaining status as an institute of purely public charity under Pennsylvania law; advising and responding to allegations of sexual abuse against clients; custody issues; and determining "in loco parentis" status. Upon graduating from law school, he served as a law clerk to Justice Arthur H. Healy of the Supreme Court of Connecticut. He has also been honored by his peers and selected multiple times to the Pennsylvania Super Lawyers® list. Peter also serves as editor-in-chief of Pennsylvania Employment Law Deskbook, which is currently in its Fourth Edition and published by PBI Press.



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